

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

SHEILA HULME  
APPELLANT,

CASE NO: 23R 0367

V.

**DECISION AND ORDER  
REVERSING THE DECISION  
OF THE HALL COUNTY  
BOARD OF EQUALIZATION**

HALL COUNTY BOARD OF  
EQUALIZATION,  
APPELLEE.

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel with two homes and one metal storage building in Hall County, parcel number 400098482.
2. The Hall County Assessor (the County Assessor) assessed the Subject Property at \$251,989 for tax year 2023.
3. Sheila Hulme (the Taxpayer) protested this value to the Hall County Board of Equalization (the County Board) and requested an assessed value of \$145,652 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$251,989 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 24, 2024, at Law Enforcement Center, 111 Public Safety Drive, Community Building 2nd Floor, Grand Island, NE, before Commissioner James D. Kuhn.
7. Sheila Hulme was present at the hearing for the Taxpayer.
8. Darrel Stanard (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.<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>
13. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.<sup>6</sup>

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<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).

<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).

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 Taxpayer stated she disagrees with the Assessors conclusion the main house of the Subject Property is a 5.00 – Very Good condition. The Taxpayer stated the main house was built in 1905 and doesn't believe it could be considered Very Good condition. The Taxpayer stated as a real estate agent for Berkshire Hathaway that she feels she has knowledge of home conditions.
17. The second home on the Subject Property is a single-story bungalow that the Taxpayer rents out for \$500 a month, there is also a 1,104 square foot metal storage building used for storage.
18. The Taxpayer provided one page of numerous Property Record Files (PRF) showing newer homes with lower condition ratings. The Taxpayer provided numerous one page MLS (Multiple Listing Service) sheets of similar homes with list price and sale price, some with two homes like the Subject Property. The Taxpayer found nine properties with two homes that have sold and averaged the total sales prices and divided by nine to come up with the requested valuation of \$145, 652.
19. The Appraiser stated he inspected the Subject Property with the Taxpayer and after reviewing, has recommended lowering the condition of the main home to 4.00 – Good since the Taxpayer had done some remodeling recently. The quality and condition of

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<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).

the second home is low quality and poor + condition. The new recommended assessment is \$199,965 after making the condition adjustment and doing an income approach on the second home.

20. The Taxpayer did not provide full PRF of comparable homes for the Commission to analyze the comparability to the Subject Property. The MLS sheets do not provide enough information to make comparisons as to comparability to the Subject Property. The best evidence of value is the recommendation of the Appraiser.
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 Appraiser has 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 vacated.

#### **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 vacated and reversed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$14,219
<u>Improvements</u>	<u>\$185,746</u>
Total	\$199,965

3. This Decision and Order, if no further action is taken, shall be certified to the Hall County Treasurer and the Hall 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 October 11, 2024.

Signed and Sealed: October 11, 2024



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James D. Kuhn, Commissioner