

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

Adam J. Stahr,  
Appellant,

Case No. 23R 1054

v.

**ORDER FOR DISMISSAL  
WITH PREJUDICE**

Lancaster County Board of  
Equalization,  
Appellee.

**THE COMMISSION FINDS AS FOLLOWS:**

**I. PROCEDURAL HISTORY**

The Commission held a jurisdictional show cause hearing on October 10, 2023 at 10:00 AM. The Taxpayer failed to appear. Daniel J. Zieg, Deputy Lancaster County Attorney, appeared telephonically on behalf of the Lancaster 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> An appellate tribunal, such as the

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

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

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> If the body from which an appeal was taken lacked jurisdiction, then the appellate tribunal acquires no jurisdiction. 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 by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.<sup>5</sup>

### III. FINDINGS OF FACT

On September 11, 2023, the Commission received documents containing an appeal of the determination of the Lancaster County Board of Equalization made pursuant to Neb. Rev. Stat. § 77-1502. The documents did not contain a copy of the decision, order, determination, or action appeal from, or other information that documents the decision, order, determination, or action appealed from (BOE Decision).

### IV. ANALYSIS

An appeal or petition to the Commission is timely filed if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the Commission, or received by the Commission, on or before the date specified by law for filing the appeal or petition.<sup>6</sup>

The deadline for filing the appeal for tax year 2023 was on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.<sup>7</sup> The Lancaster County Board did adopt a resolution extending the deadline for hearing protests (Case File) so the filing deadline for tax year 2023 was September 11, 2023. The appeal is timely received

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<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).

<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> Neb. Rev. Stat. § 77-5013(2) (Reissue 2018).

<sup>7</sup> Neb. Rev. Stat. § 77-1510 (Reissue 2018).

if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the Commission, or received by the Commission on or before the date specified by law for filing the appeal.<sup>8</sup>

The documents did not contain a copy of the BOE Decision or any other information documenting a decision of the Lancaster County Board of Equalization. Therefore, the Commission determines that the appeal was not timely filed. The Commission has no equitable authority to extend or waive any filing requirements or deadlines, or exercise authority greater than that specifically conferred upon it by the Constitution of the State of Nebraska, the Nebraska State Statutes, or by the construction necessary to achieve the purpose of the relevant provisions or act. Therefore, the Commission determines that it does not have jurisdiction over the appeal or petition.

## V. 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 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

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<sup>8</sup> Neb. Rev. Stat. § 77-5013(2) (Reissue 2018).

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

**SIGNED AND SEALED:** October 13, 2023



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Steven A. Keetle, Commissioner

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James D. Kuhn, Commissioner