

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

LTB 2562 SPAULDING LLC,  
APPELLANT,

CASE NOS: 21R 0936, 22R  
0786

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 unimproved residential parcel in Douglas County, parcel number 1204640000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$24,500 for tax year 2021 and 2022.
3. LTB 2562 Spaulding 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 \$24,500 for tax year 2021 and 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 April 4, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Lawrence Butler was present at the hearing for the Taxpayer.
8. Kurt Skradis 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.<sup>1</sup>
10. The Commission's review of a determination of the County Board of Equalization is de novo.<sup>2</sup>
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."<sup>3</sup> 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."<sup>4</sup>
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.<sup>5</sup>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

<sup>2</sup> 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).

<sup>3</sup> *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

<sup>4</sup> *Id.* at 283-84.

<sup>5</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>6</sup> *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.<sup>7</sup>
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.<sup>8</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Taxpayer alleges that the Subject Property is overvalued based on its purchase price.
17. The County Board presented the 2021 and 2022 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 residential properties in the area, including the Subject Property.
18. The Taxpayer purchased the Subject Property in October of 2019 for \$2,800. The Taxpayer presented the Real Estate Transfer Statement for the sale.
19. "It is true that the purchase price of property may be taken into consideration in determining the actual value thereof for assessment purposes, together with all other relevant elements pertaining to such issue; however, standing alone, it is not conclusive of the actual value of property for assessment purposes. Other matters relevant to the actual value thereof must be considered in connection with the sale price to determine actual value. Sale price is not synonymous with actual value or fair market value."<sup>9</sup> "Pursuant to § 77-112, the

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<sup>7</sup> *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).

<sup>8</sup> Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

<sup>9</sup> *Forney v. Box Butte County Bd. of Equalization*, 7 Neb.App. 417, 424, 582 N.W.2d 631, 637, (1998).

statutory measure of actual value is not what an individual buyer may be willing to pay for property, but, rather, its market value in the ordinary course of trade.”<sup>10</sup>

20. The Taxpayer stated that the Subject Property was listed for sale on the open market at the time of his 2019 purchase.
21. The County Appraiser stated that the sale of the Subject Property was reviewed by the County Assessor’s office and determined to be a non-arm’s length transaction due in part to the to the type of deed.
22. The County Appraiser stated that there were few sales of unimproved land in the Subject Property’s market area.
23. The County Board presented a list of valid residential property sales in the Subject Property’s market area for each of the tax years before the Commission.
24. There were a significant number of improved residential sales but only two sales of a vacant residential property in the County Boards list of valid residential sales. Both of these sales were of the same vacant residential parcel first in May of 2020 for \$11,000 and then again in November of 2020 for \$22,500.
25. The County Appraiser stated that due to the low number of vacant residential parcel sales in the Subject Property’s market area the County Assessor relied on a multiple regression analysis of all sales to determine the amount of value to allocate to the land component of all residential parcels, both improved and unimproved.
26. 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.
27. 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.

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<sup>10</sup> *Cabela’s, Inc. v. Cheyenne Cty. Bd. of Equal.*, 8 Neb. App. 582, 593, 597 N.W.2d 623, 632 (1999) (citations omitted).

**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 2021 and 2022 are affirmed.
2. The taxable value of the Subject Property for tax years 2021 and 2022 is:

<u>Land</u>	<u>\$24,500</u>
Total	\$24,500

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 2021 and 2022.
7. This Decision and Order is effective on May 22, 2024.

Signed and Sealed: May 22, 2024



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Steven A. Keetle, Commissioner