

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

GLZ Properties LLC,  
Appellant,

v.

Hall County Board of Equalization,  
Appellee.

Case Nos: 18C 0474 & 18C 0475

**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 January 24, 2019. Zachary Zoul, Managing Member, appeared telephonically on behalf of GLZ Properties LLC (the Taxpayer). Sarah Carstensen, Deputy Hall County Attorney, appeared telephonically on behalf of the Hall County Board of Equalization (the County Board). Without objection, the Commission took notice of its case files for the purpose of determining personal jurisdiction and subject matter jurisdiction. The Commission received evidence and heard argument regarding its jurisdiction to hear this appeal.

**II. STANDARD OF REVIEW**

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>1</sup> Any action of the County Board pursuant to §77-1502 may be appealed to the Commission in accordance with Neb. Rev. Stat. §77-5013 on or before August 24[.]<sup>2</sup>

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<sup>1</sup> Neb. Rev. Stat. §77-5013 (Reissue 2018).

<sup>2</sup> Neb. Rev. Stat. §77-1510 (Reissue 2018). Hall County is not eligible to extend the deadline beyond August 24 under Neb. Rev. Stat. §77-1502(1).

### III. ANALYSIS

On August 27, 2018, the Commission received an envelope postmarked August 23, 2018, containing two appeal forms completed and signed<sup>3</sup> by Mr. Zoul on behalf of the Taxpayer; this envelope also contained the required copies of the County Board's determinations. Also on August 27, 2018, the Commission received a separate envelope, postmarked August 25, 2018, containing four checks for \$25. These checks represented the filing fees for the two appeals captioned above (as well as Case Nos. 18C 0476 and 18C 0477).

An appeal is timely filed, or a filing fee is timely received, if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the Commission, or received by the Commission, on or before the date specified by law for filing the appeal or petition.<sup>4</sup> All of the Taxpayer's appeal materials were received by the Commission after the filing deadline. Nevertheless, the appeals might have been filed on time if all of the required materials were placed in the mail on or before the last day to file. Because the appeal forms and related documents were postmarked prior to the deadline, they were timely filed. The filing fees, however, were mailed separately in an envelope postmarked August 25, which was after the filing deadline. Mr. Zoul testified at the hearing that he did not know on what date the envelope containing the checks for the filing fees was mailed, so we cannot conclude that the postmark was erroneous.<sup>5</sup> The filing fee was not timely received as defined by Nebraska law. The Commission does not have jurisdiction to hear the appeal, and the appeal must be dismissed.

### IV. CONCLUSION

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

### ORDER

#### IT IS THEREFORE ORDERED THAT:

1. The above captioned appeal is dismissed with prejudice.

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<sup>3</sup> One appeal form was not signed.

<sup>4</sup> Neb. Rev. Stat. §77-5013(2) (Reissue 2018).

<sup>5</sup> Neb. Rev. Stat. §49-1201 (Reissue 2010).

2. As required by Neb. Rev. Stat. §77-5018 (2016 Cum. Supp.), this decision, if no appeal is filed, shall be certified within thirty days to the Hall County Treasurer, and the officer charged with preparing the tax list for Hall County as follows:

Kristi Wold  
Hall County Assessor  
121 S Pine St. Ste 1  
Grand Island, NE 68801

Alaina Verplank  
Hall County Treasurer  
121 S Pine St. Ste. 2  
Grand Island, NE 68801

3. Each party is to bear its own costs in this matter.

**SIGNED AND SEALED:** January 28, 2019

Seal

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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner