

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

Yunlong Huang,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case No: 19R 0616

**ORDER FOR DISMISSAL  
WITH PREJUDICE**

**THE COMMISSION FINDS AS FOLLOWS:**

**I. PROCEDURAL HISTORY**

A jurisdictional show cause hearing was held on November 4, 2019. Yunlong Huang (the Taxpayer) appeared telephonically. Jennifer D. Chrystal-Clark, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization (the County Board). The Commission took notice of its case files, received evidence, and heard argument regarding its jurisdiction to hear this appeal.

**II. STANDARD OF REVIEW**

The Commission obtains jurisdiction over an appeal or petition when the Commission has the power or authority to hear the appeal or petition, 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, or on or before September 10 if the County Board has adopted a resolution to extend the deadline for hearing protests under Neb. Rev. Stat. §77-1502.<sup>2</sup> An appellate tribunal, such as the Commission, cannot acquire jurisdiction over an issue if the body from which the appeal is taken had no jurisdiction of the subject matter.<sup>3</sup> When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.<sup>4</sup> Parties cannot confer subject matter jurisdiction on a tribunal

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

<sup>2</sup> Neb. Rev. Stat. §77-1510 (Reissue 2018).

<sup>3</sup> See, e.g., *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

<sup>4</sup> *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.<sup>5</sup>

### III. ANALYSIS

On September 30, 2019, the Commission received an envelope containing a completed appeal form and a check for \$25 in filing fees. The envelope was postmarked September 26, 2019, and it did not include a final decision of the County Board or other information that documented such a decision. The County Board adopted a resolution extending the deadline for hearing protests,<sup>6</sup> so the filing deadline for tax year 2019 was September 10, 2019. At the hearing, Mr. Huang testified that he purchased the subject property on September 19, 2019. After purchasing the property, he learned that the valuation had increased since 2018, but the previous owner had not filed a protest of this valuation increase with the County Board.

The county board is the first level of review for nearly all appeals of valuation decisions made by a county assessor. In order to appeal to this Commission, a taxpayer must first file a protest with the county board. The only exception to this rule arises when county officials fail to notify a taxpayer of the valuation of the property, and that failure prevents a protest from being filed on time.<sup>7</sup> The law requires the county assessor to notify the owner of record as of May 20 of every item of real property which has been assessed at a value different than in the previous year.<sup>8</sup> Mr. Huang was not entitled to notice because he was not the owner of the subject property on May 20; he did not purchase the property until September 19, 2019, which is well after the date for filing a protest with the County Board for tax year 2019.<sup>9</sup> Mr. Huang did not present any evidence to show that the assessor did not notify the previous owner of the change in valuation.

The appeal was filed after the deadline; the appeal did not include the required documentation; and the Commission does not have the statutory authority to hear the appeal. The appeal should be dismissed.

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<sup>5</sup> *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

<sup>6</sup> See case file.

<sup>7</sup> See Neb. Rev. Stat. § 77-1507.01 (Reissue 2018).

<sup>8</sup> Neb. Rev. Stat. § 77-1315(2) (Reissue 2018).

<sup>9</sup> Neb. Rev. Stat. § 77-1502(1) (Reissue 2018).

**IV. CONCLUSION**

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

**THEREFORE IT IS ORDERED:**

1. The above captioned appeal is dismissed with prejudice.
2. As required by Neb. Rev. Stat. §77-5018 (Reissue 2018), 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:

John Ewing  
Douglas County Treasurer  
1819 Farnam St., Rm H03  
Omaha, NE 68183

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

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

**SIGNED AND SEALED:** November 5, 2019

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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner