

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

George Rambour IV,  
Rambour Realty Company,  
Appellants,

v.

Platte County Board of Equalization,  
Appellee.

Case Nos. 20A 0101, 20A 0103, 20A 0104,  
20A 0109, 20A 0110, 20A 0111  
& 20A 0112

DECISION AND ORDER FINDING  
JURISDICTION

Case Nos. 20A 0105 & 20A 0108

FINAL ORDER FOR DISMISSAL  
WITH PREJUDICE

**I. PROCEDURAL HISTORY**

The Commission held a jurisdictional show cause hearing on October 21, 2021. George Rambour IV appeared telephonically, on his own behalf and on behalf of Rambour Realty Company. Elizabeth Lay appeared telephonically on behalf of the Platte 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 the captioned appeals.

**II. APPLICABLE LAW**

The Commission obtains jurisdiction over an appeal when the Commission has the authority to hear the appeal, the appeal 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>

The Commission’s rules require that an appeal be signed by a party, legal counsel (i.e., an attorney) for a party, or a person authorized by law or rule.<sup>2</sup> The definition of “party” includes:

[A] person directly affected by the outcome of an appeal or petition, or a person authorized by statute to appeal. A person who will be directly affected by the

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

<sup>2</sup> 442 Neb. Admin. Code Ch. 5 § 001.04 (2021).

outcome of an appeal is one who has a real interest in the appeal or has a legal or equitable right, title, or interest in the subject of the appeal.<sup>3</sup>

The form and requirements for execution of an appeal may be specified by the Commission in its rules and regulations.<sup>4</sup> Agency regulations properly adopted and filed with the Nebraska Secretary of State have the effect of statutory law.<sup>5</sup> The defect of standing is a defect of subject matter jurisdiction.<sup>6</sup> When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.<sup>7</sup>

### **FINDINGS OF FACT & ANALYSIS**

Each of the captioned appeals was timely filed with the required documents and filing fees. Each appeal form was signed by George Rambour IV, either individually or as an officer of Rambour Realty Company (Rambour Realty). The Commission scheduled hearings on the merits of the appeals for September 30, 2021. Shortly before the hearings, review of the case files indicated that some of the parcels were not owned by Rambour or Rambour Realty. A show cause hearing was conducted to determine whether Rambour, either individually or as an officer of Rambour Realty, had standing to file the appeals and was authorized to sign the appeals under the Commission's rules and regulations.

Rambour could sign and file the underlying protests with the County Board because Nebraska law expressly permits protests to be filed with county boards of equalization by property owners, persons authorized by the property owners, and persons not authorized by the property owners.<sup>8</sup> The Commission's rules are more restrictive, requiring signature by a party, an attorney for a party, or another person authorized by law or rule. The Commission's rules set forth categories of persons who are authorized to sign appeals; these categories include property owners and, if a party is a corporation like Rambour Realty, a director, officer, or full-time salaried employee.<sup>9</sup>

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<sup>3</sup> 442 Neb. Admin. Code Ch. 2 § 001.36 (2011). Under Nebraska case law, "real interest" means "some legal or equitable right, title, or interest in the subject of the controversy." See *First State Bank Neb. v. MP Nexlevel LLC*, 307 Neb. 198, 221, 948 N.W.2d 708, 724-725 (2020).

<sup>4</sup> Neb. Rev. Stat. § 77-5013(5) (Reissue 2018).

<sup>5</sup> *Ash Grove Cement Co. v. Nebraska Dept. of Rev.*, 306 Neb. 947, 963, 947 N.W.2d 731, 743 (2020).

<sup>6</sup> *In Re. Invol. Dissolution of Wiles Bros.*, 285 Neb. 920, 924, 830 N.W.2d 474 (2013).

<sup>7</sup> *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

<sup>8</sup> See Neb. Rev. Stat. § 77-1502(2) (Reissue 2018).

<sup>9</sup> 442 Neb. Admin. Code Ch. 5 §§ 001.05A, 001.05D (2021).

In the following cases, the evidence received at the hearing establishes that either Rambour individually or Rambour Realty had a direct ownership interest in the property during the tax year in issue:

Case Number	Parcel Number
20A 0101	710033138
20A 0103	710029498
20A 0104	710029484
20A 0109	710030324
20A 0110	710030156
20A 0111	710030373
20A 0112	710030142

Rambour had standing to appeal and was authorized to sign the appeal for each of these cases because he was either the property owner or an officer of the corporation that owned the property during the tax year at issue. For the other two appeals, neither Rambour nor Rambour Realty had an equitable right, title, or interest in the subject of the appeal. However, in both cases, Rambour asserted that Rambour Realty had the power to act as an attorney-in-fact for the property owner under a power of attorney, and by extension, Rambour had the authority to sign the appeals as an officer of Rambour Realty.

**20A 0105 – Northbank Farms Inc.**

For Case No. 20A 0105, Parcel No. 710028833, the property owner at all material times was Northbank Farms Inc. (Northbank). In support of his authority to sign the appeal, Rambour submitted a Management Agreement and Power of Attorney (the Northbank Agreement) signed by Elizabeth M. Carter on behalf of Northbank and by Rambour on behalf of Rambour Realty on September 17, 2009.<sup>10</sup> Both signatures were acknowledged before a notary public in the state of Nebraska on September 17, 2009.<sup>11</sup>

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<sup>10</sup> See Exhibit 6.

