

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Kristi Wold,
Appellant,

v.

Hall County Board of Equalization,
Grand Island Women’s Club,
Appellees.

Case No: 20C 0552

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

Background

1. The Subject Property is an improved residential parcel with a legal description of: Arnold Place Add to the City of Grand Island LTS 1 & 2 XC State BLK 4.
2. The Hall County Assessor assessed the Subject Property at \$356,510 for tax year 2020.
3. Grand Island Women’s Club (the Taxpayer) protested this value to the Hall County Board of Equalization (the County Board) and requested an assessed value of \$39,263 for tax year 2020.
4. The County Board determined that the taxable value of the Subject Property was \$75,000 for tax year 2020.
5. The Assessor appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on December 10, 2021, at Grand Island Police Department, 111 Public Safety Drive, Grand Island, Nebraska, Community Building 2nd Floor, before Commissioner James D. Kuhn.
7. Kristi Wold (the Assessor) was present at the hearing.
8. James H. Truell (Legal Counsel for the Taxpayer) was present at the hearing.
9. No representative of the Hall County Board of Equalization was present at the hearing.

Applicable Law

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
11. The Commission’s review of a determination of the County Board of Equalization is de novo.²
12. 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

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).

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

13. 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
14. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
15. 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
16. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁸

Findings of Fact & Conclusions of Law

17. The Grand Island Women’s Club, represented by James H. Truell, offered an independent appraisal with an indicated value of \$110,000 for tax year 2020.
18. Assessor Kristi Wold agreed the appraised value of \$110,000 was the actual value of the Subject Property for tax year 2020.
19. The County Board did not appear at the hearing or present any evidence to support its determination of value.
20. The appraisal and the opinion of Wold constitute clear and convincing evidence that the actual value of the Subject Property was \$110,000 for tax year 2020.
21. The Assessor 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.
22. The Assessor 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 vacated.

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).

