

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

WILLIAM G. CALLAHAN  
APPELLANT,

CASE NO: 22R 0018

V.

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

KEITH COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Keith County, parcel number 0204501400.
2. The Keith County Assessor (the County Assessor) assessed the Subject Property at \$310,350 for tax year 2022.
3. William G. Callahan (the Taxpayer) protested this value to the Keith County Board of Equalization (the County Board) and requested an assessed value of \$269,000 for tax year 2022.
4. The County Board determined that the taxable value of the Subject Property was \$310,350 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 September 25, 2023, at Hampton Inn North Platte, 200 Platte Oasis Pkwy, North Platte, NE, before Commissioner James D. Kuhn.
7. William Callahan was present at the hearing for the Taxpayer.
8. Randy Fair 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 asserted the increase in the valuation of the Subject Property was unconstitutional because, as a resident of Wyoming, he does not vote in Nebraska and therefore this was taxation without representation and a violation of the Fourteenth Amendment of the Constitution of the United States of America.
17. Nebraska law requires residency within the state to be eligible to vote in Nebraska elections.<sup>9</sup> The Taxpayer is a resident of Wyoming, not Nebraska. Therefore, the Taxpayer would be ineligible to vote in Nebraska elections until the Taxpayer establishes residency in Nebraska.
18. The Taxpayer presented no legal decisions or prior precedent to support his opinion that his ineligibility to vote in Nebraska due to not meeting residency requirements under Nebraska law, violated his rights under the Fourteenth Amendment to the Constitution of the United States of America.
19. The Taxpayer asserted that the valuation of the Subject Property was excessive because the Subject Property is 27 miles outside of town and lacks community services. It is a modular home and is sinking in one corner causing cracks in the ceiling and walls.

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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> See Neb. Rev. Stat. § 32-110 (Reissue 2016).

20. The Taxpayer asserted out of state buyers are paying excessive property taxes and compared Nebraska taxes to those of Wyoming.
21. The Taxpayer presented no evidence to support his requested value.
22. The Taxpayer presented no evidence to quantify how the location, lack of services, and sinking affected the value of the Subject Property.
23. The County Board presented the Property Record File (PRF) for the Subject Property, as well as the 2022 Reconciliation detailing how the valuation of the Subject Property was calculated.
24. The County Board testified that there was a 4% increase on improvement values in Subject Property's area that justified the increase of valuation.
25. The Taxpayer presented no evidence to show the County's valuation methodology, or assignment of a 0% physical depreciation, was arbitrary or unreasonable
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 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:

Land	\$ 14,480
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Improvements	\$ 295,870
Total	\$ 310,350

3. This Decision and Order, if no further action is taken, shall be certified to the Keith County Treasurer and the Keith 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 October 24, 2023.

Signed and Sealed: October 24, 2023



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James D. Kuhn, Commissioner