

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

Randy J. Stevenson,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case No: 19R 0017

Decision and Order Affirming the  
Determination of the Douglas  
County Board of Equalization

Background

1. The Subject Property is a residential parcel improved with a 3,457 square foot one and one-half story residence, with a legal description of: Grand Oaks Lot 16 Block 0, Irreg., Omaha, Douglas County, Nebraska.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$605,000 for tax year 2019.
3. Randy J. Stevenson (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board) and requested an assessed value of \$483,980 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$605,000 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 May 26, 2021, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Randy J. Stevenson was present at the hearing.
8. Scott Barnes and Kurt Skradis with the Douglas County Assessor/Register of Deeds Office (the County Appraisers) 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.<sup>1</sup>
10. The Commission’s review of a determination of the County Board of Equalization is de novo.<sup>2</sup>

<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

<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 (2009).

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>
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>

#### Findings of Fact & Conclusions of Law

16. The Taxpayer alleged that the assessed value of the Subject Property was greater than its actual or market value as demonstrated by recent sales.
17. The Taxpayer further alleged that the assessed value of the Subject Property was not equalized with the assessed values of other comparable properties.
18. The Taxpayer presented a table showing ten sales of one and one-half story properties near the Subject Property that occurred since the beginning of 2016.
19. The Taxpayer also presented a table showing the assessed values of four one and one-half story properties that he alleged showed that assessed values were not equalized.
20. The Taxpayer offered the Property Record Files (PRF) for the Subject Property and each of the fourteen one and one-half story properties shown on the Taxpayer’s charts.
21. The County Board presented the 2019 PRF for the Subject Property that contains information about the characteristics of the Subject Property and information regarding the qualified sales that occurred in the economic area of the Subject Property. This

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<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.*

<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, 645 N.W.2d 821 (2002).

<sup>7</sup> 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).

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

information was used to determine the value attributed to each of the characteristics of residential properties in the area including the Subject Property.

22. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>9</sup>
23. “A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject’s unknown value.”<sup>10</sup>
24. The PRF of the ten sold properties and four equalization properties presented by the Taxpayer show that, while they are all one and one-half story properties, their other characteristics vary. From characteristics such as quality of construction, condition, size, and age to amenities such as basement size and finish, garage size, decks, patios, fireplaces, etc., there are significant differences between the properties presented and the Subject Property.
25. For example, the only other property with a quality rating of good and condition rating of average like the Subject Property is a different type of construction (siding vs stucco) with half as much brick veneer, is almost 700 square feet smaller, is 23 years older, has a smaller basement with significantly less finished square footage, and is located in a different neighborhood. The difference in the assessed value per square foot of this property and the Subject Property is accounted for in the differences in characteristics.
26. The only other property with a quality rating of good and condition rating of average like the Subject Property also sold for 97% of its assessed value, supporting the County Assessor’s assessment.
27. The most recent sales presented by the Taxpayer sold for more than their assessed value.
28. The sales presented by the Taxpayer do not support the allegation that the assessed value of the Subject Property is higher than its market value.
29. The assessed values of the properties presented by the Taxpayer do not support the allegation that the assessed value of the Subject Property is not equalized with the assessed value of other comparable properties.
30. 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.
31. 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.

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<sup>9</sup> See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

<sup>10</sup> Appraisal Institute, *Appraising Residential Properties*, at 334 (4<sup>th</sup> ed. 2007).

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	\$ 64,700
<u>Improvements</u>	<u>\$540,300</u>
Total	\$605,000

3. This Decision and Order, if no further action is taken, shall be certified to the Douglas County Treasurer and the Douglas 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 March 23, 2022.

Signed and Sealed: March 23, 2022

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Steven A. Keetle, Commissioner