

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

GARY B. RANDALL,
APPELLANT,

CASE NO: 22R 0914

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 2401961650.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$640,800 for tax year 2022.
3. Gary B. Randall (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 \$640,800 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 August 22, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Gary Randall was present at the hearing for the Taxpayer.
8. Scott Barnes and Michael Lunkwitz 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 2,495 square foot ranch style residence constructed in 2005. The Subject Property has a quality rating of good and a condition rating 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 residential properties in the area, including the Subject Property.
18. The PRF for the Subject Property indicates that the market area in which the Subject Property is located was reappraised for tax year 2022, the last prior reappraisal for the market area was in 2017.
19. The Taxpayer alleged that the value of the Subject Property should be reduced due to its proximity to commercial parcels.
20. The Taxpayer stated that the Subject Property backs up to a medical office building with a 110-space parking lot that is full Monday through Friday. Recently the medical office building has added a children's urgent care facility resulting in crying

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).

screaming sick children being brought to the urgent care facility, which is open until 10pm every night.

21. The County Appraisers stated that in a review of all sales in the market area that there was no indication backing up to the commercial parking lots had a negative impact on sales prices as compared to interior or golf course backed lots.
22. The Taxpayer did not present information to allow the Commission to quantify the impact of the location of the Subject Property on its assessed value.
23. The Taxpayer alleged that the value of the Subject Property should be reduced due to the condition of its wood shake roof.
24. The Taxpayer stated that the wood shake shingle roof of the Subject Property was original to the 2005 construction, had been repaired several times, and was at the end of its useful life.
25. The Taxpayer stated that the cost to replace the roof was somewhere between \$50,000 and \$75,000 based on previous quotes.
26. The Taxpayer did not present any quotes for the replacement of the roof for the Commission to review.
27. The County Appraisers stated that half of the sales of ranch style properties in the market area had wood shake roofs and that the wood shake roofs did not have an influence on sales prices.
28. The County Appraisers stated that the age and wear on the roof was one factor that goes into the determination of the condition rating for the Subject Property of average.
29. All of the properties in the market area with wood shake roofs in the County Board list of qualified sales had higher condition ratings than the Subject Property and higher per square foot values.
30. The Taxpayer did not demonstrate that the assessed value of the Subject Property did not take into account the age and condition of its wood shake roof.

31. 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.
32. 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	\$ 55,800
<u>Improvements</u>	<u>\$585,000</u>
Total	\$640,800

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 September 20, 2024.

Signed and Sealed: September 20, 2024



Steven A. Keetle, Commissioner