

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Jeffrey P. Craven,
Appellant,

v.

Madison County Board of Equalization,
Appellee.

Case No: 20R 0018

**DECISION AND ORDER
AFFIRMING THE DECISION OF THE
MADISON COUNTY BOARD OF
EQUALIZATION**

Background

1. The Subject Property is a residential parcel with a legal description of Walters East Knolls Tenth Addition Lot 15, BLK 11.
2. The Madison County Assessor (the County Assessor) assessed the Subject Property at \$340,944 for tax year 2020.
3. Jeffrey P. Craven (the Taxpayer) protested this value to the Madison County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$325,801 for tax year 2020.
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 September 10, 2021, at Divots Conference Center, 4200 W Norfolk Ave, Norfolk, Nebraska, before Commissioner James D. Kuhn.
7. Sheila Craven, co-owner of the Subject Property, was present at the hearing for the Taxpayer.
8. Jeff Hackerott (the Assessor) 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 1.¹
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

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).

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

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 the Subject Property is being valued higher than neighboring properties that are similar and were built by the same builder with similar materials. The Taxpayer stated they purchased the Subject Property in 2012 and felt the assessment at that time was correct; however, the assessed value has continued to increase to the point where the Taxpayer feels the assessment is now in excess.
17. The Taxpayer provided evidence of seven neighboring properties showing current assessment, square footage and year built, along with a photo of the property and one page of a property record file (PRF) for that parcel. The Taxpayer focuses on the difference in assessed value as compared to the assessment of the Subject Property.
18. The Taxpayer provided six sales of comparable properties. Four of the comparables did not have any basement finish per the one page of the PRF provided; the Subject Property has 1,814 square feet of basement finish. The properties without finished basement would not be considered highly comparable to the Subject Property because adjustments that are unknown to the Commission would have to be made to account for the basement finish in the Subject Property.
19. The two sales that had basement finish were 8 to 16 years older than the Subject Property and had fewer square feet of basement finish than the Subject Property. The Commission analyzed the six comparables and found the median sales price per square foot to be

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).

\$142.70 as compared to the Subject Property's land and improvement price per square foot of \$148.89.

20. The Commission analyzed the seven comparable properties as shown.

Property Address	Land	Improvements	Total	Square foot	Improvement Price Per Square Foot	Land & Improvement Price Per Square Foot
Subject	\$22,934	\$302,867	\$325,801	2,168	\$139.70	\$150.28
1717 E Sycamore	\$22,680	\$254,864	\$277,544	1,995	\$127.75*	\$139.12
1706 E Sycamore	\$24,802	\$282,468	\$307,270	1911	\$147.81	\$160.79
1712 E Sycamore	\$22,934	\$291,909	\$314,843	2036	\$143.37	\$154.64
1705 E Sycamore	\$19,876	\$296,410	\$316,286	1911	\$155.11	\$165.51
1105 Westbrook	\$28,243	\$293,852	\$322,095	2022	\$145.33	\$159.30
1102 Westbrook	\$28,476	\$296,369*	\$324,845*	1716	\$172.71*	\$189.30*

*1102 Westbrook has an inground pool that adds \$53,805 to the improvement value, skewing the improved price per square foot.

*1717 E Sycamore does not have any basement square foot of value per Assessor for 2020 although the Taxpayer stated she has knowledge that the basement was finished in 2020.

21. As shown by the graph, the Subject Property has the highest total assessed value, but it has the second lowest assessed improvement value per square foot and total assessed value per square foot. The median assessed value per square foot of improvements is \$145.33 which is higher than the Subject Property at \$139.70. The Subject Property is the largest square foot home with a large amount of finished basement. Simply comparing the assessed value verse other homes' assessed values is not a correct method of comparison. Square footage, amenities, components, and other items must be considered when attempting to compare values.
22. The Assessor stated the differences in size and components would have to be considered when comparing properties. The Assessor asserted there is a low inventory of houses on the market which is leading to higher sales prices.
23. 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.
24. 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. The Decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2020 is affirmed.
2. The taxable value of the Subject Property for tax year 2020 is:

Land	\$ 22,934
<u>Improvements</u>	<u>\$302,867</u>
Total	\$325,801

3. This Decision and Order, if no further action is taken, shall be certified to the Madison County Treasurer and the Madison 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 November 17, 2021.

Signed and Sealed: November 17, 2021

James D. Kuhn, Commissioner