

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

KATRINA M. TOMSEN,  
APPELLANT,

CASE NO: 22R 0417

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 property in Douglas County, parcel number 0808350228.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$90,000 for tax year 2022.
3. Katrina M. Tomsen (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 \$90,000 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 July 21, 2023, at Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, NE, before Commissioner Steven A. Keetle.
7. Katrina Tomsen was present at the hearing for the Taxpayer.
8. Scott Barnes, Kurt Skradis, and Tim Tran 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.<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 is a 697 square foot residential condominium parcel constructed in 1927 and remodeled in 2017. The Subject Property has a quality rating of average and a condition rating of good.
17. 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 residential properties in the area, including the Subject Property.
18. The Taxpayer alleged that the condition ratings of the properties in the Subject Property's condominium regime were incorrect.
19. The PRF contains account notes that indicate kitchen and bathroom remodel prior to 2018 sale of Subject Property.
20. The County Appraisers stated that the condition rating of good for the Subject Property was due to the remodel of the kitchen and bathroom in 2017.
21. The Taxpayer did not present information regarding the condition of the Subject Property or the other parcels in the condominium regime.

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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).

22. The Taxpayer did not demonstrate that the condition ratings of the properties in the Subject Property's condominium regime, including the Subject Property, were incorrect.
23. The Taxpayer alleged that the units with sunrooms were more valuable than those without sunrooms and that the main floor was more valuable than the upper floor due to the lack of an elevator and the basement units were the least valuable.
24. The Taxpayer did not present information showing that sunrooms or the floor the unit was on impacted sales prices.
25. The County Board presented the list of recent sales in the Subject Property's condominium regime which do not show a difference between sales prices due to sunrooms or floors.
26. The County Appraisers stated that the units in the Subject Property's condominium regime were assessed using the same valuation model with the only difference being the two properties with a higher condition rating had slightly higher assessed values per square foot.
27. The Taxpayer provided a list of all units in the condominium regime along with their assessed value, square footage, condition, and latest sales price. The list does not contain the dates the sales occurred making this information of limited use to the Commission when determining values for tax year 2022.
28. The Taxpayer has not shown that the assessed value of the Subject Property is not equalized with other comparable properties.
29. The Taxpayer alleged that the Subject Property was negatively impacted by ionizing and non-ionizing radiation in the area.
30. The Taxpayer discussed the Subject Property's location and alleged that nearby facilities contributed to her allegations of radiation and energy field levels at the Subject Property.
31. The Taxpayer stated that she was unable to get radiation measurements for the Subject Property or its immediate area.
32. The Taxpayer stated that she had contacted local authorities regarding her perception of the local energy fields and set forth

her perceptions of the area energy fields and the actions she has taken in response to her experiences.

33. The County Appraisers stated that they had no information regarding radiation levels or other energy fields in the area of the Subject Property other than the Taxpayer's allegations.
34. The Taxpayer has not provided information to allow the Commission to make a determination regarding the impact of radiation levels in the area of the Subject Property on assessed values. Any other allegations related to any radiation exposure are outside of the Commission's jurisdiction.
35. 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.
36. 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	\$ 1,700
<u>Improvements</u>	<u>\$88,300</u>
Total	\$90,000
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 2022.
7. This Decision and Order is effective on July 10, 2024.

Signed and Sealed: July 10, 2024



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Steven A. Keetle, Commissioner