

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Muhammad N. Ebrahim,
Appellant,

v.

Lancaster County Board of Equalization,
Appellee.

Case Nos: 19R 0473 & 20R 0508

**DECISION AND ORDER
REVERSING THE DECISION OF THE
LANCASTER COUNTY BOARD OF
EQUALIZATION**

Background

1. The Subject Property consists of a residential parcel improved with a single-family residence, with a legal description of Cripple Creek South, 10th Addition, Block 2, Lot 10, located at 7741 San Mateo Lane, Lincoln, Nebraska.
2. The Lancaster County Assessor (the County Assessor) assessed the Subject Property at \$417,300 for tax year 2019 and 396,700 for tax year 2020.
3. Muhammad N. Ebrahim (the Taxpayer) protested these values to the Lancaster County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$396,700 for tax years 2019 and 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 March 31, 2021, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Robert W. Hotz.
7. Mohammad Ebrahim was present at the hearing for the Taxpayer.
8. Brian Coulter of the Lancaster County Assessor’s Office 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 1.¹
10. The Commission’s review of a determination of the County Board of Equalization is de novo.²

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).

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.”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 asserted that the Subject Property is overvalued due to a golf course that no longer exists. The Taxpayer did not provide any sales to support this assertion.
17. The Taxpayer reported several negative conditions relating to the Subject Property: the house is built on an angle toward 40th Street, causing excessive traffic noise to be heard from inside the residence; a basement room is wet during spring rains; the porch was damaged by hail on April 13, 2020; and the back yard has standing water and is boggy during rainy seasons. The Taxpayer did not provide information to quantify the impact of these negative conditions on the market value of the Subject Property.
18. For tax year 2019, the Subject Property was originally assessed using comparable properties that were of a higher quality than the Subject Property. According to Brian Coulter, if comparable sales of the same quality had been used, the indicated value would have been \$391,300.
19. The County Board determined that the taxable value of the Subject Property was the same for tax years 2019 and 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. Clear and convincing evidence has been adduced that the determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be vacated and reversed.

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 vacated and reversed.
2. The taxable value of the Subject Property for both tax years 2019 and 2020 is **\$391,300**.
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 years 2019 and 2020.
7. This Decision and Order is effective on April 2, 2021.

Signed and Sealed: April 2, 2021

Robert W. Hotz, Commissioner