

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Crawford Management Inc.,
Appellant,

v.

Dawes County Board of Equalization,
Appellee.

Case No. 20C 0052

DECISION AND ORDER
REVERSING THE DECISION OF THE
DAWES COUNTY BOARD OF
EQUALIZATION

Case No. 20C 0053

DECISION AND ORDER
AFFIRMING THE DECISION OF THE
DAWES COUNTY BOARD OF
EQUALIZATION

Background

1. The Subject Properties consist of commercial parcels with legal descriptions of Block: Lot: Outlot K Addition: Lathrop (Sale Barn) (Case No. 20C 0052) & PT SE4NW4 3.81 AC (Case No. 20C 0053).
2. The Dawes County Assessor assessed the Subject Properties at \$187,285 (20C 0052) and \$12,305 (20C 0053) for tax year 2020.
3. Crawford Management Inc. (the Taxpayer) protested these values to the Dawes County Board of Equalization (the County Board) and requested assessed values of \$147,500 for 20C 0052 and \$5,980 for 20C 0053 for tax year 2020.
4. The County Board determined that the taxable value of the Subject Properties was \$187,285 for 20C 0052 and \$12,305 for 20C 0053 for tax year 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 September 23, 2021 at Hampton Inn & Suites, 301 US-26, Scottsbluff, Nebraska, before Commissioner James D. Kuhn.
7. John C. Hunter was present at the hearing for the Taxpayer.
8. Lindy Coleman (the Assessor) and Darrel Stanard (the Appraiser) 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 1.¹

¹ Neb. Rev. Stat. § 77-1301(1) (Reissue 2018).

10. The Commission’s review of a determination of the County Board of Equalization is de novo.²
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 stated there is a discrepancy between the square footage the Assessor has on the property record file (PRF) as compared to a blueprint he has of the Subject Property. The Taxpayer stated the Assessor is valuing 8,056 square foot when his blueprints show 5,644.
17. The Taxpayer provided a spreadsheet with comparable properties showing the Subject Property increased in value by \$40,435 from 2019 tax year to 2020 tax year, yet two livestock market properties located in Sheridan County did not increase in value. The Taxpayer also provided spreadsheets showing percentage increases of other properties in the city of Crawford. The comparable properties are a mixture of commercial parcels

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).

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).

such as gas stations, grocery store, bar and grill, insurance agency, as well as others. No PRF were provided for any of the comparable properties for the Commissioner to analyze to see if they are truly comparable and if any adjustments are warranted.

18. The Assessor did a reappraisal for 2020 tax year that included the Subject Property. The Assessor contracted the Appraiser to do the reappraisal for her office. The Appraiser visited the Subject Property and did a visual inspection but did not remeasure the Subject Property.
19. Commissioner Kuhn asked the parties to review the measurements of the Subject Property and do a complete review of the property within 30 days after the hearing.
20. Both parties were present for the requested inspection of the Subject Properties. After the inspection, the Assessor made minor adjustments and provided the Commission with a revised recommendation of value of \$184,150 for Case No. 20C 0052. No further information was received from the Taxpayer.
21. The Taxpayer did not provide any evidence to quantify a different value for the Subject Properties or to show the Subject Properties are being valued unfairly. Although two livestock market properties did not have a change of value for the 2020 tax year, those properties are located in a different county, with different market data, and they have no bearing on the values for Dawes County.
22. In Case No. 20C 0052, the Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
23. In Case No. 20C 0052, the Taxpayer has 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 reversed.
24. In Case No. 20C 0053, 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.
25. In Case No. 20C 0053, 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.

ORDER

IT IS ORDERED THAT:

1. In Case No. 20C 0052, the Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2020 is vacated and reversed.
2. The taxable value of the Subject Property in Case No. 20C 0052 for tax year 2020 is:

Land	\$ 54,555
<u>Improvements</u>	<u>\$129,595</u>
Total	\$184,150

3. In Case No. 20C 0053, the Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2020 is affirmed.
4. The taxable value of the Subject Property in Case No. 20C 0053 for tax year 2020 is:

Land	\$ 7,490
<u>Improvements</u>	<u>\$ 4,815</u>
Total	\$12,305

5. 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).
6. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
7. Each party is to bear its own costs in this proceeding.
8. This Decision and Order shall only be applicable to tax year 2020.
9. This Decision and Order is effective on December 30, 2021.

Signed and Sealed: December 30, 2021

James D. Kuhn, Commissioner