

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Jason R. Meyers,
Appellant,

v.

Red Willow County Board of Equalization,
Appellee.

Case No: 19A 0085

Decision and Order Affirming
County Board of Equalization

Background

1. The Subject Property is a rural single family dwelling, with a legal description of: Red Willow Precinct 19-3-28 PT NW/4NW 17.33 Acres.
2. The Red Willow County Assessor (the Assessor) assessed the Subject Property at \$120,169 for tax year 2019.
3. Jason R. Meyers (the Taxpayer) protested this value to the Red Willow County Board of Equalization (the County Board) and requested an assessed value of \$110,259 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$120,169 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, Nebraska, before Commissioner James D. Kuhn.
7. Jason R. Meyers was present at the hearing.
8. Philip P. Lyons, Red Willow County Attorney, and Krisit 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 his biggest issue with the valuation of the Subject Property was the land component. He stated his purchase agreement shows 12 acres but the Assessor shows 17.33 acres. The Assessor asserted she is valuing the number of acres on the Subject Property’s deed. As a secondary check, the Assessor measured the Subject Property using the Metes and Bounds and came up with 17.33 acres.
17. The Taxpayer stated the Subject Property used to have a feedlot on it which has led to the soil being very high in nitrates and unsuitable for growing crops. The Taxpayer opined the water is also high in nitrates and not suitable for humans or animals.
18. The Taxpayer stated the topography of the Subject Property is hilly and has water runoff in two draws on the property.
19. The Taxpayer stated that although his biggest issue is with his land value, he mentioned the house has a poor foundation and sagging walls in the basement. The Taxpayer asserted there is no forced air to the second floor of the Subject Property. The Assessor stated the County Board of Equalization placed depreciation on the house to allow for the foundation problems. The Assessor was not made aware of the lack of forced air on the second floor of the home but will review that for tax year 2020.

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).

20. 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.
21. 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.
2. The taxable value of the Subject Property for tax year 2019 is:

Land	\$ 38,503
<u>Improvements</u>	<u>\$ 81,666</u>
Total	\$120,169

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 November 6, 2020.

Signed and Sealed: November 6, 2020

James D. Kuhn, Commissioner