

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

Travis Buel,  
Appellant,

Case Nos. 24C 1385, 24A 1512

v.

Lancaster County Board of  
Equalization,  
Appellee.

**ORDER FOR DISMISSAL  
WITH PREJUDICE**

**THE COMMISSION FINDS AS FOLLOWS:**

**I. PROCEDURAL HISTORY**

The Commission held a jurisdictional show cause hearing on October 31, 2024 at 1:00PM. Jennifer D. Chrystal-Clark, Deputy Lancaster County Attorney, appeared telephonically on behalf of the Lancaster County Board of Equalization (the County Board). The Appellant, Travis Buel (the Taxpayer) did not appear for the hearing either in person or telephonically. The Commission took notice of its case files for the limited purposes of determining jurisdiction.

**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

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

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

The reason the Commission issued an order for hearing, was because the envelope containing these appeals was damaged when received by the Commission on September 12, 2024. The appeal forms, filing fees, and some supporting documents were present. However, the County Board decisions were not present.

### IV. ANALYSIS

Any tax valuation, equalization, or exemption protest, or tax form, petition, appeal, or statement, or any payment required or authorized to be filed or made to the State of Nebraska, or to any political subdivision thereof, which is: (1) Transmitted through the United States mail; (2) mailed but not received by the state or political subdivision; or (3) received and the cancellation mark is illegible, erroneous, or omitted shall be deemed filed or made and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, tax valuation, equalization, or exemption protest, or tax form, petition, appeal, or statement, or

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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).

payment was deposited in the United States mail on or before the date for filing or paying.<sup>6</sup>

On September 12, 2024, the Commission received an envelope containing appeals of determinations of the Lancaster County Board of Equalization made pursuant to Neb. Rev. Stat. § 77-1502. The envelope did not contain a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from (County Board Decision). The deadline for filing the appeals for tax year 2024 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 2024 was September 10, 2024.

An appeal is timely received 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 envelope did not contain a copy of the County Board Decisions.

A later envelope containing the County Board Decisions was postmarked October 9, 2024, and received by the Commission on October 12, 2024. Therefore, the Commission determines the appeals were not timely filed.

Additionally, the Commission's September 19, 2023, Order specifies "[a]n order dismissing the appeals will be issued if Appellant fails to appear at the hearing within fifteen minutes of the time and date listed above." As stated above, the Taxpayer did not appear within fifteen minutes of the date and time for hearing.

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<sup>6</sup> Neb. Rev. Stat. § 49-1201 (Reissue 2021).

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

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

## V. CONCLUSION

The Commission does not have jurisdiction to hear the above captioned appeals.

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

1. The above captioned appeals are 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

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

**SIGNED AND SEALED:** November 8, 2024



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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner