

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

STEVE T. POOL  
APPELLANT,

CASE NO: 23R 0203

V.

HARLAN COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

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

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Harlan County, parcel number 180044200.
2. The Harlan County Assessor (the County Assessor) assessed the Subject Property at \$79,631 for tax year 2023.
3. Steve T. Pool (the Taxpayer) protested this value to the Harlan County Board of Equalization (the County Board) and requested an assessed value of \$52,000 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$69,610 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 September 6, 2024, at the Law Enforcement Center, 111 Public Safety Drive, Community Building 2nd Floor, Grand Island, NE 68801, before Commissioner Jackie S. Russell.
7. Steve Pool was present at the hearing for the Taxpayer.
8. Melodie Bellamy (Attorney), Josh Garris (Referee), and Kim Fouts (Assessor) 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.<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>

---

<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).

13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>
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 Subject property is a one-story, single-family residence built in 1900 with 1,152 square feet (SF) above grade, no basement area, a screened porch with 240 SF, quality rating of 4, and condition rating of normal.
17. The Taxpayer stated that the value of the Subject property is arbitrary or unreasonable based on comparable property valuations.
18. The Taxpayer provided the Commission with a verbal list of properties opined to be comparable.
19. The Taxpayer did not provide the Property Record Files (PRF) for any of the properties presented for equalization purposes. Without the details contained in the PRFs, the Commission is unable to determine whether the properties discussed are comparable to the Subject property.<sup>9</sup>

---

<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).

<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).

<sup>9</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on June 12, 2024, 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*

20. The Assessor stated that the Subject property was part of a revaluation conducted for the Alma market. As such, the result will be varying degrees of percentage increases (or decreases) to each property in the market study area dependent upon the property components and comparable sales within their study period.
21. The Referee stated that an interior inspection was conducted during the protest process. Two errors within the component data for the Subject property were corrected and as a result, the County Board reduce the 2023 value from \$79,631 to \$69,610.
22. The Referee stated that the same comparable properties discussed by the Taxpayer, were submitted at the time of the protest hearing. Therefore, the County submitted an “Equalization Data” document to present properties of comparability to the Subject property, supporting equalization in the data.
23. The County also submitted a “Supportive Market Analysis” document to detail recent sales with comparability to the Subject property showing the price per square foot of the Subject property falls below current market sales.
24. It should be noted that the lower price per square foot of the Subject property is also appropriate due to the absence of a garage on the Subject property compared to the recent sales.
25. 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.
26. 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.

---

*Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.*

#### 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	\$16,022
<u>Improvements</u>	<u>\$53,588</u>
Total	\$69,610

3. This Decision and Order, if no further action is taken, shall be certified to the Harlan County Treasurer and the Harlan 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 September 16, 2024.

Signed and Sealed: September 16, 2024



\_\_\_\_\_  
Jackie S. Russell, Commissioner