

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Norman Parde Jr.,
Appellant,

Case Nos: 19A 0069,19A 0070, 19A 0071&
19A 0072

v.

Decision and Order Affirming
County Board of Equalization

Gage County Board of Equalization,
Appellee.

Background

1. The Subject Property is four agricultural parcels, with legal descriptions of:

19A-0069	SEC 4-4-8 W1/2 EX 5.00 A TR 75.00 AC
19A-0070	SEC 23-4-8 BEG at the SW Cor of said SEC TH N 847.41' to POB TH N 1477.64' E 664.70' S 127.92' SW 63.92' S 62.76' E 102.46' ETC 87.59 Acres
19A-0071	SEC 28-5-8 W1/2 NW 80.00 AC
19A-0072	SEC 28-5-8 E1/2 NW EXC 10 AC Tract 70.00 AC

2. The Gage County Assessor (the County Assessor) assessed the Subject Properties at

19A-0069	\$245,045
19A-0070	\$298,365
19A-0071	\$645,270
19A-0072	\$221,570

for tax year 2019.

3. Norman Parde Jr. (the Taxpayer) protested these values to the Gage County Board of Equalization (the County Board) and requested lower assessed values for 2019.
4. The County Board determined that the taxable value of the Subject Property was

19A-0069	\$245,045
19A-0070	\$298,365
19A-0071	\$645,270
19A-0072	\$221,570

for tax year 2019.

5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on June 29, 2021, at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Norman Parde Jr. was present at the hearing.
8. Patti Milligan (the Assessor) and Lloyd Dickinson (the Appraiser) were present for the County Board.

Applicable Law

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
10. The Commission's review of a determination of the County Board of Equalization is de novo.²
11. When considering an appeal a presumption exists that the "board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action."³ That presumption "remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board."⁴
12. The order, decision, determination or action appealed from shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary.⁵
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
14. A Taxpayer must introduce competent evidence of actual value of the Subject Property in order to successfully claim that the Subject Property is overvalued.⁷
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁸

Findings of Fact & Conclusions of Law

16. The Taxpayer stated he knows of two sales that would indicate a lower valuation; however, no property record files (PRF) of those sales were provided. The Taxpayer stated he felt the County used sales from out of his neighborhood to value the Subject Property, which artificially inflated his values.

¹ Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

² See Neb. Rev. Stat. § 77-5016(8) (Reissue 2018), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008). "When an appeal is conducted as a 'trial de novo,' as opposed to a 'trial de novo on the record,' it means literally a new hearing and not merely new findings of fact based upon a previous record. A trial de novo is conducted as though the earlier trial had not been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal." *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.*

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁷ Cf. *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. of Equal. of York Cty.*, 209 Neb. 465, 308 N.W.2d 515 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

17. The Taxpayer stated agricultural land in Jefferson County is assessed at lower values than the Subject Property. The Taxpayer stated the Subject Property is near Jefferson County and shares the same soil types and climate conditions such as less rain, whereas the north and west part of Gage County has better soils and higher sale prices.
18. Gage County has two market areas for agricultural land. The Appraiser stated all agricultural properties from the same market area as the Subject Property (market area 1) have the same value per acre as long as they have the same LVG code (Land Valuation Group). The Appraiser stated the Subject Property is being valued equally with all other agricultural land in market area 1 in Gage County. The Appraiser provided sales and a map of where each sale was located in comparison to the Subject Property to show that the assessed values are based on sales of comparable properties from the same market area.
19. The Taxpayer has not produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
20. The Taxpayer has not adduced clear and convincing evidence that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2019 are affirmed.
2. The taxable value of the Subject Properties for tax year 2019 is:

19A-0069	\$245,045
19A-0070	\$298,365
19A-0071	\$645,270
19A-0072	\$221,570

3. This Decision and Order, if no further action is taken, shall be certified to the Gage County Treasurer and the Gage County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (Reissue 2018).
4. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
5. Each party is to bear its own costs in this proceeding.
6. This Decision and Order shall only be applicable to tax years 2019.

7. This Decision and Order is effective on November 16, 2021.

Signed and Sealed: November 16, 2021

James D. Kuhn, Commissioner