

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

Nathan Hines,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case No: 19R 0552

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 4,349 square foot one and one-half story residence, with a legal description of: Timberline Estates Lot 6 Block 0 Irreg., Omaha, Douglas County, Nebraska.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$658,300 for tax year 2019.
3. The Taxpayer protested this value to the Douglas County Board of Equalization (the County Board) and requested a lower assessed value for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$658,300 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 August 24, 2020, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Nathan Hines (Taxpayer) was present at the hearing.
8. Scott Barnes of the Douglas County Assessor/Register of Deeds Office (the County Appraiser) 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.<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 because the County Board lowered the assessment of the Subject Property in subsequent assessment years the value of the Subject Property should be decreased for the 2019 assessment year.
17. The Taxpayer did not present any evidence regarding the basis of the action of the County Board in subsequent assessment years or any information regarding the assessment of the Subject Property in subsequent tax years.
18. The assessed value for real property may be different from year to year, dependent upon the circumstances.<sup>9</sup> A prior year’s assessment is not relevant to the subsequent year’s valuation.<sup>10</sup> For this reason, the Commission finds that a subsequent year’s assessment is not relevant to the prior year’s valuation.
19. The Taxpayer also alleged that the assessed value of the Subject Property should be lower due to the condition and amenities of the Subject Property.

---

<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).

<sup>9</sup> *DeVore v. Bd. of Equal.*, 144 Neb. 351, 355, 13 N.W.2d 451, 453 (1944), *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 613, 428 N.W.2d 201, 206 (1988).

<sup>10</sup> *DeVore, Affiliated Foods*, see also *Kohl’s Department Stores v. Douglas County Board of Equalization*, 10 Neb.App. 809, 814, 638 N.W.2d 877, 881-882 (2002).

20. The Taxpayer discussed and presented pictures of the shake roof and retaining wall showing the state of repair as of the assessment date and further repairs that needed to be done to the Subject Property.
21. The County Board presented the PRF for the Subject Property as well as information regarding the qualified sales of other properties that occurred in the economic area of the Subject Property used in determining the value attributed to each of the characteristics of residential properties in the area, including the Subject Property, to support the per square foot assessed values of the Subject Property.
22. The PRF contains notes that indicate that the condition rating of the Subject Property was reduced from good to average for the 2019 assessment to account for the roof and retaining wall.
23. The Taxpayer has failed to demonstrate that the determination of the Subject Property's condition rating for the 2019 assessment by the County Assessor was unreasonable or arbitrary due to the 2019 assessment having taken the Subject Property's condition into account.
24. The Taxpayer alleged that the future redevelopment of a nearby golf course into housing, including Section 8 housing, had a negative impact on the value of the Subject Property.
25. The Taxpayer did not present any information that would quantify or otherwise demonstrate the impact of this future redevelopment on the value of the Subject Property.
26. The Taxpayer alleged that the assessed value of the Subject Property was not equalized with the assessed value of other comparable properties.
27. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>11</sup>
28. "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>12</sup>
29. The Taxpayer did not present the PRF for any of the properties discussed for equalization purposes. Without the details contained in the PRF of other comparable properties, the Commission is unable to determine the contributions of the various amenities or features of the properties, such as type of construction, size, quality, condition, basement finish, etc., to the value of the improvements.<sup>13</sup>
30. The County Board presented tables of assessed values for properties in the same neighborhood as the Subject Property and recent sales of properties in the same

---

<sup>11</sup> See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

<sup>12</sup> Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

<sup>13</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on July 24, 2020, includes the following:

**NOTE:** *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

neighborhood as the Subject Property. The County Appraiser stated that the assessed value of the Subject Property was equalized with the assessed values of other comparable properties and supported by the sales of comparable properties.

31. The Commission finds that 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.
32. The Commission finds that the Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is arbitrary or unreasonable and that 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	\$ 83,800
<u>Improvements</u>	<u>\$574,500</u>
Total	\$658,300

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 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 June 11, 2021.

Signed and Sealed: June 11, 2021

---

Steven A. Keetle, Commissioner