

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

MEGHAN M BOTHE,
APPELLANT,

CASE NO: 21R 0746

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 an improved residential parcel in Douglas County, parcel number 0756700000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$228,700 for tax year 2021.
3. Meghan M Bothe (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 \$228,700 for tax year 2021.
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 January 12, 2023, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Meghan Bothe and Kevin Boughton 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 Subject Property is a residential parcel improved with a 1,367 square foot raised ranch residence constructed in 1960. The Subject Property has a quality rating of average and a condition rating of good.
17. The Taxpayer stated that the assessed value of the Subject Property increased by \$44,900 from the prior year's assessment.
18. 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
19. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹¹
20. The Taxpayer alleged that the assessed value of the Subject Property was not equalized with the assessed value of other comparable properties.
21. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹²

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

¹² See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

22. “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.”¹³
23. The Taxpayer presented a table with information for fourteen other properties she alleged were comparable to the Subject Property.
24. The Taxpayer provided the Property Record File (PRF) for ten of the properties on the table of comparable properties.
25. The County Board presented the 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, including the sale 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.
26. The PRF indicates that the market area in which the Subject property is located was reappraised for tax year 2021.
27. The PRF for the Subject Property and the PRFs provided by the Taxpayer show that all of the properties have a quality rating of average and were built between 1958 and 1960.
28. The PRF for the Subject Property and the PRFs provided by the Taxpayer show that the differences in overall value per square foot between the Subject Property and the ten comparable properties presented are due to differences in the characteristics of the property such as type of construction, condition, age, amount of above ground square footage, amount and type of basement finish, garages, decks, and other amenities.
29. For example, the Subject Property and the property across the street at 8306 Martha are both raised ranches, have the same quality and condition rating, and were built the same year but

¹³ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

have different types of siding leading to different per square foot base values. The Subject Property has a higher level of basement finish, a fireplace, a sprinkler system and a wood deck which the property across the street does not have. The Subject Property also has a double basement garage while the property across the street has a single basement garage. These differences result in the Subject Property having a higher value per square foot.

30. Furthermore, where the amenities are the same between the Subject Property and the presented properties it adds the same value. For example, all of the properties with 600 square feet of the same level of basement finish have the same value added to their assessment determination for that finish.
31. The Taxpayer has not shown that the assessed value of the Subject Property was not equalized with the assessed value of other comparable properties.
32. The Taxpayer alleged that the characteristics of the Subject Property and the comparable properties were not correct, and that the condition rating of the Subject Property should be average rather than good.
33. The Taxpayer presented sales listing information for seven of the ten comparable properties whose PRFs were also before the Commission.
34. The County Appraisers discussed the information provided in the real estate listings and indicated that where the listing information available to the County Assessor's office could be verified, for example with photographs in the listing, it would be used to update the information in a PRF.
35. The County Appraisers further discussed how the condition ratings were based on the property as a whole and that a single characteristic, such as countertops, would not be dispositive of one condition rating versus another.
36. The Taxpayer has not shown that the information contained in the PRF for the Subject Property, or the comparable properties

was unreasonable, arbitrary, or incorrect for the tax year at issue.

37. 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.
38. 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 2021 is affirmed.
2. The taxable value of the Subject Property for tax year 2021 is:

Land	\$ 45,300
<u>Improvements</u>	<u>\$183,400</u>
Total	\$228,700
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 2021.

7. This Decision and Order is effective on December 28, 2023.

Signed and Sealed: December 28, 2023



Steven A. Keetle, Commissioner