

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

Joseph A. Urban,
Appellant,

Case No. 23R 1558

v.

**ORDER FOR DISMISSAL
WITH PREJUDICE**

Douglas County Board of
Equalization,
Appellee.

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on November 13, 2023 at 2:00 PM. Joseph A. Urban (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.¹ 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

¹ Neb. Rev. Stat. § 77-5013 (Reissue 2018).

Neb. Rev. Stat. § 77-1502.² 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.³ 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.⁴ 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.⁵

III. FINDINGS OF FACT

Urban testified he had mailed his appeal materials on September 11, 2023, as it was the appeal filing deadline for Douglas County. However, upon returning home, Urban discovered he had mistakenly omitted the appeal form from the mailing. Urban stated he mailed the appeal form the following day, September 12, 2023, as the post office was closed when he discovered he had omitted the appeal form.

IV. ANALYSIS

On September 13, 2023, the Commission received an envelope containing a cover letter, copy of protest and assessment documents, filing fees, and a copy of the determination of the County Board made pursuant to Neb. Rev. Stat. § 77-1502. No appeal form was contained within the envelope. An appeal form is required to appeal a county board determination under Neb. Rev. Stat. § 77-5013(1)(b) and Commission regulations.⁶

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-

² Neb. Rev. Stat. § 77-1510 (Reissue 2018).

³ See, e.g., *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

⁴ *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012).

⁵ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁶ 442 Neb. Admin. Code, ch. 5, § 001.01A (6/2/2021).

1502.⁷ The Douglas County Board adopted a resolution extending the deadline for hearing protests. As September 10, 2023 fell on a Sunday, the filing deadline was extended to September 11, 2023.⁸

The envelope containing the appeal form was postmarked September 12, 2023, and received by the Commission on September 14, 2023. Therefore, the Commission determines the appeal was not timely filed and perfected.

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 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 H02
Omaha, NE 68183

Walt Peffer
Douglas County Assessor
1819 Farnam St, 4th Floor
Omaha, NE 68183

⁷ Neb. Rev. Stat. § 77-1510 (Reissue 2018).

⁸ Neb. Rev. Stat. § 49-1203 (Reissue 2021).

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

SIGNED AND SEALED: November 20, 2023



Robert W. Hotz, Commissioner

James D. Kuhn, Commissioner