

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Troy A. Slocum,
Appellant,

v.

Sherman County Board of Equalization,
Appellee.

Case No: 17R 0076

Decision and Order Affirming
the Determination of the
Sherman County Board of Equalization

Background

1. The Subject Property is a 37.70 acre residential parcel with a 1,404 square foot single story home over a full basement with a detached garage and chicken coop, with a legal description of: PT NW1/4 SW1/4 34-14-16 (37.70 AC-Survey) Harrison.
2. The Sherman County Assessor (the County Assessor) assessed the Subject Property at \$262,430 for tax year 2017.
3. Troy A. Slocum (the Taxpayer) protested this value to the Sherman County Board of Equalization (the County Board) and requested an assessed value of 95% of \$185,000 for tax year 2017.
4. The County Board determined that the taxable value of the Subject Property was \$262,430 for tax year 2017.
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 25, 2018, at the Grand Island Public Library, 211 N Washington St., Grand Island, Nebraska, before Commissioner James Kuhn.
7. Troy A. Slocum was present at the hearing for the Taxpayer.
8. Sherie Kuszak, County Assessor, and Heather Sikyta, County Attorney, were present for the County Board.

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 the determination of the County Board of Equalization is de novo.²

¹ See, Neb. Rev. Stat. §77-1301(1) (Reissue 2009).

² See, Neb. Rev. Stat. §77-5016(8) (2016 Cum. Supp.), *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 (2009).

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
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

Findings of Fact & Conclusions of Law

16. The Taxpayer asserted that the value of the property should be 95% of \$185,000, the value determined by an independent appraisal done March 30, 2016 by Patricia Cox for refinance purposes.
17. The assessed land value increased from \$61,380 in 2015 to the current land value of \$131,260.
18. The Taxpayer stated that he had someone hay about seven acres of his property with the balance being grass and creek bottom. He currently does not register any of his acres as cropland, grass or hay with the FSA.
19. The County Assessor stated that she physically reviewed the property for the 2017 protest with the owner. She stated that she made adjustments to the improvement value due to some discrepancies with the property record card.
20. The County Assessor stated that her office made adjustments to land values for rural farm sites. The previous value for the first acre of a farm site was \$7,000 but was changed to \$14,500 starting in 2016.

³ *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 283, 753 N.W.2d 802, 811 (2008) (Citations omitted).

⁴ *Id.*

⁵ Neb. Rev. Stat. §77-5016(9) (2016 Cum. Supp.).

⁶ *Omaha Country Club v. Douglas Cty. Bd. of Equal.*, 11 Neb. App. 171, 645 N.W.2d 821 (2002).

⁷ Cf. *Josten-Wilbert Vault Co. v. Board of Equalization for Buffalo County*, 179 Neb. 415, 138 N.W.2d 641 (1965) (determination of actual value); *Lincoln Tel. and Tel. Co. v. County Bd. Of Equalization of York County*, 209 Neb. 465, 308 N.W.2d 515 (1981)(determination of equalized taxable value).

⁸ Neb. Rev. Stat. §77-5018(1) (2016 Cum. Supp.).

21. The County Assessor provided three property record cards of rural farm site sales. One of the sales is from 2012 and two of the sales are from 2013. Little weight was given to these sales due to the fact that they would have been four and five years old for the 2017 tax year.
22. The independent appraisal offered by the Taxpayer contained no explanation of how the appraiser determined the land value. As a result, the appraisal does not constitute persuasive evidence that the County Assessor's methodology was incorrect.
23. The Taxpayer did not provide evidence of comparable sales of rural farm sites that would show a lower land value.
24. 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.
25. 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.

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 2017, is Affirmed.
2. The taxable value of the Subject Property for tax year 2017 is:

Land	\$131,260
<u>Improvements</u>	<u>\$131,170</u>
Total	\$262,430

3. This Decision and Order, if no further action is taken, shall be certified to the Sherman County Treasurer and the Sherman County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2016 Cum. Supp.).
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 2017.
7. This Decision and Order is effective on May 31, 2018.

Signed and Sealed: May 31, 2018.

James D. Kuhn, Commissioner