

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

ARABY A. ADEN,
APPELLANT,

CASE NO: 20R 0463

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 a residential parcel in Douglas County, parcel number 2013650004.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$400 for tax year 2020.
3. Araby A. 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 \$400 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, NE, before Commissioner Steven A. Keetle.
7. Araby Aden was 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 year's assessed value was unreasonable or arbitrary.
17. 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 valuation.¹⁰ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹¹
18. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹²
19. The Taxpayer alleged that the assessed value of the Subject Property should be reduced due to its condition.
20. The parcel of real property described as Plainview Lot 2 Block 4 Lt 2 Blk 4 50 x 124, was part of a tax increment financing (TIF) project and has two different parcel numbers assigned to it by the County Assessor 2013650004 and 2013150006 to account for the base and excess value, respectively.¹³

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).

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

21. 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.”¹⁴
22. Parcel numbers 2013150002 and 2013150004 both refer to portions of the valuation for the same parcel.
23. The Commission will consider information pertaining to the entire parcel.
24. The Taxpayer discussed the condition of the Subject Property including the trim and stairs.
25. The Taxpayer did not provide information regarding the characteristics of the improvements on the Subject Property such as style of construction, age, quality of construction or amenities.¹⁵
26. 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.
27. 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 2013650004) for tax year 2020 is:

¹⁴ Neb. Rev. Stat §77-132 (Reissue 2018)

¹⁵ The County only produced the PRF for the parcel number pertaining to the base value of the Subject Property which was associated with the parcel number provided by the Taxpayer with the appeal.

Land	<u> </u>	\$400
Total		\$400

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 August 3, 2023.

Signed and Sealed: August 3, 2023



Steven A. Keetle, Commissioner