

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

INNA G. GOLDMAN  
APPELLANT,

CASE NO: 23R 0923

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 2424241752.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$619,700 for tax year 2023.
3. Inna G. Goldman (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 \$619,700 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 March 14, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Inna G. Goldman 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.<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 provided thirty-two properties that highlighted the percentage difference of increase or decrease between the Subject Property as compared to the original purchase price of the comparable properties. The Taxpayer noted the Subject Property's assessment increased 33% since purchase in tax year 2013. Most of the comparable properties assessed value increased between 4% to 37% of the original purchase price between. One of the comparable properties is valued 11% lower than the original purchase price in 2017.
17. The Taxpayer stated homes in her neighborhood have not increased, percentage wise, as much as the Subject Property has. The properties provided have sold within 2021 and 2022 tax years. The Taxpayer stated the differences in percentage increases are not fair and not equitable. The Taxpayer was not able to quantify how the differences in the percentage increase or decrease affected the actual value of the Subject Property and show the assessed value should have been different.
18. The Appraiser stated the comparables provided by the Taxpayer are different styles and from differing neighborhoods and the Appraiser doesn't feel as though they are good comparables.

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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).

19. Comparable properties share similar use (residential, commercial industrial, or agricultural), physical characteristics (size, shape, and topography), and location.<sup>9</sup>
20. The Appraiser stated the increase in the assessment of the Subject Property was due to increasing sales prices of residential properties in the Taxpayers neighborhood. As evidenced by the Taxpayers spreadsheet of thirteen recent sales, every property sold for more than it was assessed.
21. The percentage increase or decrease of properties over a number of years is irrelevant as to what the current market value of any property may be. The Assessor's office is tasked with assessing all residential property at its current market value. No evidence was provided by the Taxpayer to show the current assessment of the Subject Property was unfair or dis-equalized with similar homes. Simply comparing the percentage of increase or decrease of assessed value and determining actual value of a property is not an acceptable appraisal method.
22. 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.
23. 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.

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<sup>9</sup> See International Association of Assessing Officers, *Property Assessment Valuation*, at 169-79 (3rd ed. 2010).

2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$78,300
<u>Improvements</u>	<u>\$541,400</u>
Total	\$619,700

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 26, 2024.

Signed and Sealed: July 26, 2024



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James D. Kuhn, Commissioner