

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

Gary F. Goodrich,  
Appellant,

v.

Platte County Board of Equalization,  
Appellee.

Case No: 20R 0307

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

Background

1. In all respects, this Decision and Order is applicable to tax year 2020 only.
2. The Subject Property is an improved residential parcel located at 619 4th Street, Platte Center, Nebraska, with a legal description of Lot 4 & East 40' Lot 5 Blk 11 First Platte Center. The parcel is improved with a 1,647 square foot double-wide built in 2000 with no basement.
3. The Platte County Assessor (the County Assessor) assessed the Subject Property at \$76,260.
4. Gary F. Goodrich (the Taxpayer) protested this value to the Platte County Board of Equalization (the County Board) and requested an assessed value of \$55,865.
5. The County Board determined that the taxable value of the Subject Property was \$74,220.
6. The Taxpayer appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
7. A Single Commissioner hearing was held on June 15, 2021, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Robert W. Hotz.
8. Gary Goodrich, the Taxpayer, was present at the hearing.
9. Tom Placzek, the County Assessor, was present for the County Board.

Applicable Law

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.<sup>1</sup>
11. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>

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

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 sufficient competent evidence to justify its action.”<sup>3</sup> 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.”<sup>4</sup>
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.<sup>5</sup>
14. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
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.<sup>7</sup>
16. The Commission’s Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

#### Findings of Fact & Conclusions of Law

17. The Subject Property was assessed using a cost approach (Replacement Cost New Less Depreciation), with depreciation based upon sales. The parcel was located within a valuation grouping including Platte Center and several other smaller towns within approximately 15 miles from Columbus, Nebraska. There were ten sales in Platte Center during the two years prior to the effective date of January 1, 2020.<sup>9</sup>
18. The County Assessor adjusted the cost approach Replacement Cost New Less Depreciation by an increase of 1.15% in order to stay in compliance with the requirement that the valuation grouping, which includes Platte Center residential, has an assessed to sales ratio be between 92% and 100%.<sup>10</sup>
19. The Taxpayer provided a property record file for an alleged comparable parcel in Platte Center that sold on November 30, 2016, more than three years prior to the effective date. The sale price was \$32,000. The parcel is improved with a 1,276 square foot residence built in 1915.

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

<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).

<sup>9</sup> The two-year sales period for tax year 2020 was from October 1, 2017, to September 30, 2019. See 350 Neb. Admin. Code § 17-003.05A (2017).

<sup>10</sup> See Neb. Rev. Stat. § 77-5023 (Reissue 2018).

20. The alleged comparable property is 95 years older than the Subject Property and 371 square feet smaller. Therefore, we conclude that the sale price of the parcel is not indicative of value for the 2020 assessment of the Subject Property.
21. The Taxpayer explained that a portion of the Subject Property was affected by a flood plain designation but had no knowledge of any actual flooding of the parcel. A lender did not require the Taxpayer to carry a flood insurance rider, so the cost to insure the risk is unknown. The Taxpayer did not quantify the effect of the flood plain designation on the value of the Subject Property.
22. 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.
23. 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	\$ 6,870
<u>Improvements</u>	<u>\$ 67,350</u>
Total	\$ 74,220

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

Signed and Sealed: June 17, 2021

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Robert W. Hotz, Commissioner