

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Larry & Denice Bledsoe,
Appellant,

v.

Dakota County Board of Equalization,
Appellee.

Case No: 20R 0135

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

Background

1. The Subject Property is a rural residential parcel with a legal description of: Part of the SE1/4 SE1/4 Sec 15, T27, R8.
2. The Dakota County Assessor assessed the Subject Property at \$397,755 for tax year 2020.
3. Larry & Denice Bledsoe (the Taxpayer) protested this value to the Dakota County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$581,525 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 October 5, 2021, at Divots Conference Center, 4200 West Norfolk Ave, Norfolk, Nebraska, before Commissioner James D. Kuhn.
7. Larry Bledsoe was present at the hearing, represented by attorney Tim Brouillette.
8. Christy Abts (the Assessor) and Sam Ferraro (County Board referee) 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
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

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

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 Subject Property received a large increase in value from 2019 tax year to the 2020 tax year and the Taxpayer feels it is excessively valued. The Taxpayer stated he purchased the Subject Property in 2004 for \$205,000 and has added a horse barn and Morton building that would have added \$153,000 to the market value.
17. The Taxpayer provided an independent appraisal done by Mark Rosno on April 5, 2016. The Taxpayer stated the appraisal was for a loan application. The appraisal indicated a value of \$330,000.
18. The Taxpayer stated the Subject Property was rural and was about 1.5 to 2 miles from Homer, Nebraska and about 12 to 15 miles from South Sioux City, Nebraska. The Taxpayer stated he lives on a dirt road, pays \$300 a year for road maintenance, and has to do other road maintenance of his own.
19. The Assessor stated the Subject Property was reviewed by her office in fall 2019 and into 2020. Numerous buildings and an addition to the home were found. The Assessor stated there were seven buildings that were not accounted for on the property record file (PRF) and no building permits were filed. The Assessor stated none of the seven buildings were part of the independent appraisal. The Assessor stated the comparables used in the

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).

appraisal were not of the same use as the Subject Property and did not feel as though the appraisal was reliable.

20. Although an independent appraisal can be compelling evidence of value, an appraisal from 2016 would have little or no bearing on the 2020 valuation and was given little weight by the Commission. Numerous buildings on the Subject Property were not being valued in prior years because the Assessor's office was not aware of them being added to the property. The Taxpayer did not provide any evidence the values placed on these buildings by the Assessor were incorrect.
21. 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.
22. 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	\$ 41,410
<u>Improvements</u>	<u>\$540,115</u>
Total	\$581,525

3. This Decision and Order, if no further action is taken, shall be certified to the Dakota County Treasurer and the Dakota 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 February 10, 2022.

Signed and Sealed: February 10, 2022

James D. Kuhn, Commissioner