

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

SUSAN A. KARASEK,
APPELLANT,

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

CASE NO: 20R 0610

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

CASE NO: 20R 0611

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

I. BACKGROUND

1. The Subject Property consists of an improved residential parcel (Case No 20R 0610) and an unimproved residential parcel (20R 0611) in Douglas County, parcel numbers 1920530000 and 1920480000 respectively.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property in Case No. 20R 0610 at \$81,600, and the Subject Property in Case No. 20R 0611 at \$15,000 for tax year 2020.
3. Susan A. Karasek (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 in Case No. 20R 0610 was \$81,600, and the Subject Property in Case No. 20R 0611 was \$15,000 for tax year 2020.

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 October 19, 2022, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Susan Karasek 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

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).

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
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 land component of the Subject Properties from the prior 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

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).

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).

18. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹¹
19. The County Board presented the Property Record File (PRF) for the Subject Properties. The PRF contains information about the characteristics of the Subject Properties 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.
20. The Taxpayer stated that the Subject Properties are adjacent to each other but separated by an alley that prevented the joining of the lots into a single lot for title purposes.
21. The Taxpayer discussed the use of the Subject Properties as effectively a single lot.
22. The Taxpayer discussed the lack of unimproved lot sales in the area and adjacent lots in the market area that had been joined into a single lot.
23. The County Appraisers stated that based on the information presented it was their opinion that the land components of the Subject Properties should be treated as a single large lot rather than two separate lots for assessment purposes.
24. The County Appraisers stated that the total assessed value of the land components of the Subject Property should be \$17,600 with \$15,400 assessed to the Subject Property in Case No. 20R 0610 and \$3,200 assessed to the Subject Property in Case No. 20R 0611.
25. The Commission finds that the value of the Subject Property in Case No. 20R 0610 is \$81,600, and the value of the Subject Property in Case No. 20R 0611 is \$3,200 for tax year 2020.
26. In Case No. 20R 0610 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.

¹¹ Neb. Rev. Stat §77-1301(Reissue 2018).

27. In Case No. 20R 0610 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.
28. In Case No. 20R 0611 the Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
29. In Case No. 20R 0611 the Taxpayer has 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 vacated.

IV. ORDER

IT IS ORDERED THAT:

1. The decision of the County Board of Equalization determining the taxable value of the Subject Property in Case No. 20R 0610 for tax year 2020 is affirmed.
2. The decision of the County Board of Equalization determining the taxable value of the Subject Property in Case No. 20R 0611 for tax year 2020 is vacated and reversed.
3. The taxable value of the Subject Property in Case No. 20R 0610 tax year 2020 is:

| | |
|---------------------|-----------------|
| Land | \$15,400 |
| <u>Improvements</u> | <u>\$66,200</u> |
| Total | \$81,600 |

4. The taxable value of the Subject Property in Case No. 20R 0611 for tax year 2020 is:

| | |
|-------------|----------------|
| <u>Land</u> | <u>\$3,200</u> |
| Total | \$3,200 |

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 year 2020.
9. This Decision and Order is effective on September 29, 2023.

Signed and Sealed: September 29, 2023



Steven A. Keetle, Commissioner