

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

DAVID V. COE
APPELLANT,

CASE NO: 23R 0111

V.

DAWES COUNTY BOARD OF
EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is a vacant lot parcel in Dawes County, parcel number 230006377.
2. The Dawes County Assessor (the County Assessor) assessed the Subject Property at \$35,100 for tax year 2023.
3. David V. Coe (the Taxpayer) protested this value to the Dawes County Board of Equalization (the County Board) and requested an assessed value of \$5,400 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$35,100 for tax year 2023.
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 5, 2024, at Fairfield Inn and Suites by Marriott, 902 Winter Creek Drive, Scottsbluff, NE 69361, before Commissioner James D. Kuhn.
7. David V. Coe was present at the hearing for the Taxpayer.
8. Lindy Coleman (the Assessor) 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 Taxpayer stated his vacant lot is not being valued equally with neighboring lots in the Ridgeview 4th Addition. The Taxpayer stated Lot 3 is a 23,682 square foot lot being valued at \$0.99 per square foot. The Subject Property is 10,800 square feet and is being valued at \$3.25 per square foot.
17. The Taxpayer stated that he had attempted to identify additional lots within the Ridgeview 4th Addition which he felt were comparable to the Ridgeview lots, but that he did not find many lots that were similar. The Taxpayer's lot analysis consisted of vacant lots in the South Park Addition, Briggs Tract C, Canyon View Sub-Division and Henderson Addition as well as the Ridgeview 4th Addition.
18. The Assessor stated a reappraisal was completed for the 2023 tax year and lot values were adjusted. The Assessor is valuing the first 15,700 square feet at \$3.25 and the remaining square footage at \$1.63 per square foot. As of the date of the hearing, the Taxpayer's two lots had not been combined.
19. The Assessor stated the Subject Property is a vacant lot that adjoins to the rear of the Taxpayer's residential property. The Assessor asserted that other properties that owned the adjoining lot at the rear of the primary residence in the Ridgeview 4th Addition were valued similarly to the Subject Property. The

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).

Assessor did not provide Property Record Files (PRF) for the Commission to verify her assertion.

20. The Assessor stated the Taxpayer's offered comparable property, Lot 3, is not owned by the residential property it adjoins. The Assessor stated Lot 3 will not be developed and is currently being farmed. The Assessor did not provide a PRF for Lot 3 for the Commission to verify her assertion.
21. 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.
22. 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 2023 is affirmed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$35,100
<u>Improvements</u>	<u>\$ 0</u>
Total	\$35,100

3. This Decision and Order, if no further action is taken, shall be certified to the Dawes County Treasurer and the Dawes 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 2023.

7. This Decision and Order is effective on January 30, 2025.

Signed and Sealed: January 30, 2025



James D. Kuhn, Commissioner