

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

STEVEN EVANS,
APPELLANT,

CASE NO: 22R 0542

V.

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

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 1907630002.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$726,600 for tax year 2022.
3. Steven Evans (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 \$726,600 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 12, 2023, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Steven Evans 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 5,666 square foot two and one-half story residence constructed in 1922. The Subject Property has a quality rating of very good and a condition rating of fair.
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 assessed value of the Subject Property was greater than its actual or market value.
19. The Taxpayer presented an appraisal report prepared for the Subject Property determining a value as of October 2022. The Taxpayer's appraisal report reports to be prepared according to the Uniform Standards of Professional Appraisal Practice.
20. The County Appraiser stated that the County Assessor's office had reviewed the Taxpayers appraisal report but felt that it was deficient in many areas including lack of required sketch of the appraised property, inconsistent land adjustments, and inferior comparable sales.

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's appraisal report does not take into account differences in type of construction such as brick versus vinyl siding, and the determinations of quality and condition are inconsistent with the information presented at the hearing as well as information contained in the appraisal report itself.
22. The Taxpayer's appraisal report makes large adjustments to the sales utilized with insufficient explanation to support those adjustments.
23. "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."⁹
24. Although the Taxpayer's appraisal constitutes competent evidence to rebut the presumption in favor of the County Board,¹⁰ the Commission was not convinced that the Taxpayer's appraisal sufficiently accounted for the type of construction, quality, condition of the Subject Property and other properties, or utilized sales with proper adjustments in its determination of value.
25. The Taxpayer alleged that the assessed value of the Subject Property wasn't equalized with other comparable properties.
26. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹¹
27. The Taxpayer pointed to the sales listed in the Taxpayer's appraisal report as having assessed values that were not equalized with the Subject Property.
28. The Taxpayer did not present the PRF for the properties listed on the table of properties presented as equalization

⁹ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

¹⁰ See *JQH La Vista Conference Center Development LLC v. Sarpy Cty. Bd. of Equal.*, 285 Neb. 120, 825 N.W.2d 447 (2013).

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

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.¹²

29. The Taxpayer's appraisal report does not list the assessed values of the properties used as sales.
30. From the information presented regarding the equalization comparables discussed by the Taxpayer, there are significant differences in their characteristics such as type of construction, quality, and condition.
31. The Taxpayer has not shown that the assessed value of the Subject Property is not equalized with other comparable properties.
32. The Taxpayer finally alleged that the increase in assessed value from the prior assessment was unreasonable or arbitrary.
33. The assessed value for real property may be different from year to year according to the circumstances.¹³ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁴
34. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹⁵

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.*

¹³ *Affiliated Foods Coop. v. Madison Co. Bd. of Equal.*, 229 Neb. 605, 614, 428 N.W.2d 201, 206 (1988); see Neb. Rev. Stat. § 77-1502 (Reissue 2018).

¹⁴ *Affiliated Foods Coop.*, 229 Neb. at 613, 428 N.W.2d at 206; *DeVore v. Board of Equal.*, 144 Neb. 351, 354-55, 13 N.W.2d 451, 452-53 (1944).

¹⁵ Neb. Rev. Stat §77-1301(Reissue 2018)

35. The Taxpayer has 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	\$ 64,600
<u>Improvements</u>	<u>\$662,000</u>
Total	\$726,600

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 28, 2024.

Signed and Sealed: June 28, 2024



Steven A. Keetle, Commissioner