

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

CHARLES BRUNO,
APPELLANT,

CASE NO: 22R 0540

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 1260420000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$251,200 for tax year 2022.
3. Charles Bruno (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 \$251,200 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 May 24, 2023, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Charles Bruno was present at the hearing for the Taxpayer.¹

¹ The Taxpayer left the hearing after presenting his information to the Commission and was not present for the County Board's presentation or to allow the County Appraisers to ask him questions regarding the information presented.

8. Scott Barnes and Kurt Skradis 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 1.²
10. The Commission's review of a determination of the County Board of Equalization is de novo.³
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."⁴ 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."⁵
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.⁶

² Neb. Rev. Stat. § 77-1301(1) (Cum. Supp. 2020).

³ 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).

⁴ *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008).

⁵ *Id.* at 283-84.

⁶ Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁷
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.⁸
15. The Commission's Decision and Order shall include findings of fact and conclusions of law.⁹

III. FINDINGS OF FACT & CONCLUSIONS OF LAW

16. The Subject Property is a residential parcel improved with a 1,545 square foot ranch style residence constructed in 1954. The Subject Property has quality and condition ratings of average.
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 characteristics of residential properties in the area, including the Subject Property.
18. The PRF shows that there was a reappraisal of the market area in which the Subject Property is located for the 2022 assessment year.
19. The Taxpayer alleged that the assessed value of the Subject Property should be reduced due to recent sales.
20. The Taxpayer presented a list of five recently sold properties along with their sales prices.

⁷ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 174-75, 645 N.W.2d 821, 826 (2002).

⁸ *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).

⁹ Neb. Rev. Stat. § 77-5018(1) (Reissue 2018).

21. The Taxpayer presented partial information from the County Assessor's web site regarding these five properties.
22. The Taxpayer did not present the PRF for the properties listed on the table of properties presented as sales comparables. 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. The Commission is unable to determine the contribution of the different characteristics of the properties contained in the Taxpayers table to the Subject Property.¹⁰
23. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹¹
24. "A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject's unknown value."¹²
25. The County Appraisers stated that the five properties presented are all located in different market areas than the Subject Property and are subject to different market conditions than the Subject Property and different valuation models.
26. The information presented shows that some of the properties are smaller, have fewer amenities, and are of inferior construction types and condition than the Subject Property.
27. The Taxpayer has not demonstrated that the assessed value of the Subject Property should be reduced based on recent sales.

¹⁰ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on April 11, 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.*

¹¹ See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

¹² Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

28. The Taxpayer alleged that the square footage of the Subject Property was incorrect.
29. The Taxpayer stated that he measured the interior of the Subject Property and determined that it contained 1,290 square feet of above ground living area.
30. The Taxpayer provided measurement notes that listed rooms and measurements that did not add up to 1,290 square feet of living area. Additionally, this list did not contain measurements for any hallways or common areas and had one more bedroom than bedroom closets.
31. The County Appraisers stated that the Subject Property was remeasured in 2022 and the measurements were confirmed by this remeasurement as well as pictometry measurement as well. The County Appraisers stated that the County Assessor's office uses external measurements to assess residential properties as they are generally unable to get inside residential properties.
32. The Taxpayer has not provided sufficient information to show that the County's determination of above ground living area for the Subject Property was unreasonable, arbitrary, or incorrect.
33. The Taxpayer alleged that the condition rating of the Subject Property was incorrect.
34. The Taxpayer stated that the Subject Property was 70 years old and had no updates other than ceiling fans and sprinkler system and was rated in average condition.
35. The Taxpayer provided a photograph of an entryway and kitchen of a property that had been updated that was also rated in average condition. Only partial information from the County Assessor's web site was provided which would not allow the Commission to evaluate the condition of other parts of this property to determine its overall condition.
36. The PRF of the Subject Property contains account notes that state no updates to the finishes, kitchen, or baths was observed during an inspection.

37. The Taxpayer has not presented information to demonstrate that the condition rating of the Subject Property, or any other property presented, was arbitrary or unreasonable.
38. The Taxpayer alleged that the assessed value of the Subject Property should be reduced due to the condition of the driveway.
39. The Taxpayer alleged that the driveway of the Subject Property needed to be replaced at a cost of \$11,000.
40. The Taxpayer did not discuss the condition of the driveway, provide pictures of the driveway, or provide any estimates regarding the repair or replacement of the driveway of the Subject Property.
41. 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.
42. 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	\$ 13,100
<u>Improvements</u>	<u>\$238,100</u>
Total	\$251,200

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 5, 2024.

Signed and Sealed: June 5, 2024



Steven A. Keetle, Commissioner