

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Jason R. Meyers,
Appellant,

v.

Red Willow County Board of Equalization,
Appellee.

Case No: 20R 0345

**DECISION AND ORDER
AFFIRMING THE DECISION OF THE
RED WILLOW COUNTY BOARD OF
EQUALIZATION**

Background

1. The Subject Property is a rural residential parcel with a legal description of Red Willow Precinct 19-3-28 PT NW/4NW 17.33 Acres.
2. The Red Willow County Assessor assessed the Subject Property at \$124,202 for tax year 2020.
3. Jason R. Meyers (the Taxpayer) protested this value to the Red Willow County Board of Equalization (the County Board) and requested an assessed value of \$110,259 for tax year 2020.
4. The County Board determined that the taxable value of the Subject Property was \$124,202 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 15, 2021, at Hampton Inn North Platte, 200 Platte Oasis Pkwy, North Platte, Nebraska, before Commissioner James D. Kuhn.
7. Jason R. Meyers was present at the hearing.
8. Kristi Korell (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 uses the land as a feedlot, and the soils are very high in nitrates to the point where he is unable to grow any crops. The land is currently used to graze cattle, but the pasture is mostly weeds because it cannot grow good grass. The Taxpayer feels as though the first acre (Homesite) should not be valued as high as it is. The Taxpayer stated the Subject Property has no direct highway access and it should not be in the Rural Highway neighborhood.
17. The Assessor stated she is valuing the land as grassland since it is being grazed. She is unsure how else she could classify the land. The Assessor stated that all rural properties in Red Willow County have the same Homesite value as the Subject Property and they are all equalized. The Assessor stated the Homesite value, in part, captures the improvements to the land such as well, electric and septic.
18. The Taxpayer stated the home has foundation issues, making the basement unusable. The Subject Property has forced air on the main floor only, only one bedroom on the main floor, lots of plumbing issues and very high-nitrate water. The Taxpayer had to install a reverse osmosis filtration system to be able to drink the water. The Taxpayer does not feel as though the Subject Property should be rated Average quality and Average condition. The Taxpayer could not find a contractor to do the maintenance needed and does not have the money to afford all the repairs needed.

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).

19. The Assessor stated the Subject Property was given 10% functional depreciation to account for the foundation issues she was made aware of during a prior valuation protest in 2018. The Assessor stated she was valuing only the main floor as having forced air.
20. 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.
21. 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: **\$124,202**
3. This Decision and Order, if no further action is taken, shall be certified to the Red Willow County Treasurer and the Red Willow 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 14, 2021.

Signed and Sealed: December 14, 2021

James D. Kuhn, Commissioner