

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

RACHEL S. BLUM  
APPELLANT,

CASE NO: 23R 1560

V.

DECISION AND ORDER  
REVERSING 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 1711810547.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$220,800 for tax year 2023.
3. Rachel S. Blum (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 \$220,800 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 27, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Rachel Blum was present at the hearing for the Taxpayer.
8. Cindy Stovie (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 residential home built in 1960 with 1,302 square feet (SF), basement area of 1,302 SF with 400 SF finish, 1.5 baths, a quality rating of average, and a condition rating of average as shown on the Property Record File (PRF) submitted by the Taxpayer.
17. The Taxpayer stated that the increase in property value is unreasonable based on conditional issues and incorrect data on file with the county Assessor.
18. The Taxpayer stated that some of the add-on value information of the PRF is reflecting inaccurate data, including the appliance allowance, fireplace detail, and basement finish.
19. The Taxpayer submitted pictures of the conditional issues of the property which included deferred maintenance of the windows, doors and siding, cracks in the driveway and foundation, outdated plumbing, moisture in a corner of the basement, sewer drain backup, as well as a picture showing the unfinished basement area. The Taxpayer stated that the fireplace had not been used but did not believe that it had ever been sealed. It is in need of new components to be able to function safely.
20. The Taxpayer stated that there are conditional issues with the attached garage needing window and door replacements,

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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).

- cracking under iron supports of the porch, and the need for sewer line cleaning/repair periodically.
21. The Taxpayer attested that the kitchen and main bathroom were updated in 2003, the roof was replaced in 2006, a new furnace in 2012, and an updated electrical box in 2021.
  22. The Appraiser stated that an attempt was made to contact the owner by phone for a property inspection but was unsuccessful and therefore, could not verify the details of the PRF.
  23. The Appraiser attested that the conditional rating of average for the Subject Property indicates that there are some needs for repairs within the home due to normal wear and tear, but major components of the property have been upkept indicating that the property is within an acceptable condition rating for its age.
  24. The Appraiser stated that because the fireplace has the potential to function, it is their practice to consider it in the value.
  25. The Appraiser stated that the appliance allowance is standard for all improved parcels.
  26. The Appraiser provided a document titled "All Valid Sales for Subject's Neighborhood" which details sales price per square foot (PPSF) and assessed PPSF for all sales within the Subject Property neighborhood. The range of PPSF of the assessed values of ranch homes with average quality and average condition is \$167.11 to \$217.24. All appear to have basement finish included in their values.
  27. The Taxpayer has produced competent evidence that the basement area is unfinished and is inappropriately valued with 400 SF of finish.
  28. Based on the PRF contributory value, a removal of the depreciated cost for the basement finish would result in a remaining improvement value of \$186,020.
  29. The new PPSF of the Subject Property with the inclusion of land value is at \$153.07.

30. The Taxpayer has produced competent evidence that the County Board failed to faithfully perform its duties and to act on sufficient competent evidence to justify its actions.
31. The Taxpayer 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 reversed.
2. The taxable value of the Subject Property for tax year 2023 is:

Land	\$ 21,500
<u>Improvements</u>	<u>\$186,020</u>
Total	\$207,520

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 18, 2024.

Signed and Sealed: July 18, 2024



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Jackie S. Russell, Commissioner