

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

JEFFREY W. HOLLING,
APPELLANT,

CASE NO: 22R 0419

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 parcel in Douglas County, parcel number 1414380567.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$416,800 for tax year 2022.
3. Jeffrey W. Holling (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 \$416,800 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 June 15, 2023, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Jeff Holling was present at the hearing for the Taxpayer.
8. Kurt Skradis with the County Assessor's Office (the County Appraiser) 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 Subject Property is a residential parcel improved with a 1,860 square foot ranch style residence constructed in 2014. The Subject Property has quality and condition ratings 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 County Appraiser stated that it was determined by the County Assessor's office that values in the Subject Property's market area were undervalued and the entire market area was reassessed for tax year 2022.
19. The Taxpayer alleged that the assessed value of the Subject Property is not equalized with other comparable properties.
20. The Taxpayer presented a table with information for sixteen other properties located in the Subject Property's circle and two other circles near the Subject Property that he alleged were comparable to the Subject Property. The Table also contained an analysis of the average of these values.

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).

21. The Taxpayer requested a valuation of the Subject Property be reduced to the average value of these properties.
22. A determination of actual value may be made by using professionally accepted mass appraisal methods.⁹ The methods expressly stated in statute are the sales comparison approach, the income approach, and the cost approach.¹⁰ The Taxpayer's opinion of value was determined by averaging assessed values of other properties and adding one standard deviation to account for historical differences. The Taxpayer's method is not identified in statute and no evidence of its professional acceptance as an accepted mass appraisal method has been produced. Therefore, the Commission finds it does not constitute competent evidence and gives little weight to it.
23. Additionally, averaging assessed values does not account for differences in the characteristics of the properties whose assessed values are being averaged.¹¹
24. The Taxpayer only presented the PRF for four of the properties on the Taxpayer's table. The information contained in these PRFs indicate that the differences in value between these four properties and the Subject Property are due to differences in the characteristics and amenities of the properties.
25. The Taxpayer alleged that the Subject Property had the fewest amenities of the properties in the area and that other properties in the area had received improvements such as landscaping, while the Subject Property had not.
26. The PRF for the Subject Property and the four other PRF's offered indicate that the Subject Property has the most add-on value of any of the properties for items such as basement finish, a fireplace, attached garage, and screened porch.
27. The Subject Property is also the newest property with the lowest amount of physical depreciation applied.

⁹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁰ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹¹ See, e.g., Appraisal Institute, *The Appraisal of Real Estate* 389 (14th ed. 2013).

28. The five PRF's presented do not indicate that any of the properties have been remodeled or have had improvements added.
29. The Taxpayer did not present information to indicate that the information on the PRFs presented was incorrect.
30. The information presented shows that the Subject Property has the highest per square foot value of the properties presented based on its characteristics and amenities such as age, style, size, quality, condition, and amenities such as finished basement, porches, and patios.
31. The Taxpayer discussed trees and retaining walls on some of the properties, but presented no information to quantify the value these would add or subtract from the value of the properties.
32. The County Appraisers stated that the County did not add value for trees, bushes, flowerbeds, or other landscaping.
33. The Taxpayer did not present the PRF for the seven additional properties listed on the table of properties presented as equalization comparables. Accordingly, the Commission cannot see the basis for the determination of assessed value for these seven properties presented by the Taxpayer or compare their characteristics to the characteristics of the Subject Property. The Commission is unable to determine the contribution of the different characteristics of these seven properties contained in the Taxpayers table to the Subject Property.¹²
34. The Taxpayer has not shown that the assessed value of the Subject Property is not equalized with other comparable properties.

¹² For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on May 1, 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.*

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 | \$ 55,000 |
| <u>Improvements</u> | <u>\$361,800</u> |
| Total | \$416,800 |

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 June 21, 2024.

Signed and Sealed: June 21, 2024



Steven A. Keetle, Commissioner