

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Dorothy M. Meyer,
Appellant,

v.

Hall County Board of Equalization,
Appellee.

Case No: 15A 0023

Decision and Order Affirming Hall
County Board of Equalization

Background

1. The Subject Property is an agricultural parcel, with a legal description of: SW ¼ 30-12-12, 155.39 Acres, Hall County, Nebraska.
2. The Hall County Assessor (the County Assessor) assessed the Subject Property at \$941,614 for tax year 2015.
3. The Taxpayer protested this value to the Hall County Board of Equalization (the County Board) and requested an assessed value of \$630,400 for tax year 2015.
4. The County Board determined that the taxable value of the Subject Property was \$941,614 for tax year 2015.
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 August 31, 2016 at the Hamilton County Courthouse, Aurora, Nebraska, before Commissioner Nancy J. Salmon.
7. Wayne E. Meyer was present at the hearing for the Taxpayer.
8. Jack Zitterkopf, Hall County Attorney, was present for the County Board.
9. Jan Pelland, Hall County Assessor, was also present.

Applicable Law

10. All real property in Nebraska subject to taxation shall be assessed as of the effective date of January 1.¹
11. The Commission’s review of the determination of the County Board of Equalization is de novo.²
12. 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

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

² 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). “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).

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

13. 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
14. Proof that the order, decision, determination, or action was unreasonable or arbitrary must be made by clear and convincing evidence.⁶
15. 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
16. The Commission’s Decision and Order shall include findings of fact and conclusions of law.⁸

Findings of Fact & Conclusions of Law

17. The Taxpayer’s appeal questions the valuation placed on the Subject Property. She contends that the valuation had substantially increased on the Subject Property. She also is the owner of the quarter section immediately north of the Subject Property (NW1/4, 30-12-12) and she feels that property has a higher value than the Subject Property.
18. The County Assessor explained the process utilized in her valuation of the Subject Property. She explained that the Subject Property had increased more than the adjoining northwest quarter because it has better Land Capability Groups (soil quality) than the northwest quarter. She noted that her office had performed an agricultural land update and an update from the Natural Resources District (NRD). Because of the update, the actual land use of the Subject Property was corrected. She indicated that, if the Taxpayer disagreed with the soil types, she could request a review by the NRD.
19. Based upon the submitted evidence, 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.

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) (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.).

20. 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 2015, is affirmed.
2. The taxable value of the Subject Property for tax year 2015 is:

Land	\$858,546
<u>Improvements</u>	<u>\$ 83,068</u>
Total	\$941,614

3. This Decision and Order, if no further action is taken, shall be certified to the Hall County Treasurer and the Hall 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 2015.
7. This Decision and Order is effective on September 2, 2016.

Signed and Sealed: September 2, 2016.

Nancy J. Salmon, Commissioner