

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

MICHAEL P. MORAN
APPELLANT,

CASE NO: 23R 0359

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 1627462723.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$724,500 for tax year 2023.
3. Michael P. Moran (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 \$724,500 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 February 25, 2025, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Michael Moran was present at the hearing for the Taxpayer.
8. Tim Tran (the 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 1.¹
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 two-story, single-family home built in 1991 with above grade square footage (SF) of 4,042 SF and basement area of 1,996 SF with 1,406 SF full finish. There are three full baths, two half baths, two fireplaces, and a built-in garage with 768 SF. The overall quality rating is very good, and the condition rating is average.
17. The Taxpayer argued that the property valuation is unreasonable due to an arbitrary change to the quality rating from "good" to "very good" for tax year 2023 with no updates done to the property to warrant such an increase.
18. The Taxpayer stated that in 2016 the Subject Property quality rating was increased from "good plus" to "very good". The Taxpayer protested the change and was granted a rating of "good" by action of the County Board. The property has remained at the "good" quality rating since.
19. The Appraiser attested that quality is assigned at the date of construction, but the Computer Automated Mass Appraisal (CAMA) system was set up with different quality descriptions in the past leading to the original quality rating of "good plus" for the Subject Property. When the CAMA system was updated in 2016 to remove "plus" ratings, the Subject Property was reassigned a rating of "very good" by the Assessor, along with

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).

the comparable properties in the neighborhood. By action of the County Board, the quality changed to “good” and did not change in subsequent years.

20. The Appraiser stated there was a revaluation conducted to the Subject Property neighborhood for 2023. Revaluations allow for data changes, such as quality, for assessment purposes. The increases (or decreases) to each property in the market study area are dependent upon the property data components and comparable sales within the study period.
21. The assessed value for real property may be different from year to year according to the circumstances. ⁹For 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
22. The Appraiser attested that an inspection of the data from the Subject Property neighborhood led to the quality rating change for the Subject Property to be consistent with like properties in the neighborhood.
23. The Appraiser 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.
24. The Taxpayer provided a one-page website printout of a portion of the PRF data for comparison of three properties. Without all the details contained in the PRF, the Commission is unable to

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).

determine whether the properties discussed are comparable to the Subject Property.¹²

25. The Taxpayer did not provide evidence to rebut the quality rating assigned by the Assessor.
26. The Taxpayer argued that the neighborhood boundaries used by the Assessor's office for valuation purposes are arbitrary and unreasonable.
27. The Taxpayer stated that the Subject Property is valued with higher end properties of Linden Estates and should be valued with properties located in Linden Park.
28. The Taxpayer did not provide evidence to rebut the classification of the Subject Property neighborhood of Linden Estates.
29. 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.
30. 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:

¹² For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on December 17, 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 Property Record File is only maintained in the office of the County Assessor and should be obtained from that office prior to the hearing.

Land	\$ 139,300
<u>Improvements</u>	<u>\$ 585,200</u>
Total	\$ 724,500

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 2023.
7. This Decision and Order is effective on July 21, 2025.

Signed and Sealed: July 21, 2025



Jackie S. Russell, Commissioner