

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

Sally L. Graves,  
Appellant,

v.

Dawes County Board of Equalization,  
Appellee.

Case No: 19R 0177

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Property is a rural single family dwelling with outbuilding, with a legal description of: PT W2 19-30-50 Acres 10.040.
2. The Dawes County Assessor (the Assessor) assessed the Subject Property at \$222,905 for tax year 2019.
3. Sally Graves (the Taxpayer) protested this value to the Dawes County Board of Equalization (the County Board) and requested an assessed value of \$172,460 for tax year 2019.
4. The County Board determined that the taxable value of the Subject Property was \$222,905 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 July 30, 2020, at Hampton Inn & Suites Hotel, 301 W. Hwy 26, Scottsbluff, Nebraska, before Commissioner James D. Kuhn.
7. Sally L. Graves was present at the hearing.
8. Kent A. Hadenfeldt, Dawes County Attorney, and Lindy Coleman (the Assessor) 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>
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

<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).

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 stated her taxes were raised over \$800 in one year and she does not understand why there was an increase in value to the Subject Property.
17. The Taxpayer stated there have been no changes to the Subject Property; it still does not have air conditioning, it only has one bedroom and one and a half bathrooms. The Taxpayer stated the county roads are still in really bad shape as well.
18. The Assessor stated an unpermitted 12x24 outbuilding was found via aerial imagery and its value was added to the Subject Property for the 2019 tax year. The Assessor did not offer any other testimony.
19. The Taxpayer did not provide any Property Record Files (PRF) to show that the Subject Property was being valued unfairly or differently than any other comparable properties.
20. 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.
21. 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.

---

<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).

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	\$ 14,030
<u>Improvements</u>	<u>\$208,875</u>
Total	\$222,905

3. This Decision and Order, if no further action is taken, shall be certified to the Dawes County Treasurer and the Dawes 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 November 4, 2020.

Signed and Sealed: November 4, 2020

---

James D. Kuhn, Commissioner