

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

LVP Oakview Strip Center LLC,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 17C 0482, 17C 0483, 17C 0484
& 17C 0485

Decision and Order Affirming the
Determination of the County Board of
Equalization
(Default Judgment)

For the Appellant:

No Appearance

For the Appellee:

Jennifer D. Chrystal-Clark
Deputy Douglas County Attorney

These appeals were heard before Commissioners Steven A. Keetle and James D. Kuhn.

I. THE SUBJECT PROPERTY

The Subject Property is four commercial parcels located in Douglas County. The legal description of the parcels is found in the Commission's case files for the captioned appeals.

II. PROCEDURAL HISTORY

The Douglas County Assessor determined that the assessed value of the Subject Property was \$12,255,500 (17C 0482); \$7,671,500 (17C 0483); \$4,238,900 (17C 0484); and \$599,900 (17C 0485) for tax year 2017. LVP Oakview Strip Center LLC (the Taxpayer) protested each of these assessments to the Douglas County Board of Equalization (the County Board). The County Board determined that the assessed value of the Subject Property for tax year 2017 was \$12,255,500 (17C 0482); \$7,671,500 (17C 0483); \$4,238,900 (17C 0484); and \$599,900 (17C 0485) for tax year 2017.¹

The Taxpayer appealed the decisions of the County Board to the Tax Equalization and Review Commission (Commission). The Commission issued an Order for Hearing and Notice of Hearing on September 27, 2019, setting the hearing date for January 3, 2020. An Affidavit of

¹ See Case File.

Service which appears in the records of the Commission establishes that the Order for Hearing and Notice of Hearing listed above were served on the County Board and the Taxpayer.²

On December 9, 2019, the attorney representing the Taxpayer in these appeals, James F. Cann, filed a Motion for Leave to Withdraw, advising the Commission that the Subject Property was sold after the appeals were filed and that the Taxpayer had informed Cann it no longer wished to prosecute the appeal. Cann attempted to contact the subsequent owners of the Subject Property. One of the owners had been dissolved as a business entity, and legal counsel for the other subsequent owners advised Cann that the subsequent owners did not wish to pursue the appeals. On December 11, 2019, pursuant to Neb. Rev. Stat. §§ 77-5015.01 and 77-5016.09 (Reissue 2018), the Commission provided notice of the scheduled hearing to the entities identified by Cann as having a potential interest in the outcome of the appeals.³ The Commission received no response from the subsequent owners. Cann's Motion for Leave to Withdraw was granted on December 30, 2019.

The Commission held a hearing as scheduled on January 3, 2020. No one appeared on behalf of the Taxpayer or any successor in interest. The County Board moved for a default judgment in favor of the County Board's determination.

III. STANDARD OF REVIEW

"In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination or action appealed from is incorrect, the commission shall deny the appeal."⁴ The Commission is authorized to enter default judgments.⁵ An Order for Default Judgment affirming the determinations of the County Board may be entered when a party fails to appear at a hearing on the merits as ordered by the Commission.⁶

IV. CONCLUSION

The Taxpayer and all known successors in interest failed to appear at the hearing as required by the Order for Hearing and Notice of Hearing and therefore presented no evidence to show that

² See Case File.

³ See Case File.

⁴ Neb. Rev. Stat. §77-5016(9) (Reissue 2018).

⁵ Neb. Rev. Stat. §77-5015 (Reissue 2018).

⁶ Title 442, Nebraska Administrative Code, Chapter 4, §010.08 (06/2011).

the order, decision, determination or action appealed from was incorrect. An Order for Default Judgment should be granted and the decision of the County Board should be affirmed.

V. ORDER

1. An Order for Default Judgment is granted.
2. The Decision of the Douglas County Board of Equalization determining the value of the Subject Property for tax year 2017 is affirmed.
3. The taxable value of the Subject Property for tax year 2017 is: \$12,255,500 (17C 0482); \$7,671,500 (17C 0483); \$4,238,900 (17C 0484); and \$599,900 (17C 0485).
4. This Decision and Order, if no appeal is timely filed, shall be certified to the Douglas County Treasurer and the Douglas County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Reissue 2018)
5. Any request for relief, by any party, which is not specifically provided for by this Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax year 2017.
8. This Decision and Order is effective for purposes of appeal on January 15, 2020.⁷

Signed and Sealed: January 15, 2020

Steven A. Keetle, Commissioner

James D. Kuhn, Commissioner

⁷ Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (Reissue 2018) and other provisions of Nebraska Statute and Court Rules.