

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Kent Meyers,
Appellant,

v.

Red Willow County Board of Equalization,
Appellee.

Case No: 19A 0108

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is an agricultural parcel with improvements, with a legal description of: PT SW ¼ PT SW/4SE PT SE/4SE N of RR 238.92 Acres.
2. The Red Willow County Assessor (the Assessor) assessed the Subject Property at \$418,922 for tax year 2019.
3. Kent Meyers (the Taxpayer) protested this value to the Red Willow County Board of Equalization (the County Board) and requested an assessed value of \$410,000 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$417,835 for tax year 2019.
5. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on July 16, 2020, at Hampton Inn, 200 Platte Oasis Parkway, North Platte, NE, before Commissioner James D. Kuhn.
7. Kent Meyers was present at the hearing for (Taxpayer).
8. Philip P. Lyons (the County Attorney) and Kristi Korell (the Assessor) 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

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).

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 the Subject Property is four miles outside the town on McCook and is not under the jurisdiction of a city or village and therefore should be considered and valued as rural, not suburban as it is currently classified. The Assessor explained the Subject Property is part of a neighborhood of homes located within a mile of a paved highway. The Assessor found that sales of homes located within close proximity of a paved road but were located out of town were selling for more than homes located farther from a paved road. The Assessor has a neighborhood that identifies these types of properties along the main arterials to the city of McCook.
17. The Taxpayer stated he read a study from UNL (University of Lincoln) saying land values were down 5%, yet his land value increased from the 2018 tax year to the 2019 tax year. The Assessor stated she is required to value agricultural land using the previous three years sales of agricultural land and setting values at 69% to 75% of market value. The Assessor testified she is valuing the Subject Property the same as all other agricultural land in Red Willow County.
18. The Taxpayer stated there is a calf shed on the property that was built with used lumber and is on skids. The Taxpayer doesn’t believe the calf shed is being valued correctly. The

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).

Assessor stated that all buildings are to be valued even if they are on skids. During the course of the hearing it was revealed the calf shed belongs to a Jeremy Meyer; the Assessor mentioned she could value the calf shed as an improvement on leased land (IOLL) and bill Jeremy Meyer for the taxes for that building if the Taxpayer wished.

19. The Taxpayer stated there is a house on the Subject Property but it is vacant. The Assessor noted she placed a flat value of \$2,000 on the house; it was part of the county wide increase of 12% to all improvements so the new value of the house is \$2,240.
20. The Taxpayer did not provide any evidence to show the Assessor is unfairly valuing the Subject Property. No sales of comparable properties or property record files showing the land portion of the property is being valued differently than similar properties.
21. 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.
22. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and the decision of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2019 is affirmed/vacated and reversed.
2. The taxable value of the Subject Property for tax year 2019 is:

Land	\$412,977
<u>Improvements</u>	<u>\$ 4,858</u>
Total	\$417,835

3. This Decision and Order, if no further action is taken, shall be certified to the Red Willow County Treasurer and the Red Willow 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 year 2019.
7. This Decision and Order is effective on DATE.

Signed and Sealed: DATE

James D. Kuhn, Commissioner

