

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

BEL FURY INVESTMENT
GROUP LLC,
APPELLANT,

CASE NOS: 20R 0555 & 21R
1048

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 consists of an improved residential parcel in Douglas County, parcel number 1437010000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$40,800 for tax year 2020 and tax year 2021.
3. Bel Fury Investment Group LLC (the Taxpayer) protested these values to the Douglas County Board of Equalization (the County Board).
4. The County Board determined that the taxable value of the Subject Property was \$40,800 for tax year 2020 and tax year 2021.
5. The Taxpayer appealed the determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on November 15, 2022, at Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Arielle Bloemer, legal counsel, and Scott Bloemer 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

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).

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

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a residential parcel improved with a 768 square foot ranch style residence constructed in 1953. The Subject Property has a quality rating of average and a condition rating of fair.
17. The Taxpayer only alleged that the value of the Subject Property was negatively impacted by the condition of the property.
18. The Taxpayer presented a Property Evaluation Report (PER) prepared by Connie Watson, a contractor and construction estimator employed by the Taxpayer, indicating that \$20,750 of repairs were needed on the Subject Property. Included with the PER were photographs of the Subject Property showing the condition of the driveway, cement steps, garage door, side door, gutters, downspouts, garage roof, siding, and windows.
19. The PER was dated 16 June 2020, but the Taxpayer stated that the condition of the Subject Property as described in the PER was the same on each of the assessment dates at issue in these appeals.

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

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).

20. The Taxpayer presented a 2017 insurance estimate for the repair of hail damage to the Subject Property, as well as an invoice for roof repairs that were completed in May of 2021, after the PER date and assessment date.
21. The Taxpayer presented a quote for interior painting from 2021 and photos of paint work to be done at a tenants move out.
22. The County Board presented the 2020 and 2021 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 for each of the tax years at issue. This information was used to determine the value attributed to each of the characteristics of residential properties in the area, including the Subject Property.
23. The PRF shows that the market area in which the Subject Property is located was reappraised for tax year 2020.
24. The PRF for the Subject Property shows that it had a condition rating of fair for each of the tax years at issue.
25. The County Appraisers stated that after reviewing the information presented to the Commission, including the photographs in the PER, the condition rating of fair accounted for the needed repairs indicated in the PER and roof repair information provided for the Subject Property.
26. The Taxpayer has not presented information to demonstrate that the condition rating of fair for the Subject Property was arbitrary or unreasonable.
27. 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.
28. 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 decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax years 2020 and 2021 are affirmed.
2. The taxable value of the Subject Property for tax years 2020 and 2021 is:

Land	\$ 7,500
<u>Improvements</u>	<u>\$33,300</u>
Total	\$40,800

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 years 2020 and 2021.
7. This Decision and Order is effective on November 8, 2023.

Signed and Sealed: November 8, 2023



Steven A. Keetle, Commissioner