

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Geico Development, Inc,
Appellant,

Case Nos: 19A 0074 & 19A 0075

v.

Decision and Order Affirming
County Board of Equalization

Lancaster County Board of Equalization,
Appellee.

Background

1. The Subject Properties are, 7.19 acres and 4.58 acres of vacant land with legal descriptions of: (19A 0074) Pleasant Hills Acres First Addition, Outlot A, and (19A 0075) Pleasant Hills Acres First Addition, Outlot B.
2. The Lancaster County Assessor (the Assessor) assessed the Subject Properties at \$11,200 (19A 0074) and \$13,700 (19A 0075) for tax year 2019.
3. Larry Geiger (the Taxpayer¹) protested these values to the Lancaster County Board of Equalization (the County Board) and requested lower assessed values for tax year 2019.
4. The County Board determined that the taxable value of the Subject Properties was \$11,200 (19A 0074) and \$13,700 (19A 0075) 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 August 25, 2020, 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. Larry A. Geiger was present at the hearing.
8. Tim Sealock (the Appraiser) was 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 1.²
10. The Commission’s review of a determination of the County Board of Equalization is de novo.³
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 Geiger filed the appeal as an officer of Geico Development, Inc.

² Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

³ 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.”⁴ 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.”⁵

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.⁶
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁷
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.⁸
15. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁹

Findings of Fact & Conclusions of Law

16. The Taxpayer stated the Subject Properties cannot be built on and is just grass that he has cut and baled. The Taxpayer stated the value should be lowered because he has protested the ten years and he keeps winning. The assessed value for real property may be different from year to year, dependent upon the circumstances.¹⁰ For this reason, a prior year’s assessment is not relevant to the subsequent year’s valuation.¹¹
17. The Appraiser stated the properties are being valued at their current use which is agricultural.
18. The Taxpayer did not provide any evidence showing the Subject Properties are being unfairly valued by offering any comparable properties that are being valued differently.
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.

⁴ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁵ *Id.*

⁶ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁷ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁸ 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).

⁹ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

¹⁰ See *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201, 206 (1988).

¹¹ See *DeVore v. Bd. of Equal.*, 144 Neb. 351, 13 N.W.2d 451 (1944), *Affiliated Foods*, 229 Neb. at 613, 428 N.W.2d at 206 (1988).

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 Properties for tax year 2019 are affirmed.
2. The taxable value of the Subject Properties for tax years 2019 is:

	<u>19A 0074</u>	
Total		\$11,200

	<u>19A 0075</u>	
Total		\$13,700

3. This Decision and Order, if no further action is taken, shall be certified to the Lancaster County Treasurer and the Lancaster 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 February 9, 2021.

Signed and Sealed: February 9, 2021

James D. Kuhn, Commissioner