

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

PAMELA K. DOZIER
APPELLANT,

CASE NO: 22A 0363

V.

NANCE COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved agricultural parcel in Nance County, parcel number 0200109.01.
2. The Nance County Assessor (the County Assessor) assessed the Subject Property at \$337,950 for tax year 2022.
3. Pamela K. Dozier (the Taxpayer) protested this value to the Nance County Board of Equalization (the County Board) and requested an assessed value of \$286,480 for tax year 2022.
4. The County Board determined that the taxable value of the Subject Property was \$335,145 for tax year 2022.
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 20, 2023, at Grand Island Police Department Law Enforcement Center, 111 Public Safety Drive, Community Building 2nd Floor, Grand Island, Nebraska., before Commissioner James D. Kuhn.
7. Pam Dozier and Mike Dozier were present at the hearing for the Taxpayer.
8. Megan Zoucha 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 Taxpayer asserted that the increase in valuation is excessive considering the Subject Property has older improvements, plywood flooring in the kitchen area, particle board front and back porches, missing trim, and other unfinished parts of the house, etc.
17. The Property Record File (PRF) indicates a quality and condition rating of Average was assigned to the Subject Property.
18. The Taxpayer presented no evidence that demonstrated the impact in value, if any, of the unfinished part of the house. No evidence was presented to show that the assigned quality and condition ratings were arbitrary or unreasonable.
19. The Taxpayer asserted that the increase in value of the Subject Property was excessive between years with no improvements.
20. The County Board did a full review of Subject Property in 2021 for 2022.
21. The County Board provided a list of comparable properties with the assistance of an appraiser and performed an external review and analysis.
22. The County Board previously lowered the value from the original assessed value of \$337,950 to \$335,145.

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).

23. The County Board presented comparable properties that demonstrated that the increase in value was appropriate for the applicable market area.
24. 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.
25. 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 2022 is affirmed.
2. The taxable value of the Subject Property for tax year 2022 is:

Total	\$ 335,145
--------------	-------------------

3. This Decision and Order, if no further action is taken, shall be certified to the Nance County Treasurer and the Nance 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 2022.
7. This Decision and Order is effective on June 9, 2023.

Signed and Sealed: June 9, 2023



James D. Kuhn, Commissioner