

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

HONG QIAN
APPELLANT,

CASE NO: 23R 1580

V.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,
APPELLEE.

DECISION AND ORDER
REVERSING 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 2028400500.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$269,300 for tax year 2023.
3. Hong Qian (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 \$250,000 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 May 17, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner James D. Kuhn.
7. Hong Qian 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 1.¹
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 Taxpayer stated the Subject Property has increased in value 45% over the 2022 valuation yet key realtor companies suggest the median house price has decreased 2.4% to 8.6% from 2022 to 2023. Median house prices are not used by the assessor to determine valuations, the assessor uses sale prices of similar homes to help determine valuations.
17. The Taxpayer stated a comparable home within one block on the same street that has a larger lot and more square footage is assessed less than the Subject Property. The assessed value of 3078 S. 35th Ave (3078) is \$210,200 as compared to the Subject Property value of \$250,000. The 3078 home has 1,656 square foot as compared to the Subject Property with 1,389 square feet. Both homes are split level homes built in 2001 with similar amenities.
18. The Taxpayer stated a home on the same street was valued at \$219,500 and sold for \$210,000 in 2023. The appraiser stated the home that sold is a townhome and not comparable to the Subject Property. The Taxpayer stated the Subject Property is assessed with a working sprinkler system, but they have not used it for ten years as it is not in working condition.
19. The 3078 property has a 75% overbuilt for neighborhood adjustment whereas the Subject Property has no such

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).

adjustment. Appraiser notes in the Property Record File (PRF) from May of 2024 states there are other similar builds in the neighborhood and there is no justification to continue to apply this adjustment.

- 20. The Commission finds the Subject Property and the 3078 property are similar and should be valued similarly. The adjustment given to the 3078 property should be applied to the Subject Property for the 2023 tax year and the value of the sprinkler system should be removed.
- 21. 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.
- 22. 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 reversed.

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	\$ 22,800
<u>Improvements</u>	<u>\$171,745</u>
Total	\$194,545

- 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 19, 2024.

Signed and Sealed: September 19, 2024



James D. Kuhn, Commissioner