

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

BETTY PEREZ HUIE
APPELLANT,

CASE NOS: 19R 0341, 20R
0470, & 20R 0471

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 in Cases No. 19R 0341 and 20R 0471 consists of an improved residential parcel in Douglas County, parcel number 2520270000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property in Cases No. 19R 0341 and 20R 0471 at \$123,800 for tax year 2019 and \$127,000 for tax year 2020.
3. Betty Perez Huie (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 in Cases No. 19R 0341 and 20R 0471 was \$123,800 for tax year 2019 and \$127,000 for tax year 2020.
5. The Subject Property in Case No 20R 0470 consists of an improved residential parcel in Douglas County, parcel number 2520260000.
6. The County Assessor assessed the Subject Property in Case No. 20R 0470 at \$191,600 for tax year 2020.
7. The Taxpayer protested this value to the County Board.
8. The County Board determined that the taxable value of the Subject Property in Case No. 20R 0470 was \$149,000 for tax year 2019.

9. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
10. A Single Commissioner hearing was held on August 31, 2021, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
11. Frank Perez was present at the hearing for the Taxpayer.
12. Scott Barnes and Kurt Skradis of the County Assessor's office were present for the County Board (the County Appraisers).

II. APPLICABLE LAW

13. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
14. The Commission's review of a determination of the County Board of Equalization is de novo.²
15. 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."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

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

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, 759 N.W.2d 464, 473 (2009).

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

unreasonable rests upon the taxpayer on appeal from the action of the board.”⁴

16. 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
17. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
18. 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
19. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁸

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

20. At the hearing the Taxpayer indicated that they did not want to proceed with Case No. 20R 0470 and presented no information or argument regarding that property.
21. The Subject Property in in Cases No. 19R 0341 and 20R 0471 is improved with a two-story residence built in 1910.
22. The Taxpayer alleged that the assessed value of the Subject Property in Cases No. 19R 0341 and 20R 0471 should be reduced due its poor condition.
23. The Taxpayer presented photographs of the interior of the Subject Property showing cracks in the plaster, missing

⁴ *Id.* at 283-84.

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

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

⁷ *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).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

baseboards, worn floor covering, and the steam radiators in the Subject Property.

24. The Taxpayer discussed the electrical system, water heater, window A/C units and basement of the Subject Property.
25. The Taxpayer further alleged that the value of the Subject Property should be reduced because the third bathroom was used as a pantry rather than as a bathroom.
26. The County Board presented the 2109 and 2020 Property Record Files (“PRFs”) for the Subject Property in Cases No. 19R 0341 and 20R 0471. These PRFs contain 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 information was used to determine the value attributed to each of the characteristics of residential properties in the area, including the Subject Property.
27. The County Appraisers stated that the market area in which the Subject Property is located were reappraised for tax year 2019 and 2020 due to the sales in the area.
28. The PRF for the Subject Property in Cases No. 19R 0341 and 20R 0471, show that it was rated in poor condition for both tax years in question. The PRFs also contain account notes setting forth the condition of the property observed during an internal and external inspection that is consistent with the photographs and statements of the Taxpayer.
29. The County Appraisers stated that the fixtures in the third bathroom are valued because they are there whether they are used or not.
30. The County Appraisers stated that after reviewing the information presented to the Commission, including the photographs, the condition rating of poor took into account the actual condition of the Subject Property as shown by the photographs and statements of the Taxpayer.

31. The Taxpayer has not presented information to demonstrate that the condition rating of poor for the Subject Property was arbitrary or unreasonable.
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 vacated/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 in Case No. 20R 0470 for tax year 2020 is:

Land	\$ 34,000
<u>Improvements</u>	<u>\$115,000</u>
Total	\$149,000

3. The taxable value of the Subject Property in Case No. 19R 0341 and 20R 0471 for tax years 2019 and 2020 is:

2019

Land	\$ 19,800
<u>Improvements</u>	<u>\$104,000</u>
Total	\$123,800

2020

Land	\$ 34,600
<u>Improvements</u>	<u>\$ 92,400</u>
Total	\$127,000

4. 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).
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax years 2019 and 2020.
8. This Decision and Order is effective on February 8, 2023.

Signed and Sealed: February 8, 2023



Steven A. Keetle, Commissioner