

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

Frank L. Cordova,  
Appellant,

v.

Keith County Board of Equalization,  
Appellee.

Case No: 20R 0128

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

Background

1. The Subject Property is a residential parcel with a legal description of Lot 5 Albee's 2nd Sub.
2. The Keith County Assessor assessed the Subject Property at \$256,960 for tax year 2020.
3. Frank L. Cordova (the Taxpayer) protested this value to the Keith County Board of Equalization (the County Board) and requested an assessed value of \$219,000 for tax year 2020.
4. The County Board determined that the taxable value of the Subject Property was \$256,960 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 July 14, 2021, at Hampton Inn North Platte, 200 Platte Oasis Pkwy, North Platte, Nebraska, before Commissioner James D. Kuhn.
7. Frank L. Cordova was present at the hearing.
8. Renae Zink (the Assessor) and Randy Fair (Legal Counsel) 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 sufficient competent evidence to justify its action."<sup>3</sup> That presumption "remains until

<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).

<sup>3</sup> *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.”<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 the Subject Property is a simple cabin with two bedrooms that he purchased years ago for \$95,000, but it needed extensive work. The Taxpayer stated the property is near trailer homes and nobody wants to buy a cabin near trailer homes. The Taxpayer stated there needs to be some consideration of the location near trailer homes and the fact that he can hear trains running nearby.
17. The Taxpayer compared the Subject Property to a neighboring property that recently sold to Marla Dugger in June 2016 for \$195,000. The Taxpayer provided an appraisal of the Dugger property, not the Subject Property, done on June 6, 2016 by Stacy J. Collins. No property record files (PRF) were provided by the Taxpayer for the Commission to analyze and determine whether the Dugger property and the Subject Property are comparable. To whatever extent the appraisal is relevant to the Subject Property, the appraisal is not reliable because there is no signature by the appraiser and no stated appraised value. The appraiser stated in the report that there were not enough comparable sales to make the form reliable and she was asked that she fill it out.
18. The Assessor stated that the Dugger sale was not considered a good arm’s length sale. The Assessor provided a number of sales from the area; however, style and quality of construction varies widely for homes and cabins built around Lake McConaughy, and finding closely comparable properties is difficult. The Assessor stated home and cabin

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<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).

sale prices are trending upward because homes along the Lake McConaughy are popular. The Assessor stated cabins and homes near trailer homes are still selling for more than assessed values; she has not seen the trailer homes or trains as being a deterrent for buyers.

19. 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.
20. 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	\$ 19,185
<u>Improvements</u>	<u>\$237,775</u>
Total	\$256,960

3. This Decision and Order, if no further action is taken, shall be certified to the Keith County Treasurer and the Keith 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 December 29, 2021.

Signed and Sealed: December 29, 2021

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James D. Kuhn, Commissioner