

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

JOANNE S. GRABOW  
APPELLANT,

CASE NO: 23R 0561

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 0714660000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$337,400 for tax year 2023.
3. Joanne S. Grabow (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 \$337,400 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 August 7, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Joanne S. Grabow was present at the hearing for the Taxpayer.
8. Kurt Skradis (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 Subject property is a one-story, single-family home built in 1959 with 1,651 square feet (SF) above grade, walkout basement area of 1,651 SF with 650 SF full finish, 3 baths, attached garage with 484 SF, and quality and condition ratings of average.
17. The Taxpayer stated that the Subject property valuation is dis-equalized with comparable properties and is therefore, arbitrary and unreasonable.
18. The Taxpayer stated that the Subject property still has all the original features and no updates.
19. The Taxpayer provided three comparable properties for analysis and indicated a price per square foot calculation on each. The documents submitted by the Taxpayer were from the Douglas County website and were not Property Record Files (PRF) obtained from the Assessor's office. Without all the details contained in the PRFs, the Commission is unable to determine contributory value of each component (or lack thereof) for each property compared to the Subject property.<sup>9</sup>

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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).

<sup>9</sup> For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on July 5, 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.*

20. “A sales comparison adjustment is made to account (in dollars or a percentage) for a specific difference between the subject property and a comparable property. As the comparable is made more like the subject, its price is brought closer to the subject’s unknown value.” Appraisal Institute, *Appraising Residential Properties*, at 334 (4<sup>th</sup> ed. 2007). If the comparable property is inferior in some respect, the sale price is adjusted upward, just as if it is superior, it will be adjusted downward.<sup>10</sup>
21. The Taxpayer did not make any adjustments to the comparable properties prior to the price per square foot calculation.
22. The properties submitted by the Taxpayer for review did not sell in the open market within the sales study period required to be used by the Assessor’s office when setting the 2023 valuations.<sup>11</sup> However, adjustments to the valuations would still need to be made to bring the components closer to the Subject property components and therefore, a price per square foot analysis as done by the Taxpayer does not meet professionally accepted mass appraisal practices<sup>12</sup> as required in the valuation process.
23. The Taxpayer stated that the Subject property has several conditional issues that affect the value of the property and provided a series of pictures to demonstrate.
24. The pictures provided by the Taxpayer show the concrete driveway cracking, issues with the interior ceiling and walls of the garage, exterior foundation issues with the concrete blocks, interior bathrooms with original tile work and cracking, and a photo of the furnace and water heater.
25. Based on the testimony of the Taxpayer, the Appraiser stated that the driveway is not part of the property’s valuation, and the remainder of the issues are typical in comparison to like aged properties in the Subject property’s market.

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<sup>10</sup> *Property Assessment Valuation, Third Edition*, p. 105, International Association of Assessing Officers, (2010).

<sup>11</sup> October 1, 2020 through September 30, 2022 per 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

<sup>12</sup> 350 Neb. Admin. Code, ch 12, § 002.12

26. The Appraiser attested the conditional rating of average is appropriate for the Subject property based on the information discussed by the Taxpayer.
27. The Taxpayer did not bring any additional information to quantify an adjustment to the Subject property value based on the conditional issues.
28. 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.
29. 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	\$ 30,000
<u>Improvements</u>	<u>\$307,400</u>
Total	\$337,400
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 September 17, 2024.

Signed and Sealed: September 17, 2024



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Jackie S. Russell, Commissioner