

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

JEROME C. RAMBO,
APPELLANT,

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

CASE NO: 21R 0964

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

CASE NO: 22R 0861

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 1216310000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$274,400 for tax year 2021 and \$244,100 for tax year 2022.
3. Jerome C. Rambo (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 \$250,000 for tax year 2021 and \$225,000 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 August 21, 2023, at Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Jerome Rambo was present at the hearing for the Taxpayer.
8. Kurt Skradis and Cindy Stove 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

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.

- 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 value of the Subject Property should be reduced based on its condition.
17. The Taxpayer discussed the condition of the Subject Property including the siding, windows, and doors of the Subject Property.
18. The Taxpayer stated that all the windows and the garage doors of the Subject Property were original to its 1952 construction. The Taxpayer stated that these windows and garage doors were not leaking into the interior of the Subject Property but they need to be replaced.
19. The Taxpayer stated that the bathrooms were dated and original to the 1952 construction of the Subject Property and that the kitchen has Formica counters.
20. The Taxpayer presented photographs of the eaves and soffits, garage doors, and windows on the exterior of the Subject

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).

Property as well as the bathrooms on the interior of the Subject Property.

21. 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 for each tax year. This information was used to determine the value attributed to each of the characteristics of residential properties in the area, including the Subject Property.
22. The PRF shows that for both tax years at issue the Subject Property had a quality rating of good. For tax year 2021 it had a condition rating of average and for tax year 2022 it had a condition rating of fair.
23. The County Appraisers stated that after reviewing the information presented by the Taxpayer that the condition rating of the Subject Property for tax year 2021 should be reduced to fair.
24. The County Appraisers stated that based on a condition rating of fair for 2021 their new opinion of value for the Subject Property for tax year 2021 would be \$244,100, with \$55,300 for the land component and \$188,800 for the improvements.
25. The Taxpayer did not present information to show that the determination of fair condition made by the County Assessor's office were unreasonable or arbitrary.
26. The Taxpayer alleged that the increase in the assessed value from the prior year was unreasonable or arbitrary.
27. 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

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).

valuation.¹⁰ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹¹

28. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹²
29. The Taxpayer alleged that the value of the Subject Property should be reduced because its driveway access was from busy Pacific Street, a major east-west road in Omaha.
30. The Taxpayer did not present any information to allow the Commission to quantify the impact of the Pacific Street driveway access on the value of the Subject Property.
31. Based on the information presented at the hearing the Commission finds that the value of the Subject Property for tax year 2021 is \$244,100 and 225,000 for tax year 2022.
32. For tax year 2021 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.
33. For tax year 2021 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.
34. For tax year 2022 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.
35. For tax year 2022 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.

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 *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹² Neb. Rev. Stat §77-1301(Reissue 2018)

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 vacated and reversed.
2. The decision of the County Board of Equalization determining the taxable value of the Subject Property for tax year 2022 is affirmed.
3. The taxable value of the Subject Property for tax year 2021 is:

Land	\$ 55,300
<u>Improvements</u>	<u>\$188,800</u>
Total	\$244,100

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

Land	\$ 55,300
<u>Improvements</u>	<u>\$169,700</u>
Total	\$225,000

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 2021 and 2022.

9. This Decision and Order is effective on August 30, 2023.

Signed and Sealed: August 30, 2023



Steven A. Keetle, Commissioner