

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

JEROME C RAMBO
APPELLANT,

CASE NO: 23R 1609

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 1216310000.
2. The Douglas County Assessor (the County Assessor) assessed the Subject Property at \$301,800 for tax year 2023.
3. Jerome C Rambo (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 \$289,500 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 24, 2024, at the Tax Equalization and Review Commission Hearing Room, Nebraska State Office Building, Lincoln, Nebraska, before Commissioner Jackie S. Russell.
7. Jerome C. Rambo was present at the hearing for the Taxpayer.
8. Kurt Skradis (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 one-story, single-family residential home built in 1952 with 1,740 square feet (SF) above grade, basement area of 1,740 SF with 600 SF full finish, one full bath and two half-baths, one fireplace, attached garage with 575 SF, quality rating of good, and condition rating of fair.
17. The Taxpayer stated that due to the condition of the property, the valuation is arbitrary and unreasonable.
18. The Taxpayer brought several photographs to the hearing to support claims that the property condition is below typical.
19. The Appraiser stated that the current condition rating of the Subject Property at "fair" states that the property has excess deferred maintenance which is above typical for the property's age but does not meet the county specifications for a condition of "poor" which means that the property is nearing unlivable conditions.
20. The Appraiser stated that the Taxpayer has not agreed to a physical inspection and that the condition rating is based on photographs provided by the Taxpayer.
21. The Appraiser indicated that an additional 5% physical depreciation was applied by the referee during the protest period in order to account for the condition of the Subject Property. The Referee Recommendation on the Douglas County

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).

Board of Equalization 2023 report states that property sales located at 304 S 84th St and 524 S 86th St were used to support the reduction.

22. The Taxpayer stated that the roof, which is in need of replacement, was not leaking as of the January 1 assessment date, nor were the windows that have extensive wood rot, as shown by the photographs.
23. The Taxpayer has not presented information or comparable properties to demonstrate that the condition rating of fair with an additional 5% physical depreciation for the Subject Property for tax year 2023 was arbitrary or unreasonable.
24. The Taxpayer requested that the Subject Property valuation be the same as the 2022 valuation (\$225,000) due to the condition.
25. The assessed value for real property may be different from year to year according to the circumstances. ⁹For this reason, a prior year's assessment is not relevant to the subsequent year's valuation. ¹⁰ Similarly, prior assessments of other properties are not relevant to the subsequent assessment.¹¹
26. The Appraiser stated that the Subject Property is one of the largest homes in the neighborhood and affected the valuation comparative to the smaller homes.
27. The Appraiser 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.
28. The Appraiser provided the Subject Property's Property Record File along with sales from the statutorily indicated time period of October 1, 2020, thru September 30, 2022¹² within the Subject

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 *Kohl's Dep't Stores v. Douglas Cty. Bd. of Equal.*, 10 Neb. App. 809, 814-15, 638 N.W.2d 877, 881 (2002).

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

Property's economic area which were used to determine the Subject Property valuation for January 1, 2023.

29. 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.
30. 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	\$ 55,300
<u>Improvements</u>	<u>\$234,200</u>
Total	\$289,500

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 October 10, 2024.

Signed and Sealed: October 10, 2024



Jackie S. Russell, Commissioner