

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

ERNEST L. RONGISH,
APPELLANT,

CASE NO: 22R 0558

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 1416041521.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$480,100 for tax year 2022.
3. Ernest L. Rongish (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 \$480,100 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 August 23, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Richard A. Drews, Attorney, and Ernest L. Rongish were present at the hearing for the Taxpayer.
8. James Morris 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 1.¹
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 2,965 square foot two-story residence constructed in 1989. The Subject Property has quality and condition ratings of good.
17. The Taxpayer made several arguments based on historical assessments and assessment actions: That the assessment of the Subject Property is the only one in the market area that increased from the prior assessment year; That the Subject Property was the only property reassessed for the current assessment year; and that the referee coordinator relied on incorrect statements regarding the prior assessment year when making the recommendation to the board regarding its determination of value for the current assessment.
18. The Subject Property is unique in that it was created in 2021 when two separate parcels were combined into a single parcel. This combination of two parcels into the Subject Property occurred sometime between July and November of 2021, after the January 1 date of assessment and after the June 1 date of valuation notice for that year.⁹
19. The County Board and the Taxpayer each presented the 2022 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

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 See, Neb. Rev. Stat §77-1301 (2022 Cum Supp) and Neb. Rev. Stat. §77-1315 (Reissue 2018)

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.

20. The Taxpayer presented the 2021 PRF for the Subject Property which shows a different assessed value for assessment year 2021 than the assessment history shown in the 2022 PRF. The calculated value shown for the improvements on the 2021 PRF however is the same as the value shown for the improvements on the 2022 PRF but the value applied is a “reconciled value” determined by the County Board.
21. The County Appraisers stated that the market area that the Subject Property was in was reassessed for tax year 2021, with all parcels, including the two parcels that became the Subject Property, being revalued for assessment year 2021.
22. The County Appraisers stated that for tax year 2021 the assessed value of just one of the two parcels that were combined to create the Subject Property was protested to the County Board and that the County Board reduced the value of just that parcel, the basis of that reduction is not in the information presented to the Commission in this appeal.
23. The value of the improvements on the Subject Property was changed by the County Board and the value of a separate vacant parcel was added together to get a new value for a parcel that didn’t exist as of the assessment date of January 1, 2021, to arrive at a value that was ultimately utilized as the 2021 taxable value.
24. The County Appraisers stated that only the Subject Property was reassessed for tax year 2022.
25. The PRFs presented show that prior to the County Board action in 2021 the value of the improvements on the Subject Property were the same as the value of the improvements for the 2022 assessment.

26. From the information presented to the Commission the reassessment of the Subject Property for tax year 2022 was the application of the 2021 assessment model, that was applied to all other parcels in the Subject Property's market area in 2021, to the Subject Property for the first time.
27. The assessed value for real property may be different from year to year according to the circumstances.¹⁰ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹¹ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹²
28. In addition to the above principle of law set forth by the Nebraska Supreme Court, the unique circumstance of the Subject Property being created by the combining of two different parcels, one of which had its valuation protested to and adjusted by the County Board in the prior year, make the valuation arguments based on historical assessments and actions of little use when determining the assessed value of the Subject Property for tax year 2022.
29. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹³
30. The Taxpayer alleged that the assessed value of the Subject Property was not equalized with other comparable properties.
31. The Taxpayer presented the PRF for four other parcels in the same market area as the Subject Property.
32. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹⁴

¹⁰ *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).

¹¹ *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).

¹² *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹³ Neb. Rev. Stat §77-1301(Reissue 2018)

¹⁴ See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

33. “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.”¹⁵
34. The Subject Property has the highest quality of construction rating of all of the properties presented.
35. Additionally, three of the properties presented as comparables have a lower condition rating than the Subject Property. Two of these properties are also split entry style residences with smaller lots than the Subject Property. The third of these properties is a multi-level style residence that is sixteen years older than the Subject Property. The Commission finds that these three properties are not comparable to the Subject Property.
36. The fourth property presented as a comparable is the same two-story style as the Subject Property and has a swimming pool and detached garage as well as twice as much finished basement square footage. The PRF for this fourth property shows that it is assessed for these features but that the difference in the quality of construction and other differences between this property and the Subject Property results in the Subject Property having a higher overall assessed value.
37. The Taxpayer did not present any information or statements relating to the quality or condition ratings of the Subject Property or the other properties presented that would allow the Commission to determine that the quality or condition ratings of these properties were unreasonable, arbitrary, or incorrect.
38. A review of the PRF of the Subject Property and the four other properties presented shows that the differences in their assessments are due to differences in the characteristics and features of the properties.

¹⁵ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

- 39. The Taxpayer has not shown that the assessed value of the Subject Property is not equalized with other comparable properties.
- 40. 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.
- 41. 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	\$ 36,500
<u>Improvements</u>	<u>\$443,600</u>
Total	\$480,100

- 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 November 26, 2024.

Signed and Sealed: November 26, 2024



Steven A. Keetle, Commissioner