

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

Orpheum Tower LLC,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case Nos: 18C 0517 & 19C 0256

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

**For the Appellant:**

No appearance

**For the Appellee:**

Jennifer D. Chrystal-Clark,  
Douglas County Attorney

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

**I. THE SUBJECT PROPERTY**

The Subject Property is a commercial parcel located in Douglas County. The legal description of the parcel is found in the Commission’s case file.

**II. PROCEDURAL HISTORY**

The Douglas County Assessor determined that the assessed value of the Subject Property was \$15,399,600 for tax years 2018 and 2019. Orpheum Tower LLC (the Taxpayer) protested these assessments to the Douglas County Board of Equalization (the County Board). The County Board determined that the assessed value for tax years 2018 and 2019 was \$15,399,600.<sup>1</sup>

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). The Commission issued an Order for Hearing and Notice of Hearing on December 23, 2019, setting the hearing date for April 1, 2020. On March 20, 2020, the Commission issued an Order for Continuance continuing the hearing until further order. On July 14, 2020, the Commission issued an Amended Order for Hearing and Notice of Hearing setting the hearing date for September 21, 2020. An affidavit in the records of the Commission establishes that the Amended Order for Hearing and Notice of Hearing was served on all parties.<sup>2</sup>

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<sup>1</sup> See case file.

<sup>2</sup> See case file.

The Commission held a hearing on September 21, 2020. No one appeared on behalf of the Taxpayer as directed by the Commission's Order for Hearing. 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 Neb. Rev. Stat. § 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.<sup>3</sup> The Commission is authorized to enter default judgments.<sup>4</sup> 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.<sup>5</sup>

### IV. CONCLUSION

The Taxpayer failed to appear at the hearing as required by the Amended Order for Hearing and Notice of Hearing and therefore presented no evidence to show that 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

THEREFORE IT IS ORDERED:

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 2018 is affirmed.
3. The taxable value of the Subject Property for tax year 2018 is:

Land:	\$ 392,000
<u>Improvement:</u>	<u>\$15,007,600</u>
Total:	\$15,399,600

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).

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<sup>3</sup> Neb. Rev. Stat. § 77-5016(9) (Reissue 2018).

<sup>4</sup> Neb. Rev. Stat. § 77-5015 (Reissue 2018).

<sup>5</sup> Title 442, Neb. Admin. Code, Ch. 4, § 010.08 (06/2011).

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 2018.
8. This Decision and Order is effective for purposes of appeal on October 7, 2020.<sup>6</sup>

Signed and Sealed: October 7, 2020

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Steven A. Keetle, Commissioner

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James D. Kuhn, Commissioner

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<sup>6</sup> 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.