

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Circo Realty Company,
Circo Strategic Investments,
Barbara J. Kay,
Appellants,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 17C 0560, 17C 0562, 17R 0633

**ORDER FOR DISMISSAL WITH
PREJUDICE**

THE COMMISSION BEING FULLY INFORMED IN THE PREMISES, FINDS AND DETERMINES AS FOLLOWS:

I. PROCEDURAL HISTORY

Each of the above-captioned appeals was received by the Commission on September 13, 2017. Each appeal form was signed by Barbara Kay as CFO of Circo Enterprises LLC, but the owners of record for the parcels involved were Circo Realty Company (17C 0560), Circo Strategic Investments (17C 0562), and Dennis P. Circo (17R 0633).¹ On October 25, 2017, the Commission issued an Order to Show Cause and Notice of Hearing in each case, setting a combined jurisdictional show cause hearing for October 30, 2017. The purpose of this hearing was to determine whether Ms. Kay had standing and authority to sign appeals on behalf of the various entities that own the parcels in issue. At the time set for hearing, Shakil Malik, Deputy Douglas County Attorney, appeared telephonically on behalf of the County Board. No one appeared on behalf of the Appellants.

II. ANALYSIS

If a party to a proceeding at a Show Cause Hearing does not appear within fifteen (15) minutes of the time for the hearing, the proposed order may be issued if the record demonstrates that notice has been provided to the party against whom the Order to Show Cause is issued, or a reasonable attempt to provide notice has been issued.²

¹ In an appeal now designated Case No. 17C 0559, the property owner of record was Circo Enterprises LLC. This Order does not apply to that case, which will be scheduled for hearing on the merits in the normal course of the Commission's business.

² 442 NAC 5 § 029.03 (6/11)

An Affidavit of Service in the records of the Commission establishes that a copy of the Order to Show Cause and Notice of Hearing was served upon each Appellant at the address listed on its appeal form by certified mail, postage prepaid. The Appellants failed to appear and provide evidence regarding the validity of the appeals. The “proposed order” in this case is an order dismissing the appeals for lack of jurisdiction, and because the Appellants failed to appear, entry of such an order is appropriate. Therefore, the Commission determines that the appeals should be dismissed.

III. CONCLUSION

The appeals should be dismissed.

ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeals are dismissed with prejudice.
2. This decision, if no appeal is filed, shall be certified within thirty days to the Douglas County Treasurer, and the officer charged with preparing the tax list for Douglas County as follows:

Diane Battiato
1819 Farnam Stre. Ste H09 Civic Center
Omaha, NE 68183-1000

John Ewing
1819 Farnam St., Rm H03
Omaha, NE 68183
3. Each party is to bear its own costs in this matter.

SIGNED AND SEALED December 11, 2017.

Seal

Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner