

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

JEANIE L. REESE
APPELLANT,

CASE NO: 23R 0603

V.

BUFFALO COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

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

I. BACKGROUND

1. The Subject Property is an improved residential parcel in Buffalo County, parcel number 601462000.
2. The Buffalo County Assessor (the County Assessor) assessed the Subject Property at \$176,670 for tax year 2023.
3. Jeanie L. Reese (the Taxpayer) protested this value to the Buffalo County Board of Equalization (the County Board) and requested an assessed value of \$136,005 for tax year 2023.
4. The County Board determined that the taxable value of the Subject Property was \$176,670 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, before Commissioner Jackie S. Russell.
7. Jeanie Reese was present at the hearing for the Taxpayer.
8. Andrew W. Hoffmeister and Josiah Davis (Attorneys), Roy Meusch (Assessor), and Wendy Vauser (Deputy 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 1.¹
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 one-story, single-family residence built in 1940 with 912 square feet (SF) above grade, basement area of 912 SF with 821 SF full finish, 12 plumbing fixtures, quality rating of fair (2.0), and condition rating of good (4.0). The property is primarily used as a short-term rental in Kearney, NE.
17. The Taxpayer stated that the Subject Property is not uniformly and proportionately valued to the surrounding properties and the significant increase to the valuation is arbitrary or unreasonable.
18. The Taxpayer opined that the property is not equalized according to Nebraska Administrative Code Title 350 Ch. 10.002.07 which states that "Equalization means a process by which the valuations of similar or comparable properties are reviewed, to assure that equivalent characteristics receive equivalent consideration and treatment in the assessment process."
19. The Assessor stated there was a revaluation conducted to the Subject Property neighborhood for 2023. 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.

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).

20. The Assessor submitted several map documents to indicate the Subject Property's surrounding parcels' varying degrees of quality, condition, style, size, and year built to showcase the properties with the most comparability to the Subject Property.
21. The Assessor discussed condition ratings and stated that the Subject Property had undergone renovations that pushed the condition to good (4.0) which in turn will affect the valuation.
22. The Assessor also attested that only comparable properties of similar amenities will be used to value the Subject Property.
23. The County Assessor in the State of Nebraska is responsible for setting property valuations at actual value.
24. Actual value of real property for purposes of taxation means the market value of real property in the ordinary course of trade. Actual value may be determined using professionally accepted mass appraisal methods, including, but not limited to, the (1) sales comparison approach using the guidelines in section 77-1371, (2) income approach, and (3) cost approach. Actual value is the most probable price expressed in terms of money that a property will bring if exposed for sale in the open market, or in an arm's length transaction, between a willing buyer and willing seller, both of whom are knowledgeable concerning all the uses to which the real property is adapted and for which the real property is capable of being used. ⁹
25. "[U]nder §§ 77-103.01, 77-112, and 77-1363, assessors are not limited to a single method of determining the actual value of property for tax purposes. Rather, assessors are charged with a duty to consider a wide range of relevant factors in order to arrive at a proper assessment which does not exceed actual value.¹⁰
26. The Assessor stated that actual value of the Subject Property was determined using a combined cost approach with contributory data values based on quality, condition and age, as

⁹ Neb. Rev. Stat. § 77-112 (Reissue 2018).

¹⁰ *Cain v. Custer Cty. Bd. of Equal.*, 298 Neb. 834, 853, 906 N.W.2d 285, 299 (2018).

well as sales comparison approach to value with data compiled from the sales study roster period of October 1, 2020, to September 30th, 2022¹¹. The Assessor also stated there is not enough market data collected to support an income approach to value.

27. The Assessor submitted comparable properties from within the Subject Property's neighborhood, along with their Property Record Files (PRF) to show sales comparison analysis supporting the Subject Property's valuation using professionally accepted mass appraisal methods.
28. The Taxpayer did not provide the PRFs for any properties to showcase an equalization issue within the Subject Property neighborhood. Without the details contained in the PRFs, the Commission is unable to determine whether any properties of concern for the Taxpayer are truly comparable to the Subject Property.¹²
29. "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 (4th ed. 2007).
30. 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.

¹¹ 350 Neb. Admin. Code, ch. 17, § 003.05A (7/5/2017).

¹² For this reason, the Order for Single Commissioner Hearing and Notice issued to the Taxpayer on August 2, 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.*

31. 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	\$ 31,280
<u>Improvements</u>	<u>\$145,390</u>
Total	\$176,670

3. This Decision and Order, if no further action is taken, shall be certified to the Buffalo County Treasurer and the Buffalo 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 19, 2024.

Signed and Sealed: September 19, 2024



Jackie S. Russell, Commissioner