

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

Rhonda L. Campbell Revocable Trust,  
Rhonda L. Campbell, Trustee,  
Appellant,

v.

Buffalo County Board of Equalization,  
Appellee.

Case No. 18R 0216

Decision and Order Reversing  
County Board of Equalization

Case No. 18R 0217

Decision and Order Affirming  
County Board of Equalization

Background

1. The Subject Properties are single family dwellings, with a legal descriptions of: 9-12-13 PT W1/2 NW1/4 NW1/4 (16.56 AC) (Case No. 18R 0216, “North House”), and 9-12-13 TR in NW1/4 (3.44) (Case No. 18R 0217, “South House”).
2. The Buffalo County Assessor (the County Assessor) assessed the Subject Properties at \$135,530 for the North House and \$137,925 for the South House for tax year 2018.
3. Rhonda L. Campbell, Trustee of the Rhonda L. Campbell Revocable Trust (the Taxpayer) protested these values to the Buffalo County Board of Equalization (the County Board) and requested an assessed value of \$83,860 for the North House and \$98,165 for the South House for tax year 2018.
4. The County Board determined that the taxable value of the Subject Properties was \$135,530 for the North House and \$137,925 for the South House for tax year 2018.
5. The Taxpayer appealed these determinations of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on April 3, 2019, at the Law Enforcement Center, 111 Public Safety Drive, Community Building Room, 2<sup>nd</sup> Floor, Grand Island, Nebraska, before Commissioner James D. Kuhn.
7. Rhonda L. Campbell, Frank Campbell and Janet Campbell were present at the hearing.
8. Andrew W. Hoffmeister and Nora Borer (the Assessor) 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.<sup>1</sup>

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<sup>1</sup> Neb. Rev. Stat. §77-1301(1) (Reissue 2018).

10. The Commission’s review of the 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>
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>

#### Findings of Fact & Conclusions of Law

16. This appeal is for two separate single family dwellings situated adjacent to railroad tracks. The North House (PID 020081005) sits on the north side of the railroad tracks, and the South House (PID 020082100) sits on the south side of the tracks.
17. The Assessor stated the Buffalo County Assessor’s office updated their Marshall and Swift costing tables from the 2013 to 2016, leading to an increase in assessments for improvements.

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<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 (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.*

<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, 645 N.W.2d 821 (2002).

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

<sup>8</sup> Neb. Rev. Stat. §77-5018(1) (Reissue 2018).

18R 0216: North House

18. The Taxpayer stated the North House was built in the early 1900s and is in need of many repairs. To date, repairs have been done to the dwelling on an as-needed basis. The home is currently occupied. The Taxpayer asserted the large increase in value from 2017 to 2018 is concerning due to the age and condition of the North House.
19. The Taxpayer provided five comparable property record files of rural homes within a few miles of the Subject Property. Three of the comparable properties have differing quality and condition factors, but two of the comparable properties have the same quality of Fair and same condition of Badly Worn. One of the comparable properties, the Stoeger property, has been vacant for about ten years according to the Taxpayer and was not considered by the Commission as a good comparable. The other four comparable properties are valued in a range of \$34 to \$42 per square foot. The two most comparable properties based on Quality and Condition are the Dethlefs property and the Link property, which are assessed at \$42 per square foot and \$38 per square foot respectively. Using the mean of the two most comparable properties of \$40 per square foot, the value of the North House would be \$55,040 (1,376 x \$40 = \$55,040).
20. 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 on the North House. 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 for the North House should be vacated.

18R 0217: South House

21. The Taxpayer also provided five comparable properties for the South House. After analyzing these comparables, one of which sold August 3, 2017 for \$370,000, the Commission finds these properties justify the current assessment.
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 on the South House. 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 for the South House should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decision of the County Board of Equalization determining the taxable value of the Subject Properties for tax year 2018 is vacated and reversed in Case No. 18R 0216, and affirmed in Case No. 18R 0217.
2. The taxable value of the Subject Properties for tax year 2018 is:

**PID 020081005 (North House)**

Land	\$33,860
<u>Improvements</u>	<u>\$66,280</u>
Total	\$100,140

**PID 020082100 (South House)**

Land	\$16,165
<u>Improvements</u>	<u>\$121,760</u>
Total	\$137,925

3. This Decision and Order, if no further action is taken, shall be certified to the Buffalo County Treasurer and the Buffalo 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 2018.
7. This Decision and Order is effective on April 16, 2019.

Signed and Sealed: April 16, 2019

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James D. Kuhn, Commissioner