

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

ALAN L. EDGHILL
APPELLANT,

CASE NO: 22R 0230

V.

VALLEY COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Valley County, parcel number 880029561.
2. The Valley County Assessor (the County Assessor) assessed the Subject Property at \$68,990 for tax year 2022.
3. Alan L. Edghill (the Taxpayer) protested this value to the Valley County Board of Equalization (the County Board) and requested an assessed value of \$42,347 for tax year 2022.
4. The County Board determined that the taxable value of the Subject Property was \$53,000 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 October 5, 2023, at Cobblestone Hotel, 2750 S. 27th Avenue, Broken Bow, NE, before Commissioner James D. Kuhn.
7. Alan Edghill and Kaitlin Edghill were present at the hearing for the Taxpayer.
8. Brandon Hanson 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 the valuation of the Subject Property was excessive because it had a higher price per square foot compared to another property in the area.
17. The Taxpayer presented real estate listing information for another property in Ord, Nebraska.
18. The Taxpayer did not present the PRF for the property he alleged was comparable to the Subject Property. Accordingly, the Commission cannot see the basis for the determination of assessed value for the properties presented by the Taxpayer or compare their characteristics to the characteristics of the Subject Property.⁹
19. 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.

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 For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on July 31, 2023, 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.

20. The County Assessor reviewed the property July 6, 2022, finding the Subject Property to have been mostly renovated since the last assessment to justify an increased in condition rating.
21. The County Assessor presented multiple comparable properties which demonstrated the assessed value of the Subject Property was equalized with similar properties.
22. The County Assessor testified she had to add depreciation to the Subject Property to achieve the value accepted by the County Board.
23. The County Board testified that they lowered the value of the Subject Property to an arbitrary value with no members of the board having had any appraisal or real estate licenses, experience, or education.
24. The County Assessor and County Board have 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 County Assessor and County Board have 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 vacated.

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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2022 is:

Land	\$ 2,105
<u>Improvements</u>	<u>\$ 66,885</u>
Total	\$ 68,990

3. This Decision and Order, if no further action is taken, shall be certified to the Valley County Treasurer and the Valley 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 27, 2023.

Signed and Sealed: October 27, 2023



James D. Kuhn, Commissioner