

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

Himark Land Investments LLC,  
Appellant,

v.

Lancaster County Board of  
Equalization,  
Appellee.

Case No: 21C 0827

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

**For the Appellant:**

No Appearance

**For the Appellee:**

Daniel J. Zieg  
Chief Deputy Lancaster County  
Attorney

This appeal was heard before Commissioners Robert W. Hotz and James D. Kuhn. Commissioner Hotz presided.

**I. THE SUBJECT PROPERTY**

The Subject Property was a 57.27-acre parcel including an 18-hole golf course, located in Lincoln, Lancaster County, Nebraska. The legal description of the parcel is found in the Case File.

**II. PROCEDURAL HISTORY**

The Lancaster County Assessor determined the assessed value of the Subject Property was \$2,290,800 for tax year 2021. Himark Land Investments LLC (the Taxpayer) protested this assessment to the Lancaster County Board of Equalization (the County Board). The

Lancaster County Board determined the taxable value for tax year 2021 was \$2,290,800.<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 March 30, 2023, setting the hearing date for June 21, 2023. The Commission issued an Amended Order for Hearing and Notice of Hearing on April 11, 2023, setting this appeal for hearing on September 6, 2023. Affidavits of Service which appear in the records of the Commission establish the Orders for Hearing and Notices of Hearing listed above were served on all parties.<sup>2</sup> The Commission held a hearing on September 6, 2023.

Zach Prokop and Westley Anderson appeared before the Commission, purporting to represent the Taxpayer. Prokop and Anderson advised the Commission they were not members of Himark Land Investments LLC, nor were either of them licensed to practice law. There was no evidence received that either of them was employed by Himark Land Investments LLC. Rather, Prokop and Anderson stated they each were spouses of LLC members.

The County Board raised a continuing objection to any testimony from Prokop or Anderson as the Taxpayer did not provide the County Board with an expert witness list at least 30 days prior to the hearing. The Commission took the objection under advisement and proceeded with the evidentiary hearing.<sup>3</sup>

### **III. STANDARD OF REVIEW**

“In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination or action appealed from is incorrect, the commission

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<sup>1</sup> See Case File.

<sup>2</sup> See Case File.

<sup>3</sup> Prokop and Anderson advised the Commission they had traveled from out of state to attend the hearing.

shall deny the appeal.”<sup>4</sup> The Commission is authorized to enter default judgments.<sup>5</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>6</sup>

Commission regulations require an appellant or petitioner to be present at any hearing on the merits unless the Commission has waived their presence.<sup>7</sup> Here, as the Taxpayer is a legal entity, the presence of “an officer, partner, general partner, member, manager, or other person holding similar authority or a full-time salaried employee of the entity” is required.<sup>8</sup> Prior to the hearing, the Taxpayer made no motion to waive the presence of the members of the LLC.

#### **IV. CONCLUSIONS OF LAW**

As Prokop and Anderson each admitted he was not an officer, partner, general partner, member, manager, or other person holding similar authority or full-time employee of the Taxpayer, the Commission finds a qualified representative of the Taxpayer failed to appear at the hearing as required by the 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**

**IT IS ORDERED THAT:**

1. An Order for Default Judgment is granted.

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<sup>4</sup> Neb. Rev. Stat. §77-5016(9) (Reissue 2018).

<sup>5</sup> Neb. Rev. Stat. §77-5015 (Reissue 2018).

<sup>6</sup> Title 442, Nebraska Administrative Code, Chapter 4, §010.08 (06/2011).

<sup>7</sup> Title 442, Nebraska Administrative Code, Chapter 4, §010.02 (06/2011).

<sup>8</sup> Title 442, Nebraska Administrative Code, Chapter 4, §010.02 (06/2011).

2. The Decision of the Lancaster County Board of Equalization determining the value of the Subject Property for tax year 2021 is affirmed.
3. The taxable value of the Subject Property for tax year 2021 is **\$2,290,800**.
4. This Decision and Order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Reissue 2018).
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 2021.
8. This Decision and Order is effective for purposes of appeal on September 8, 2023.<sup>9</sup>

Signed and Sealed: September 8, 2023

SEAL



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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner

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<sup>9</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.