

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

FARAMARZ V. TABATABAI,
APPELLANT,

CASE NO: 23R 0519

V.

ORDER FOR DISMISSAL
WITH PREJUDICE

LANCASTER COUNTY
BOARD OF EQUALIZATION,
APPELLEE.

For the Appellant:

Faramarz V. Tabatabai

For the Appellee:

Daniel J. Zieg,
Deputy Lancaster County
Attorney

This appeal was heard before Commissioners Steven A. Keetle and Jackie S. Russell. Commissioner Keetle presided.

I. THE SUBJECT PROPERTY

The Subject Property is a residential parcel located in Lancaster County, Nebraska. The legal description and Property Record File (PRF) of the Subject Property is found at Exhibit 4.

II. PROCEDURAL HISTORY

The Lancaster County Assessor determined that the assessed value of the Subject Property was \$286,700 for tax year 2023. Faramarz V. Tabatabai (the Taxpayer) protested this assessment to the Lancaster County Board of Equalization (the County Board) and requested a

taxable value of \$227,000.¹ The County Board determined that the taxable value of the Subject Property for tax year 2023 was \$286,700.²

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (the Commission). The Commission held a single commissioner hearing and issued a decision on April 2, 2024. The Taxpayer requested a rehearing, and the Commission issued an Order Vacating the Single Commissioner hearing on May 1, 2024. The Commission held a hearing on August 30, 2024. Prior to the hearing, the parties exchanged exhibits as ordered by the Commission. Exhibits 1 through 12 were admitted into evidence by stipulation of the parties.

At the hearing the County Board made a Motion to Dismiss the Appeal for lack of jurisdiction. The Commission took notice of its case files and heard argument regarding its jurisdiction to hear this appeal.

III. 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.³ 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. § 77-1502.⁴ 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.⁵ If the body from which an appeal was taken lacked jurisdiction, then the

¹ Exhibit 2

² Exhibit 1.

³ Neb. Rev. Stat. § 77-5013 (Reissue 2018).

⁴ Neb. Rev. Stat. § 77-1510 (Reissue 2018).

⁵ See, e.g., *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

appellate tribunal acquires no jurisdiction. When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.⁶ Parties cannot confer subject matter jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.⁷

IV. FINDINGS OF FACT

The County Board argues that the relevant facts of the present case are the same as those before the Supreme Court of Nebraska in *Village at North Platte v Lincoln Cty. Bd. Of Equal*,⁸ and that the Taxpayer's appeal must be dismissed. The Property Valuation Protest Form 422 filed by the Taxpayer with the County Board of Equalization contains a box to list "Reasons for Requested Valuation Change" and indicates that that box is required.⁹ The Taxpayer did not check any of the five boxes with a pre-printed reason for appeal but rather checked the box "Other (see comments below)" but then left the box below blank.¹⁰ No attachments to the Property Valuation Protest Form 422 were offered into the record before the Commission. The Taxpayer did indicate a requested valuation.

V. ANALYSIS

In *Village at North Platte v Lincoln Cty. Bd. Of Equal*, the Supreme Court of Nebraska held that where a taxpayer's protest failed to include a reason for a requested change in valuation the County Board lacked statutory authority to take any other action than to dismiss the appeal, and that the Commission accordingly could not reach the merits of the appeal regarding the property's value.¹¹ According to

⁶ *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

⁷ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁸ *Village at North Platte v Lincoln Cty. Bd. Of Equalization*, 292 Neb. 533, 873 N.W.2d 201 (2016)

⁹ Exhibit 2.

¹⁰ Exhibit 2 page 2.

¹¹ *Village at North Platte v Lincoln Cty. Bd. Of Equalization*, 292 Neb. 533, 873 N.W.2d 201 (2016)

statute, a taxpayer's property valuation protest must "contain or have attached a statement of the reason or reasons why the requested change should be made."¹² The Taxpayer's protest form specified a requested valuation amount but stated no reason for the requested change.¹³ The statute's plain meaning requires a "reason" and not just two different numbers.¹⁴ The protest therefore did not substantially comply with the statute. And because the statute required the county board of equalization to dismiss the protest, the board had no power to do otherwise. It then follows that on appeal, the Commission lacks authority to consider the merits of the property's value.

VI. CONCLUSION

The Commission finds that the above captioned appeal must be dismissed.

VII. ORDER

IT IS THEREFORE ORDERED THAT:

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 Lancaster County Treasurer, and the officer charged with preparing the tax list for Lancaster County as follows:

Rachel Garver
Lancaster County Treasurer
555 S 10th St, Rm 102
Lincoln, NE 68508

Dan Nolte
Lancaster County Assessor
555 S 10th St, Rm 102
Lincoln, NE 68508

¹² Neb. Rev. Stat. § 77-1502(2) (Reissue 2018).

¹³ Exhibit 2 page 2

¹⁴ Village at North Platte v Lincoln Cty. Bd. Of Equalization, 292 Neb. 533, 873 N.W.2d 201 (2016)

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

Signed and Sealed: September 4, 2024

SEAL



Steven A. Keetle, Commissioner

Jackie S. Russell, Commissioner