

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

ROBERT E. GLASSON  
APPELLANT,

CASE NO: 22R 0603

V.

DOUGLAS COUNTY BOARD  
OF EQUALIZATION,  
APPELLEE.

DECISION AND ORDER  
REVERSING 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 062498001.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$116,300 for tax year 2022.
3. Robert E. Glasson (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 \$116,300 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 Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Robert Glasson 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.<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 Taxpayer alleged that the value of the land component of the Subject Property was not equalized with other comparable properties.
17. The Taxpayer presented the Property Record File (PRF) for the Subject Property and the property adjacent to it on the west (the 76<sup>th</sup> Street Parcel) and a property one lot away from the Subject Property to the South (the Pinkney Parcel).
18. The PRF's show that the land component of the Subject Property is 13,393 square feet, the land component of the 76<sup>th</sup> Street Comp is 15,000 square feet, and the land component of the Pinkney Comp is 12,000 square feet with assessed values of: \$21,100, \$10,000 and \$15,000 respectively.
19. The County Appraiser stated that the land values for the 76<sup>th</sup> Street Parcel and the Pinkney Parcel were values determined by the County Board and were not based on the land valuation model used by the County Assessor's office to set the land valuation of the Subject Property.
20. The valuation histories presented show that prior to County Board adjustment the assessed value of the land components were \$21,200 for the Subject Property, \$21,300 for the 76<sup>th</sup> Street Parcel and \$20,600 for the Pinkney Parcel.

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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).

21. After County Board action the value of the land component of the Subject Property remained at 100% of its prior value and the value of the land component of the 76<sup>th</sup> Street Parcel is at 48.5% of its prior value and the Pinkney Parcel is at 70.42% of its prior value.
22. In *Zabawa v. Douglas County Board of Equalization*, the Nebraska Court of Appeals held that “By adjudicating tax protests in greatly disparate amounts—676 Dillon Drive at 75.8 percent of its market value and Zabawa’s comparable property at full market value—the Board failed to fulfill its ‘plain duty’ to equalize property valuations. Zabawa rebutted the presumption that the Board’s decision was correct.”<sup>9</sup> The Court determined that the remedy was to reduce the assessed valuation of Zabawa’s property to the same percentage of value as that of the comparable property.<sup>10</sup>
23. The Commission finds and determines that the assessed value of the land component of the Subject Property should be reduced to \$10,200<sup>11</sup> for tax year 2020.
24. The Taxpayer alleged that the improvements on the Subject Property are not being equalized with another comparable property.
25. “To set the valuation of similarly situated property, i.e. comparables, at materially different levels, i.e., value per square foot, is by definition, unreasonable and arbitrary, under the Nebraska Constitution.”<sup>12</sup>
26. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>13</sup>

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<sup>9</sup> *Zabawa v. Douglas County Bd. of Equalization*, 17 Neb.App. 221, 228, 757 N.W.2d 522, 528 (2008).

<sup>10</sup> *Id.*, at 229, 529.

<sup>11</sup> \$21,100 x 48.54% = \$10,242 rounded to \$10,200.

<sup>12</sup> *Scribante v. Douglas County Board of Equalization*, 8 Neb.App. 25, 39, 588 N.W.2d 190, 199 (1999)

<sup>13</sup> See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

27. The Taxpayer presented the PRF for a parcel on Spencer St (the Spencer Street Parcel) in the same neighborhood as the Subject Property.
28. The County Appraiser stated that the Subject Property and the Spencer Street Parcel were not comparable because they were located in different market areas, with different market influences and different sales were used to determine their valuations.
29. 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.
30. The PRFs of the Subject Property and the Spencer Street Parcel show that they are of a different style of construction, different construction type, have different amenities and The Spencer Street Parcel is much older.
31. The differences in valuation between the Subject Property and the Spencer Street Parcel are due to these differences in characteristics particularly the age difference in the properties.
32. The Taxpayer has not demonstrated that the valuation of similarly situated properties were set at materially different levels entitling the Subject Property to a reduction assessed value under the court's determination in *Scribante*.
33. The Taxpayer alleged that the value of the Subject Property should be reduced due to the height of the garage door.
34. The Taxpayer did not present any evidence which would allow the Commission to quantify the impact on the value of the Subject Property that a different height of garage door would have on the value of the Subject Property.

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 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 vacated.

**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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2022 is:

|                     |                  |
|---------------------|------------------|
| Land                | \$ 10,200        |
| <u>Improvements</u> | <u>\$ 95,200</u> |
| Total               | \$105,400        |

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 23, 2023.

Signed and Sealed: June 23, 2023



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Steven A. Keetle, Commissioner