

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

MB & EJS Family Revocable Trust,
Eugene J. Snitily, Trustee
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 13R 541

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

Background & Procedural History

1. The Subject Property (Subject Property) includes a 2,992 square foot ranch style residence located at 9508 Burdette Circle, Omaha, Douglas County, Nebraska.
2. The Douglas County Assessor (the Assessor) assessed the Subject Property at \$260,600 for tax year 2013.
3. The Taxpayer protested this value to the County Board.
4. The County Board determined that the taxable value of the Subject Property was \$260,600 for tax year 2013.
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 3, 2015, at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska, before Commissioner Robert W. Hotz.
7. Eugene J. Snitily and Lanida Snitily were present at the hearing for the MB & EJS Family Revocable Trust (the Taxpayer).
8. Kevin Corcoran and Mary Cederberg, employees of the Douglas County Assessor, were present for the Douglas County Board of Equalization (the County Board).

Issues & Analysis

9. The Commission’s review of the determination of the County Board of Equalization is de novo.¹ “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

¹ See, Neb. Rev. Stat. §77-5016(8) (2014 Cum. Supp.), *Brenner v. Banner Cty. Bd. of Equal.*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008).

been held in the first place, and evidence is taken anew as such evidence is available at the time of the trial on appeal.”²

10. 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
11. 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
12. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
13. 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
14. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁸
15. The Subject Property was valued by the County Assessor using a mass appraisal model of neighborhood 58, including sales of ranch style homes the two year period prior to the effective date of January 1, 2013.
16. The Taxpayer did not assert that any errors had been made in the valuation of the Subject Property.
17. The Taxpayer asserted that the Subject Property was not appropriately equalized with other similar properties in the same taxing jurisdiction. In support of the assertion, the Taxpayer provided printouts from the County Assessor’s website, spreadsheets compiling the data, photographs, and maps. The Taxpayer did not provide any property record cards, as required by paragraph 6 of the order for hearing.
18. The Commission is unable to appropriately and accurately quantify any of the comparisons made between the Subject Property and alleged comparable properties absent a review of the relevant property record cards.

² *Koch v. Cedar Cty. Freeholder Bd.*, 276 Neb. 1009, 1019 (2009).

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(8) (2014 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) (2014 Cum. Supp.).

19. 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.
20. The Taxpayer has not adduced clear and convincing evidence that the determination of the County Board is unreasonable or arbitrary, and the decision of the County Board should be affirmed.

ORDER

IT IS ORDERED THAT:

1. The Decision of the Douglas County Board of Equalization determining the taxable value of the Subject Property for tax year 2013 is Affirmed.
2. The taxable value of the Subject Property for tax year 2013 is:

Land	\$ 23,200
Improvements	<u>\$237,400</u>
Total	\$260,600

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 (2014 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 2013.
7. This Decision and Order is effective on June 4, 2015.

Signed and Sealed: June 4, 2015.

Robert W. Hotz, Commissioner