

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

WANDA L. WOLLBERG,
APPELLANT,

CASE NO: 22R 0926

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 2508340002.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$485,800 for tax year 2022.
3. Wanda L. Wollberg (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 \$485,800 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 July 20, 2023, at the Omaha State Office Building, 1313 Farnam Street, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Ray and Wanda Wollberg were present at the hearing for the Taxpayer.
8. Scott Barnes, Mike Lunkwitz, 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 2,838 square foot ranch style residence constructed in 1961. The Subject Property has a quality rating of good and a condition rating of average.
17. The Taxpayer alleged that the percentage increase in assessed value, particularly as compared to other nearby properties, was unreasonable or arbitrary.
18. The Taxpayer presented a list with the addresses and assessed values for four properties located near the Subject Property showing the percentage increases in value from 2019 to 2020 and 2020 to 2022.
19. 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.
20. The County Appraisers stated that it was determined by the County Assessor's office that values in the Subject Property's market area were undervalued and the entire market area reassessed for tax year 2022.

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 County Appraisers stated that as part of the reassessment for the Subject Properties market area it was determined that properties that had the same quality of construction were given different quality grades and that discrepancy was corrected for tax year 2022. This correction resulted in all of the properties on the Taxpayer's list having a quality rating of good for tax year 2022 while the Subject Property had been lower than the other properties and one other property higher in prior tax years.
22. The assessed value for real property may be different from year to year according to the circumstances.⁹ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁰ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹¹
23. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹²
24. The County Appraisers stated that when a market area is reappraised percentage adjustments are not applied, rather properties characteristics are reviewed and values are redetermined based on characteristics, amenities, and the market for the current tax year.
25. The Taxpayer alleged that the other properties were underassessed based on their characteristics.
26. The Taxpayer did not present the PRF for the properties presented as 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

⁹ *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).

¹⁰ *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).

¹¹ *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

¹² Neb. Rev. Stat §77-1301(Reissue 2018)

- different characteristics of the properties contained in the Taxpayers table to the Subject Property.¹³
27. The Commission was not presented information such as age, size, style, basement finish, garage size, or fireplaces for the four other properties presented by the Taxpayer.
 28. The Taxpayer alleged that the characteristics of the Subject Property as shown in the PRF are incorrect.
 29. The Taxpayer discussed and presented photographs of the kitchen, bathrooms, garage and driveway concrete, porch railing, crack in the stonework, and the addition to the back of the house.
 30. The Taxpayer alleged that the condition rating of the Subject Property should be lower due to the condition and décor shown in the photographs,
 31. The Taxpayer stated that the addition to the back of the house did not have HVAC ductwork.
 32. The County Appraiser stated that he inspected the interior and exterior of the Subject Property in 2022 and determined that the addition on the back of the house didn't have HVAC ductwork but that it was not separated from the rest of the living area but open to the interior of the Subject Property with the same interior and exterior finish as the rest of the Subject Property.
 33. The County Appraiser stated that based on his inspection of the Subject Property he felt the characteristics of the Subject Property as shown on the PRF were accurate for tax year 2022.
 34. The Taxpayer has not shown that the County Assessor's determination of average condition for the Subject Property was unreasonable or arbitrary.

¹³ For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on June 7, 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.*

35. The Taxpayer has not shown that the addition to the back of the house should be assessed differently than the rest of the above ground living area of the Subject Property.
36. 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.
37. 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	\$ 79,800
<u>Improvements</u>	<u>\$406,000</u>
Total	\$485,800

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 July 10, 2024.

Signed and Sealed: July 10, 2024



Steven A. Keetle, Commissioner