

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

JINGSEN ZHENG
APPELLANT,

CASE NO: 20R 0372

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

DECISION AND ORDER
AFFIRMING THE DECISION
OF THE DOUGLAS COUNTY
BOARD OF EQUALIZATION

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 530107821.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$263,600 for tax year 2020.
3. Jingsen Zheng (the Taxpayer) protested this value to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$263,600 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 January 14, 2022, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Jingsen Zheng was present at the hearing for the Taxpayer.
8. Scott Barnes and Kurt Skradis with the County Assessor's Office (County Appraisers) were present for the County Board.

II. 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 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

¹ Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

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

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

⁴ *Id.* at 283-84.

⁵ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

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

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Taxpayer alleged that the condition rating of average for the Subject Property is incorrect, and the value should be reduced to reflect the actual condition of the property.
17. The County Board presented the PRF for the Subject Property. The PRF contains information about the characteristics of the Subject Property and information regarding the qualified sales that occurred in the economic area of the Subject Property. This information was used to determine the value attributed to each of the characteristics of residential properties in the area, including the Subject Property.
18. The PRF shows that the Subject Property is a 2,634 square foot two story home with a condition rating of average.
19. The Taxpayers presented a list of repairs that the Subject Property needed including siding, gutters, windows and doors, driveway cracks, water stains, carpet and water heater.⁹ The Taxpayer presented photographs of the items discussed as well as copy of a 2017 insurance claim for hail damage.
20. The Taxpayer did not present information to show that the determination of condition made by the County Assessor's office were unreasonable or arbitrary.

⁷ *Josten-Wilbert Vault Co. v. Bd. of Equal. for Buffalo Cty.*, 179 Neb. 415, 418, 138 N.W.2d 641, 643 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. Cty. Bd. of Equal. of York Cty.*, 209 Neb. 465, 468, 308 N.W.2d 515, 518 (1981) (determination of equalized taxable value).

⁸ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

⁹ The Taxpayer also discussed appliances which are not considered part of the Subject Property.

21. The Taxpayer alleged that the increase in value of the Subject Property as compared to the increase in value for other comparable properties was unreasonable or arbitrary.
22. The Taxpayer presented the PRF of two properties one on Berry Street (the Berry Street Property) and one on 158th Street (the 158th Street Property) which are both located near the Subject Property.
23. The assessed value for real property may be different from year to year according to the circumstances.¹⁰ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹¹ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹²
24. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹³
25. The County Appraisers stated that the market area in which the Subject Property is located was reappraised for the 2020 tax year.
26. The PRF for the 158th Street Property shows that it is a different style of construction, a split level versus a two-story residence. The County Appraisers stated that the different styles had different costs of construction as well as different sales prices on a per square foot basis and wouldn't be comparable.
27. The Subject Property has a lower assessed value per square foot than the 158th Street Property.
28. The PRF for the Berry Street Property shows that the differences in value are due to differences in their characteristics. The Berry Street property has more above ground square footage and therefore a slightly lower base value per above ground square foot. The Berry Street Property has a

¹⁰ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

¹¹ *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

¹² *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹³ Neb. Rev. Stat §77-1301(Reissue 2018)

larger from porch and a larger value assessed for the front porch than the Subject Property.

29. The biggest difference in valuation between the Subject Property and the Berry Street Property is that the Subject Property has 600 square feet of finished basement while the Berry Street Property does not have any basement finish.
30. The Subject Property also has a sprinkler system while the Berry Street Property does not.
31. The information before the Commission shows that the differences in assessed values between the Subject Property and the other properties presented are due to differences in their style of construction, characteristics, and amenities.
32. 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.
33. 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.

IV. 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	\$ 39,200
<u>Improvements</u>	<u>\$224,400</u>
Total	\$263,600

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

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 May 17, 2023.

Signed and Sealed: May 17, 2023



Steven A. Keetle, Commissioner