

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

Hold the Beans LLC,  
Appellant,

v.

Douglas County Board of  
Equalization,  
Appellee.

Case No. 23R 1629

DECISION AND ORDER  
FINDING JURISDICTION

&

Case No. 23R 1630

ORDER FOR DISMISSAL  
WITH PREJUDICE

**THE COMMISSION FINDS AS FOLLOWS:**

**I. PROCEDURAL HISTORY**

The Commission held a jurisdictional show cause hearing on November 13, 2023 at 10:00. Patricia Glass appeared telephonically on behalf of Hold the Beans LLC (the Taxpayer). 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

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

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 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

Patricia Glass testified she had prepared the appeal paperwork and noted both appealed parcels are contiguous, with one seven-acre parcel containing an outbuilding and a two-acre parcel containing an outbuilding and a home. Glass acknowledged the parcels are assessed separately for taxation purposes.

### IV. ANALYSIS

On September 13, 2023, the Commission received an envelope containing an appeal form, copies of two decisions of the Douglas County Board of Equalization and a filing fee of \$50. The filing deadline 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>6</sup> The Douglas County Board did adopt a resolution extending the deadline for

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

<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. § 77-1510 (Reissue 2018).

hearing protests. As September 10, 2023, fell on a Sunday, the filing deadline was extended to September 11, 2023.<sup>7</sup>

Commission regulations require the filing of separate appeal forms for each parcel of real property.<sup>8</sup> Here, the Taxpayer submitted a single appeal form to appeal two separate parcels of real property. Furthermore, the filing fee requirements are set by statute based upon the assessed value of the appealed real property.<sup>9</sup> Based upon the assessed values shown on the County Board Decisions, a filing fee of \$40 was required for each parcel.<sup>10</sup>

As only a single appeal form was provided, and as the remitted filing fee was insufficient to perfect both appeals, the Commission cannot take jurisdiction over both. However, the Commission finds the filings sufficient to perfect one appeal. The Taxpayer has stated a preference for the appeal form and filing fee to be applied to Case No. 23R 1629. Therefore, the Commission will honor that preference and apply the form and filing fee to that case. Accordingly, the Commission finds it has jurisdiction to hear the merits of Case No. 23R 1629. The Commission also finds it does not have jurisdiction over Case No. 23R 1630.

## V. CONCLUSION

The Commission has jurisdiction to hear Case No. 23R 1629. The Commission does not have jurisdiction to hear Case No. 23R 1630.

### **THEREFORE IT IS ORDERED:**

1. Case No. 23R 1630 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

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<sup>7</sup> Neb. Rev. Stat. § 49-1203 (Reissue 2021).

<sup>8</sup> 442 Neb. Admin. Code, ch 5., § 001.01A (6/2/2021).

<sup>9</sup> Neb. Rev. Stat. § 77-5013(3) (Reissue 2018).

<sup>10</sup> See Case Files.

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

3. Each party is to bear its own costs in this matter.
4. Case No. 23R 1629 shall be scheduled for a hearing on the merits.

**SIGNED AND SEALED:** November 17, 2023



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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner