

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

CHAO YUAN KU,
APPELLANT,

CASE NO: 23R 0564

V.

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

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Douglas County, parcel number 1627465026.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$569,600 for tax year 2023.
3. Chao Yuan Ku (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 \$569,600 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 January 18, 2024, at the Omaha State Office Building, 1313 Farnam, Room 227, Omaha, Nebraska, before Commissioner Steven Keetle.
7. Paul Chao Yuan Ku was present at the hearing for the Taxpayer.
8. Tim Tran with the County Assessor's Office (the County 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 residential parcel improved with a 2,955 square foot two story residence constructed in 1985. The Subject Property has a quality rating of good and a condition rating of average.
17. The Taxpayer alleged that the increase in the assessed value of the Subject Property from the prior assessed value was unreasonable or arbitrary.
18. The assessed value for real property may be different from year to year according to the circumstances.⁹ For this reason, a prior year's assessment is not relevant to the subsequent year's valuation.¹⁰
19. The Commission must look to the value of the Subject Property as of January 1 of each tax year.¹¹
20. The County Board 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

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).

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 Neb. Rev. Stat §77-1301(Reissue 2018)

the value attributed to each of the characteristics of residential properties in the area, including the Subject Property.

21. The PRF indicates that the market area in which the Subject property is located was reappraised for tax year 2023 and that the last prior reappraisal was for 2021.
22. The Taxpayer alleged the assessed value of the Subject Property was not equalized with other comparable properties.
23. Comparable properties share similar use (residential, commercial/industrial, or agricultural), physical characteristics (size, shape, and topography), and location.¹²
24. “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.”¹³
25. The Taxpayer presented the PRF for two properties that he alleged were comparable to the Subject Property but assessed at a lower value than the Subject Property.
26. The County Assessor stated that the Subject Property is a two story residence while one of the other properties presented by the Taxpayer is a one and one-half style home and would not be considered comparable to the Subject Property.
27. The PRF for the Subject Property and the two properties provided by the Taxpayer show that the differences in overall value per square foot between the properties are due to differences in the characteristics of the property such as type of construction, style, age, amount of basement finish, garage type and size, decks, and other amenities.
28. The Taxpayer alleged that the Subject Property should not have a higher base value than the Taxpayer’s comparable properties that had the same quality and condition ratings and similar square footage.

¹² See generally, International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

¹³ Appraisal Institute, *Appraising Residential Properties*, at 334 (4th ed. 2007).

29. The Subject Property however is of brick construction while the other two properties presented are of regular or hardboard siding construction. The Subject Property also has a wood shake roof while the other two properties presented have composition shingle roofs.
30. The County Appraiser stated that brick construction and shake shingle roofs have a higher cost of construction than the other types of construction and would add greater value to the assessment of a property.
31. The Taxpayer has not shown that the assessed value of the Subject Property was not equalized with the assessed value of other comparable properties.
32. 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.
33. 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	\$139,500
<u>Improvements</u>	<u>\$430,100</u>
Total	\$569,600

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 January 26, 2024.

Signed and Sealed: January 26, 2024



Steven A. Keetle, Commissioner