

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

STEVEN D. SHARRAR,
APPELLANT,

CASE NO: 20R 0413

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 1612620150.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$143,300 for tax year 2020.
3. Steven D. Sharrar (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 \$118,900 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 June 8, 2022, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Steven and Cathi Sharrar were present at the hearing for the Taxpayer.
8. Scott Barnes and Kurt Skradis with the County Assessor's Office (the 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 increase in value of the Subject Property from the prior assessed value was unreasonable or arbitrary.
17. The County Board presented the Property Record File (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 County Appraisers stated that it was determined by the County Assessor's office that properties in the Subject Property's market area were undervalued and all properties in the area were reassessed for tax year 2020.
19. The PRF indicates that the market area in which the Subject property is located was reappraised for tax year 2020.
20. The assessed value for real property may be different from year to year according to the circumstances.⁹ For this reason, a prior year's assessment is not relevant to the subsequent year's

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 *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).

valuation.¹⁰ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹¹

21. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹²
22. The Taxpayer argued that the assessed value of the Subject Property should be reduced due to the condition of the streets and crime in the area.
23. The Taxpayer presented photographs of the streets and surrounding properties including illegal dumping.
24. The Taxpayer presented information regarding sales in the area to support the request for a lower valuation.
25. The Taxpayer did not present the Property Record Files (PRFs) for the properties presented. Accordingly, the Commission cannot see the basis for the determination of assessed value for the properties presented by the Taxpayer or compare their characteristics to the characteristics of the Subject Property. The Commission is unable to determine the contribution of the different characteristics of the properties presented by the Taxpayer to the Subject Property.¹³
26. All but one of the Taxpayers sales were included on the County Board's listing of valid sales in the area.
27. The County Appraisers stated that one sale presented by the Taxpayer was not a valid sale and therefore was not used in setting values. The County Appraisers stated that one sale was outside of the market area and therefore not considered when determining value for the Subject Property.

¹⁰ *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).

¹¹ *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹² Neb. Rev. Stat §77-1301(Reissue 2018)

¹³ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on May 6, 2022, includes the following:

NOTE: *Copies of the County's Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County's web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

28. The County Appraisers stated that the majority of properties in the Subject Property's market area have the same issues with streets and crime that the Subject Property does.
29. The County Appraisers stated that market area in which the Subject Property is located was reappraised because the recent sales of properties in the market area indicated that values were rising even with the condition of the streets and crime in the area.
30. The County Appraisers stated that these sales indicated the impact of the condition of the streets and crime in the area were already accounted for in the assessed values of the properties in the market area, including the Subject Property.
31. The Taxpayer argued that the value of the Subject Property should be lowered due to its condition.
32. The Taxpayer discussed the basement finish and the ceiling heights in the basement of the Subject Property.
33. The County Appraisers acknowledged the height of the basement ceilings of the Subject Property and stated that the per square foot value applied for the basement of the Subject Property accounted for ceiling heights greater than a crawlspace but not higher than 8 feet in height.
34. The report of the protest before the County Board indicates that the reduction in value of the Subject Property was due to the removal of basement finish and a reduction in the condition rating.
35. The County Appraisers stated that in their opinion the reduction in value made by the County Board at the protest accounted for the basement finish and reduced the condition rating of the Subject Property.
36. 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.
37. 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	\$ 10,000
<u>Improvements</u>	<u>\$108,900</u>
Total	\$118,900

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 July 14, 2023.

Signed and Sealed: July 14, 2023



Steven A. Keetle, Commissioner