

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

ROY L. NORGARD  
APPELLANT,

CASE NO: 22R 0191

V.

DAWES COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Dawes County, parcel number 230002909.
2. The Dawes County Assessor (the County Assessor) assessed the Subject Property at \$179,950 for tax year 2022.
3. Roy L. Norgard (the Taxpayer) protested this value to the Dawes County Board of Equalization (the County Board) and requested an assessed value of \$119,704 for tax year 2022.
4. The County Board determined that the taxable value of the Subject Property was \$179,950 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 **March 29, 2024**, at Judicial Center Hearing Room, 604 Heritage Drive, Broken Bow, NE, before Commissioner Jackie Russell.
7. Roy and Donna Norgard were present at the hearing for the Taxpayer.
8. Kent Hadenfeldt (Attorney) and Lindy Coleman (Assessor) 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.<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 Subject property consists of a suburban, single-family residential property with a 1.5 story, home built in 2007 with 891 square feet (SF) on a slab foundation. The property also has six outbuildings of differing use and 18.4 acres of land.
17. The Taxpayer stated that there appears to be a bias in the valuation increase of the subject property compared to the surrounding properties within a four-mile radius.
18. The Taxpayer stated that no improvements were made to the subject property for 2022 other than the addition of three gravel pads for RV parking which also housed electrical and water hookups.
19. The Taxpayer provided 18 Property Record Files (PRF) for properties located within the four-mile radius of the subject property for comparison of valuation adjustment percentages made in Dawes County and requested a valuation for the subject property be equal to the overall average percentage adjustment applied to the 2021 subject property value.
20. The Taxpayer attested that the property data and characteristics of each structure on the parcel were reviewed with the Assessor and found each to be appropriately described.
21. The Assessor stated that a revaluation of all rural and suburban areas of the county was conducted for the 2022 tax year which

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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).

- included the subject property and all properties submitted by the Taxpayer for analysis.
22. The result of a revaluation will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.
  23. The PRFs submitted by the Taxpayer only included one property that had sold within the sales study period, but no further analysis of comparability was presented by the Taxpayer.
  24. The Taxpayer did not provide quantifiable evidence that the property valuations are not equalized across like properties within Dawes County.
  25. 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.
  26. 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	\$ 55,725
<u>Improvements</u>	<u>\$124,225</u>
Total	\$179,950

3. This Decision and Order, if no further action is taken, shall be certified to the Dawes County Treasurer and the Dawes 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 May 16, 2024.

Signed and Sealed: May 16, 2024



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Jackie S. Russell, Commissioner