

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

Robco, LLC.,  
Appellant,

v.

City of Grand Island Board of Equalization,  
Appellee

Case No: 17C 001

**ORDER FOR DISMISSAL WITH  
PREJUDICE**

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

**I. PROCEDURAL HISTORY**

A jurisdictional show cause hearing was held on July 5, 2017. Gregory Neuhaus appeared telephonically at the hearing before the Commission as Counsel for Robco, LLC (the Taxpayer). Jerry Janulewicz, Grand Island City Attorney, appeared telephonically on behalf of the City of Grand Island Board of Equalization (the City Board). The Commission took notice of its case files for the purpose of determining personal and subject matter jurisdiction. The Commission heard argument regarding the Jurisdiction of the Commission to hear this appeal.

**II. STANDARD OF REVIEW**

The Commission's powers and duties are specifically defined by statute.<sup>1</sup> The Commission obtains jurisdiction over an appeal when the appeal form is timely filed, the filing fee is timely received and thereafter paid, and a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.<sup>2</sup> Parties cannot confer subject matter jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.<sup>3</sup>

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<sup>1</sup> See, Neb. Rev. Stat. 77-5007 (2016 Cum. Supp.).

<sup>2</sup> See, Neb. Rev. Stat. 77-5013 (2016 Cum. Supp.).

<sup>3</sup> *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

**III. ANALYSIS**

On March 20, 2017, the Commission received an Appeal Form filed by the Taxpayer. The Subject Property was described as: Lots 1, 2, 3, 4, & 5 Wildwood subdivision to the City of Grand Island, Hall County, Nebraska. The stated reason for appeal related to a resolution passed by the City Council of Grand Island, sitting as the City Board of Equalization, that increased tap fees, or connection fees, for gas lines paid by the Taxpayer.

“Jurisdiction is the inherent power or authority to decide a case.”<sup>4</sup> The Commission only has that “authority” which is specifically conferred upon it by the Constitution of the State of Nebraska, the Nebraska State Statutes, or by the construction necessary to achieve the purpose of the relevant provisions or act.<sup>5</sup> The Taxpayer offered no legal authority that would allow the Commission to hear an appeal of an action of the City Council of Grand Island acting as the City Board of Equalization, nor does this appeal fall within the authority conferred upon the Commission by the Constitution of the State of Nebraska, the Nebraska State Statutes, or by the construction necessary to achieve the purposes of the relevant provisions or act. Therefore, the Commission determines that it does not have jurisdiction over this appeal.

**IV. CONCLUSION**

The Commission does not have jurisdiction to hear the above captioned appeal.

**V. ORDER**

**IT IS THEREFORE ORDERED THAT:**

- 1. The above captioned appeal is dismissed with prejudice.
- 2. Each party is to bear its own costs in this matter.

**SIGNED AND SEALED** July 11, 2017

**Seal**

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Robert W. Hotz, Commissioner

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Steven A. Keetle, Commissioner

<sup>4</sup> *Hofferber v Hastings Utilities*, 282 Neb. 215, 225, 803 N.W.2d 1, 9 (2011) (citations omitted).

<sup>5</sup> *See, e.g., Grand Island Latin Club v. Nebraska Liquor Control Commission*, 251 Neb. 61, 67, 554 N.W.2d 778, 782 (1996).