

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

SALA EVANGELICA
CHURCH,
APPELLANT,

V.

HALL COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

CASE NO: 20E 0103

DECISION AND ORDER
DISMISSING THE DECISION
OF THE HALL COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is a parcel in the city of Grand Island, in Hall County, Nebraska. The parcel includes a church building and a parking lot.
2. An unsigned and undated religious exemption application for tax year 2020 was included in the record. There is nothing in the record indicating the Church filed an exemption application on or before December 31, 2020.
3. Using the unsigned and undated exemption application form, the County Assessor, on June 22, 2020, recommended a denial of the exemption application, including a comment, “77-202 No [description].”
4. On July 7, 2020, the County Board denied the exemption application.
5. On July 22, 2020, the Church appealed the County Board’s July 7, 2020, decision to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on May 26, 2022, at the Tax Equalization and Review Commission Hearing Room,

Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Robert W. Hotz.

7. Wilson and Lety Garcia, Edgar Sontay, and Eliezer Valdez were present at the hearing for the Church.
8. Sarah Carstensen, Deputy County Attorney, and Kristi Wold, County Assessor, were present for the County Board.

II. 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
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

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

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, 759 N.W.2d 464, 473 (2009).

³ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁴ *Id.* at 283-84.

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. (1) Any organization or society seeking a tax exemption provided in subdivisions (1)(c) and (d) of section [77-202](#) for any real or tangible personal property, except real property used for cemetery purposes, shall apply for exemption to the county assessor on or before December 31 of the year preceding the year for which the exemption is sought on forms prescribed by the Tax Commissioner.... The county assessor shall examine the application and recommend either taxable or exempt for the real property or tangible personal property to the county board of equalization on or before March 1 following....
 - (2) Any organization or society *which fails to file an exemption application on or before December 31* may apply on or before June 30 to the county assessor. The organization or society *shall also file in writing a request with the county board of equalization for a waiver* so that the county assessor may consider the application for exemption. The county board of equalization shall grant the waiver upon a finding that good cause exists *for the failure to make application on or before December 31. ...*⁸
16. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁹

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁷ *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-202.01 (Reissue 2018) [emphasis added].

⁹ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

17. The record contains an unsigned and undated exemption application form. The document includes no date stamp indicating filing with the County Assessor. However, the same document was signed by the County Assessor on June 22, 2020, where she checked a box recommending “denied” and wrote “77-202 No [description],” and was signed by the County Board Chair on July 7, 2020, where she also checked a box indicating “denied.”
18. The record contains no explanation as to why the exemption application form was used in this way by the County Assessor and by the County Board.¹⁰
19. It is also unclear from the record whether the Church properly filed an exemption application at any time in relation to tax year 2020.
20. Even assuming the exemption application form was filed by the Church (unsigned and undated), there are several deficiencies with the filing.
21. There is no evidence such a filing was made on or before December 31, 2019.
22. If it was filed after December 31, 2019, it would have required the filing of a waiver request per the requirements of statute, and a grant of the waiver by the County Board.¹¹
23. The record in these proceedings contains no written waiver request or any grant of the waiver of the exemption filing requirements pursuant to Neb. Rev. Stat. § 77-202.01(2).
24. Based on the record, the Commission should dismiss the appeal dated July 22, 2020.

¹⁰ If the County Assessor or County Board utilized the exemption application form to effectuate a “review of any exemption,” as contemplated by Neb. Rev. Stat. § 77-202.03(4), that is not clear in the record.

¹¹ Neb. Rev. Stat. § 77-202.01 (Reissue 2018).

IV. ORDER

IT IS ORDERED THAT:

1. There is insufficient evidence the decision of the County Board of Equalization on July 7, 2020, was statutorily authorized, and therefore is void.
2. The exempt status of the Subject Property as of July 21, 2020, is undisturbed by this Decision and Order.
3. This Decision and Order, if no further action is taken, shall be certified to the Hall County Treasurer and the Hall 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 2020.
7. This Decision and Order is effective on July 12, 2024.

Signed and Sealed: July 17, 2024



Robert W. Hotz, Commissioner