

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

James Patterson,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case No. 20R 0476

**ORDER FOR DISMISSAL  
WITH PREJUDICE**

**THE COMMISSION FINDS AS FOLLOWS:**

**I. PROCEDURAL HISTORY**

The Commission held a jurisdictional show cause hearing on October 20, 2020 at 2:00 p.m. James Patterson (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. 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> Any action of the County Board pursuant to Neb. Rev. Stat. § 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> When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.<sup>3</sup> Parties cannot confer subject matter

---

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

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

<sup>3</sup> *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.<sup>4</sup>

### **III. FINDINGS OF FACT**

The County Board adopted a resolution extending the protest filing deadline for 2020.<sup>5</sup>

On September 10, 2020, the Commission received an envelope containing a completed appeal form and a check for the required filing fee. The envelope did not contain a copy of an appealable decision by the County Board or other information documenting such a decision, order, determination, or action. On September 28, the Taxpayer filed additional documents. These documents also did not include a copy of the decision, order, determination, or action, of the County Board or other information documenting such a decision, order, determination, or action. No copy of an appealable decision, or other information documenting one, was received from the Taxpayer on or before September 10, 2020.

### **IV. ANALYSIS**

The County Board adopted a resolution extending the deadline for hearing protests, so the Taxpayer's deadline to file appeals with the Commission for tax year 2020 was September 10, 2020. The record shows that the Taxpayer's appeal did not include a copy of an appealable decision, order, determination, or action, or other information documenting such a decision, order, determination, or action. The Commission does not obtain jurisdiction over an appeal unless that documentation is timely filed, as required by law.<sup>6</sup>

In order to make Taxpayers more aware of the statutory filing requirements, the Commission's appeal form instructions clearly state that a copy of the decision being appealed must be included with the appeal. The statutory filing requirements do not include any exception for a good faith effort that did not include the required documentation. The Commission does not have jurisdiction over the appeal.

### **V. CONCLUSION**

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

---

<sup>4</sup> *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

<sup>5</sup> Case file.

<sup>6</sup> Neb. Rev. Stat. § 77-5013 (Reissue 2018).

**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 Street, Ste H09 Civic Center  
Omaha, NE 68183-1000

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

**SIGNED AND SEALED:** October 30, 2020

---

Robert W. Hotz, Commissioner

---

James D. Kuhn, Commissioner