

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

CANDINA M. BRENTLINGER,
APPELLANT,

CASE NO: 21R 0920

V.

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

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

I. BACKGROUND

1. The Subject Property is an improved residential parcel located in Douglas County, parcel number 1745265116.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$183,200 for tax year 2021.
3. Candina M. Brentlinger (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 \$150,000 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 October 19, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Candina and Chris Brentlinger were present at the hearing for the Taxpayer.
8. Thomas Cheslak with the County Assessor's Office (the County Appraiser) was 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 1,536 square foot multi-level style residence constructed in 1973. The Subject Property has a quality rating of average and a condition rating of fair.
17. The Taxpayer alleges that the assessed value of the Subject Property should be reduced due to its condition.
18. The Taxpayer stated that no improvements and little maintenance has been done to the Subject Property since its purchase in 2016.
19. The Taxpayer discussed the condition of the interior and exterior of the Subject Property including the windows, garage door, roof, bathrooms, stairs, and driveway.
20. The Taxpayer presented exterior photographs of the siding, windows, front and back doors, garage door, roof, driveway, walkways, chimney, soffits, and gutters.
21. The Taxpayer presented a work order for the replacement of fourteen windows and a door of the Subject Property received in 2023.
22. The Taxpayer presented a proposal for the removal and replacement of the driveway from 2020.
23. The Taxpayer presented interior photographs of the kitchen, living room, hallway, bathrooms, bedrooms, dining room,

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).

basement, and ceilings showing the condition of the flooring, wall paint/covering, windows, interior doors, bathroom fixtures, floor joists, and water damage to the interior of the Subject Property.

24. The County Board presented the 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. This information was used to determine the value attributed to each of the residential properties in the area, including the Subject Property.
25. The County Appraiser stated that after reviewing the photographs and other information presented by the Taxpayer at the hearing that the condition rating of the Subject Property would be between fair and poor, but that reducing the condition to poor in the County Assessor's valuation model would result in a valuation of \$172,000 for tax year 2021.
26. The County Appraiser stated that condition ratings lower than poor were generally given to properties that were uninhabitable or condemned and the Subject Property was inhabited as of the assessment date and date of the hearing.
27. The County Assessor stated that it was his belief that the County Board determination of value for the Subject Property of \$150,000 for tax year 2021 accounted for the condition issues and estimates presented by the Taxpayer.
28. 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.
29. 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	\$ 20,000
<u>Improvements</u>	<u>\$130,000</u>
Total	\$150,000

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 October 11, 2024.

Signed and Sealed: October 11, 2024



Steven A. Keetle, Commissioner