

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

BEL FURY INVESTMENT
GROUP LLC
APPELLANT,

CASE NOS: 20R 0559, 21R
1027, 22R 0897

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 727420000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$53,200 for tax year 2020, \$50,500 for tax year 2021 and \$90,800 for tax year 2022.
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 \$53,200 for tax year 2020, \$50,500 for tax year 2021 and \$90,800 for tax year 2022.
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 14, 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 an 800 square foot ranch style residence constructed in 1900. The Subject Property has a quality rating of average and condition rating fair for tax years 2020 and 2021. The Subject Property has a quality rating of average and a condition rating of average for tax year 2022.
17. The Taxpayer alleged that the value of the Subject Property was negatively impacted by the condition of the property.
18. The Taxpayer discussed repairs made to the Subject Property in 2021 to the roof, gutters, windows, and retaining wall.
19. The Taxpayer presented the invoice for the retaining wall repair and estimates for the roof, gutters, painting, driveway and sidewalk from 2021.
20. The Taxpayer presented a 2022 estimate for sidewalk and foundation repair, landscaping, interior drywall, electrical and plumbing work, and replacement of all exterior siding. This estimate also included roof and gutter repair from hail damage sustained in 2022.

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).

21. The Taxpayer presented exterior photographs showing the driveway, garage, siding, front porch, concrete stairway, foundation, collapsed retaining wall, downspouts, and siding taken in June of 2020.
22. The Taxpayer presented exterior photographs of the siding, concrete steps, and foundation and interior photographs of the basement wall and floor, bathtub, electrical outlet, fuse box, and section of wood floor.
23. The Taxpayer alleged that the condition rating of the Subject Property should be lowered to poor for 2020 and 2021 and fair for 2022.
24. The County Board presented the 2020, 2021 and 2022 Property Record Files (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.
25. The PRF shows that the market area in which the Subject Property is located was reappraised for tax year 2019, 2021 and 2022.
26. The County Appraisers state that the change in the assessed values from year to year was due to changes in the market and sales for each of the tax years before the Commission.
27. The 2020 and 2021 PRF for the Subject Property shows that it had a condition rating of fair.
28. The 2022 PRF for the Subject Property shows that it had a condition rating of average.
29. The County Appraisers stated that after reviewing the information presented to the Commission, including the photographs, invoices, and estimates, the condition rating of fair accounted for the needed repairs indicated made to the Subject

Property in 2021 and that after the repairs the condition rating was raised to average.

30. The 2022 PRF further indicates that the Subject Property was advertised for rent with a remodeled bathroom and kitchen in 2021 which the County Appraisers state further supported their opinion that the 2022 condition rating should be average.
31. The Taxpayer has not presented information to demonstrate that the condition ratings of fair in 2020 and 2021 and average in 2022 for the Subject Property were arbitrary or unreasonable.
32. The Taxpayer presented the 2020 PRF for four properties located in the same market area as the Subject Property.
33. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.⁹
34. The PRFs for these properties show that differences in valuations between the properties presented and the Subject Property are due to differences in characteristics such as condition, garages, basements, basement finish, and age.
35. The PRFs provided show that the valuation of the Subject Property was equalized with other comparable properties.
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 determinations of the County Board are arbitrary or unreasonable and the decisions of the County Board should be affirmed.

IV. ORDER

IT IS ORDERED THAT:

⁹ See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010)

1. The decisions of the County Board of Equalization determining the taxable value of the Subject Property for tax years 2020, 2021 and 2022 are affirmed.
2. The taxable value of the Subject Property for tax year 2020 is:

Land	\$ 6,500
<u>Improvements</u>	<u>\$46,700</u>
Total	\$53,200

3. The taxable value of the Subject Property for tax year 2021 is:

Land	\$ 6,500
<u>Improvements</u>	<u>\$44,000</u>
Total	\$50,500

4. The taxable value of the Subject Property for tax year 2022 is:

Land	\$ 6,500
<u>Improvements</u>	<u>\$84,300</u>
Total	\$90,800

5. 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).
6. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
7. Each party is to bear its own costs in this proceeding.
8. This Decision and Order shall only be applicable to tax years 2020, 2021, and 2022.
9. This Decision and Order is effective on November 1, 2023.

Signed and Sealed: November 1, 2023



Steven A. Keetle, Commissioner

