

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

ANSON J. NOWKA,
APPELLANT,

CASE NO: 21R 0975

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 2026840383.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$920,100 for tax year 2021.
3. Anson J. Nowka (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 \$920,100 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 May 26, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Anson Nowka 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 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 3,495 square foot one and one-half story residence constructed in 2015 and a 1,532 square foot detached garage. The Subject Property has quality and condition ratings of very good.
17. The Taxpayer alleged that the quality rating of the Subject Property is good rather than very good.
18. 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 characteristics of residential properties in the area, including the Subject Property.
19. The Taxpayer presented the PRF and blueprints for the Subject Property, marketing photographs from the last sale of the Subject Property, and information regarding a property located at 1825 S. 220th Street.
20. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.⁹

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

21. “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.”¹⁰
22. The Taxpayer discussed other properties in the same subdivision as the Subject Property.
23. The Taxpayer presented information from the County Assessor’s web site for a property located at 1825 S. 220th Street that he alleged was comparable to the Subject Property with the same floorplan, quality, and condition as the Subject Property.
24. The Taxpayer did not present the PRF for the property at 1825 S. 220th Street. Accordingly, the Commission cannot see the basis for the determination of assessed value for the property or compare its characteristics to the characteristics of the Subject Property. The Commission is unable to determine the contribution of the different characteristics of this property to the Subject Property.¹¹
25. The information that was provided regarding the property at 1825 S. 220th Street shows that it has a quality rating of good, and there are differences in characteristics between it and the Subject Property such as basement finish, bathrooms, detached garage, porches, decks, storage space, and square footage.
26. The Taxpayer alleged that the property at 1825 S. 220th Street was reviewed by the county and its quality rating was changed to very good in the subsequent tax year. No PRF or other information was presented showing the impact that this change would have on value.

¹⁰ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

¹¹ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on December 9, 2022, includes the following:

NOTE: *Copies of the County’s Property Record File for any property you will present as a comparable parcel should be provided so that your claim can be properly analyzed. The information provided on the County’s web page is not a property record file. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

27. The Taxpayer has not presented information to demonstrate that the condition rating of the Subject Property, the property at 1825 S. 220th Street, or the other properties discussed were arbitrary or unreasonable for tax year 2021.
28. The Taxpayer has not demonstrated that the assessed value of the Subject Property was not equalized with the assessed value of other comparable properties.
29. 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.
30. 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	\$113,600
<u>Improvements</u>	<u>\$806,500</u>
Total	\$920,100
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 June 5, 2024.

Signed and Sealed: June 5, 2024



Steven A. Keetle, Commissioner