<sup>11</sup> Id.

The Nebraska Uniform Power of Attorney Act (NUPOAA)<sup>12</sup> became effective in January 2013, but it applies to powers of attorney created before its operative date.<sup>13</sup> The NUPOAA allows a principal to grant general authority to an agent to act in real estate matters; the general authority includes paying, compromising, or contesting taxes or assessments.<sup>14</sup> However, the Northbank Agreement does not grant general authority to Rambour Realty. A grant of general authority requires the power of attorney either to contain language “that grants to an agent authority to do all acts that a principal could do,” or else to use the statutory form found at Neb. Rev. Stat. § 30-4041.<sup>15</sup> Instead of a grant of general authority, the Northbank Agreement provides specific grants of authority, permitting Rambour Realty to lease the property, collect rents, contract with the U.S. Government, etc., as Northbank’s agent. None of these provisions expressly permits Rambour Realty to contest taxes or assessments. Accordingly, we find that the Northbank Agreement did not empower Rambour Realty to file an appeal of the County Board’s decision on the assessed value of Northbank’s property with the Commission.

### **20A 0108 – Duignan**

For Case No. 20A 0108, Parcel No. 710030219, the property owner at all material times was Richard Duignan. In support of his authority to sign the appeal, Rambour submitted a Management Agreement and Power of Attorney (the Duignan Agreement) signed by Duignan on July 23, 2014, and by Rambour on July 28, 2014.<sup>16</sup> This document identifies the parcel by its legal description, including “Platte County, Nebraska.”<sup>17</sup> The body of the document does not make reference to any specific jurisdiction except in the legal description of the property. Duignan’s signature was acknowledged before a notary public in the state of New York, and Rambour’s signature was acknowledged before a notary public in Nebraska.<sup>18</sup>

Under the NUPOAA, the meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.<sup>19</sup> In both

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<sup>12</sup> Neb. Rev. Stat. §§ 30-4001 to 30-4045 (Reissue 2016).

<sup>13</sup> *Heiden v. Adelung (In re Estate of Adelung)*, 306 Neb. 646, 947 N.W.2d 269 (2020).

<sup>14</sup> Neb. Rev. Stat. § 30-4027(5)(c) (Reissue 2016).

<sup>15</sup> Neb. Rev. Stat. § 30-4024, Neb. Rev. Stat. § 30-4041 (Reissue 2016).

<sup>16</sup> See Exhibit 8.

<sup>17</sup> Exhibit 8.

<sup>18</sup> Exhibit 8.

<sup>19</sup> Neb. Rev. Stat. § 30-4007 (Reissue 2016).

New York and Nebraska, a power of attorney is executed by the principal,<sup>20</sup> so the meaning and effect of the power of attorney is determined under New York law. Because the Duignan Agreement does not refer to a specific jurisdiction, its meaning and effect are determined by the law of the jurisdiction in which it was executed – that is, the State of New York.

Like the NUPOAA, New York’s power of attorney laws allow a principal to grant general authority to an agent to act in real estate matters; the general authority includes paying, compromising, or contesting taxes or assessments.<sup>21</sup> However, the Duignan Agreement does not provide a general grant of authority consistent with the statutory forms of New York law.<sup>22</sup> Instead, the Duignan Agreement provides specific grants of authority, permitting Rambour Realty to lease the property, collect rents, contract with the U.S. Government, etc., as Duignan’s agent. None of these provisions expressly permits Rambour Realty to contest taxes or assessments. Accordingly, we find that the Duignan Agreement did not empower Rambour Realty to file an appeal of the County Board’s decision on the assessed value of Duignan’s property with the Commission.

Because we find that the power of attorney documents did not grant Rambour or Rambour Realty the authority to file appeals with the Commission, we need not address any other potential defects of the documents under NUPOAA or New York’s power of attorney laws.

### **III. CONCLUSIONS**

The Commission has jurisdiction to hear the appeals in Case Nos. 20A 0101, 20A 0103, 20A 0104, 20A 0109, 20A 0110, 20A 0111, and 20A 0112. The Commission does not have jurisdiction to hear the appeals in Case Nos. 20A 0105 and 20A 0108.

#### **THEREFORE IT IS ORDERED:**

1. The appeals in Case Nos. 20A 0101, 20A 0103, 20A 0104, 20A 0109, 20A 0110, 20A 0111, and 20A 0112 shall be rescheduled for a hearing on the merits.
2. The appeals in Case Nos. 20A 0105 and 20A 0108 are dismissed with prejudice.

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<sup>20</sup> Neb. Rev. Stat. § 30-4005, N.Y. Gen. Oblig. § 5-1501B.

<sup>21</sup> Neb. Rev. Stat. § 30-4027(5)(c) (Reissue 2016), N.Y. Gen. Oblig. § 5-1502A(4).

<sup>22</sup> See N.Y. Gen. Oblig. § 5-1513.

3. 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 Platte County Treasurer and the officer charged with preparing the tax list for Platte County, as follows:

Jennifer Reppert  
Platte County Treasurer  
2610 14th St.  
Columbus, NE 68601

Thomas Placzek  
Platte County Assessor  
2610 14th St  
Columbus, NE 68601

4. Each party is to bear its own costs in these matters.

**SIGNED AND SEALED:** November 9, 2021

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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner