

**BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW  
COMMISSION**

HILT TRUCK LINE INC.  
APPELLANT,

CASE NOS: 19C 0295 &  
20C 0138

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

DECISION AND ORDER  
AFFIRMING THE DECISIONS  
OF THE DOUGLAS COUNTY  
BOARD OF EQUALIZATION

**I. BACKGROUND**

1. The Subject Property consists of an improved commercial parcel in Douglas County, parcel number 0102530017.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$146,600 for tax year 2019 and \$200,600 for tax year 2020.
3. Hilt Truck Line Inc. (the Taxpayer) protested these values to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$146,600 for tax year 2019 and \$146,600 for tax year 2020.
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 30, 2021, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Thomas L. Hilt was present at the hearing for the Taxpayer.
8. Keith Nielsen, with the County Assessor's office (the Appraiser) was present for the County Board.

## II. APPLICABLE LAW

9. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
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."<sup>3</sup> 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."<sup>4</sup>
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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

---

<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<sup>2</sup> 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, 759 N.W.2d 464, 473 (2009).

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

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>6</sup> *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

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.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is improved with a 4,000 square foot mini-storage unit. The Subject Property had 15 outdoor parking stalls for the parking of boats, campers, and trailers added in 2020.
17. The County Board presented the 2019 and 2020 Property Record File (PRF) for the Subject Property that shows it was valued by the assessor using the income approach to value.
18. The Appraiser stated that he has done extensive research into the mini storage warehouse and outdoor storage market in Douglas County as they are such hot markets.
19. The Appraiser collected income, expense, vacancy, and cost information from owners of mini storage warehouses and outdoor storage lots and created different models based on the characteristics of the properties.
20. The Appraiser stated that for mini storage warehouses he created different models based on the condition of the properties that used different rental rates, income percentages, and vacancy rates.
21. The Taxpayer alleged that the Subject Property was not valued the same way as other mini storage warehouses.
22. The Taxpayer offered the PRF for a larger mini storage warehouse located on L street that had a lower per square foot value than the Subject Property.

---

<sup>7</sup> *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

23. The PRF for the L street property indicates that it has a lower condition rating than the Subject Property and therefore has a lower rental rate, and higher expense and vacancy percentages than the Subject Property.
24. The County Board provided the PRFs for a property with the same condition rating as the Subject Property and the rental rate, expense and vacancy percentages were the same used to value the Subject Property.
25. The Taxpayer alleged that the actual rent collected from the Subject Property was lower than that used in the County's model and the expenses for the Subject Property were much higher.
26. The Taxpayer presented 2019 and 2020 profit and loss statements for the Subject Property. The statements do not show the rent rolls or vacancy rates for the Subject Property. The expense rate for the Subject Property shown by the statements is over 50% for 2019 and just under 40% for 2020.<sup>9</sup>
27. The Taxpayer offered pieces of marketing materials for other mini storage warehouses. The Taxpayer did not offer the PRF for these properties or actual rental or expense information for these other properties.
28. The Taxpayer alleged that the size of the individual storage units on the Subject Property are not a popular size and rent for less per square foot than different sized units, and that the size of the doors on the units is smaller than typical making them less desirable.
29. The Taxpayer did not offer any information to support the allegation that the dimensions or doors of the Subject Property would impact the per square foot rental rates as compared to other sizes of mini storage warehouses.
30. "Because it is difficult for an assessor to evaluate management quality, typical income and expense figures are deemed to reflect

---

<sup>9</sup> With Real Estate Taxes removed as an allowable expense to compare to the County Assessors expense rate discussed later. With the real estate taxes included as an expense this rate would be over 80% for 2019 and over 65% for 2020.

typical management. Income flows are averaged across comparable businesses to reflect *typical* management and smoothed or *stabilized* across years to eliminate random fluctuations. In mass appraisal, expenses frequently are expressed as percentages instead of fixed amounts.”<sup>10</sup>

31. The Taxpayer presented no information regarding income, expenses, or vacancy rates to demonstrate that the amounts listed on the comparative profit and loss statement for the Subject Property were typical or stabilized for the market.
32. 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.
33. 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.

#### **IV. ORDER**

**IT IS ORDERED THAT:**

1. The decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax years 2019 and 2020 are affirmed.
2. The taxable value of the Subject Property for tax years 2019 and 2020 is:

|                     |                  |
|---------------------|------------------|
| Land                | \$ 84,500        |
| <u>Improvements</u> | <u>\$ 62,100</u> |
| Total               | \$146,000        |

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

---

<sup>10</sup> International Association of Assessing Officers, *Fundamentals of Mass Appraisal*, at 175 (2011).

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 and 2020.
7. This Decision and Order is effective on January 20, 2023.

Signed and Sealed: January 20, 2023

---

Steven A. Keetle, Commissioner

