

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

KHADIJA I. ADEN,
APPELLANT,

CASE NO: 20R 0462

V.

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

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

I. BACKGROUND

1. The Subject Property is a residential parcel in Douglas County, parcel number 2013150002.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$600 for tax year 2020.
3. Khadua I. Aden (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 \$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 August 23, 2022, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Khadija Aden and Yussuf Hassan 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 parcel of real property described as Plainview Lot 7 Block 0 Lot 7 50 x 124, was part of a tax increment financing (TIF) project and has two different parcel id numbers assigned to it by the County Assessor, 2013150002 and 2013150004, to account for the base and excess value, respectively.⁹
17. Under Nebraska law a "parcel means a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section."¹⁰
18. Parcel ID numbers 2013150002 and 2013150004 both refer to portions of the valuation for the same parcel.
19. The Commission will consider information pertaining to the entire parcel.
20. The Taxpayer alleged that the assessed value of the Subject Property was higher than other comparable properties.
21. The Taxpayer presented information from the County Assessor's web site regarding the Subject Property and four other nearby properties.
22. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹¹

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 See, Neb. Rev. Stat. §18-2101, et seq. (Cum. Supp. 2020).

¹⁰ Neb. Rev. Stat §77-132 (Reissue 2018).

¹¹ See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

23. “A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject’s unknown value.”¹²
24. The Taxpayer did not present the Property Record File (PRF) for the properties listed on the table of assessed values.¹³ 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 contained in the Taxpayers chart to the Subject Property.¹⁴
25. The information presented by the Taxpayer shows that three of the four properties presented are of a different style of construction, are much older than the Subject Property,
26. The Commission cannot find that these three properties presented by the Taxpayer are comparable to the Subject Property.
27. The fourth property presented by the Taxpayer is only a year newer than the Subject Property but is of a different style of construction and has no basement finish while the Subject Property has a larger basement with basement finish.
28. The information from the County Assessors web site presented by the Taxpayer shows that the differences in valuation between

¹² Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

¹³ The County only produced the PRF for the parcel number pertaining to the base value of the Subject Property which the County Assessors stated must be added to the value shown with the parcel number for the excess value.

¹⁴ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on January 28, 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.*

these two properties are due to differences in characteristics between the properties.¹⁵

29. The Taxpayer has not shown that the assessed value of the Subject Property is not equalized with the assessed value of other comparable properties.
30. 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.
31. 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 (parcel number 2013150002) for tax year 2020 is:

<u>Land</u>	<u>\$600</u>
Total	\$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.

¹⁵ This is true even without the potential base value assigned to the other parcel.

6. This Decision and Order shall only be applicable to tax year 2020.
7. This Decision and Order is effective on August 3, 2023.

Signed and Sealed: August 3, 2023



Steven A. Keetle, Commissioner