

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

ROSE M NELSON  
APPELLANT,

V.

MORRILL COUNTY BOARD  
OF EQUALIZATION, ERIC  
MCCARTY  
APPELLEES.

CASE NO: 24R 0620

ORDER FOR DISMISSAL  
WITH PREJUDICE

**I. BACKGROUND**

1. The Subject Property is an improved residential parcel in Morrill County, parcel number 100004185.
2. The Morrill County Assessor (the County Assessor) assessed the Subject Property at \$56,920 for tax year 2024.
3. Eric McCarty (the Taxpayer) protested this value to the Morrill County Board of Equalization (the County Board) and requested an assessed value of \$43,170 for tax year 2024.
4. The County Board determined that the taxable value of the Subject Property was \$40,560 for tax year 2024.
5. The County Assessor appealed the determination of the County Board to the Tax Equalization and Review Commission (the Commission).
6. A Single Commissioner hearing was held on October 3, 2025, at Fairfield Inn and Suites by Marriott, 902 Winter Creek Drive, Scottsbluff, NE 69361, before Commissioner Jackie S. Russell.
7. Robert Brenner, Attorney, and Rose M. Nelson, County Assessor, were present at the hearing for the Appellant.
8. Kirk Fellhoelter, County Attorney, was present for the County Board.

9. The Taxpayer did not appear for the hearing.

## II. APPLICABLE LAW

10. 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>
11. 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>
12. 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.<sup>4</sup> When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.<sup>5</sup>

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<sup>1</sup> Neb. Rev. Stat. § 77-5013 (Cum. Supp. 2024). See also *Mid Am. Agri Prods. v. Perkins Cty. Bd. of Equalization*, 312 Neb. 341, 349, 979 N.W.2d 95, 100-01 (2022) (the Commission's jurisdiction over an appeal is derived from § 77-5013).

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

<sup>3</sup> Cf. *Cargill Meat Sols. Corp. v. Colfax Cty. Bd. of Equalization*, 290 Neb. 726, 739, 861 N.W.2d 718, 727 (2015); *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

<sup>4</sup> See *Mid Am. Agri Prods.*, 312 Neb. at 350, 979 N.W.2d at 101 (citing *Vill. at N. Platte v. Lincoln Cty. Bd. of Equalization*, 292 Neb. 533, 541, 873 N.W.2d 201, 207 (2016) ("It is well settled that if the court from which an appeal was taken lacked jurisdiction, then the appellate court acquires no jurisdiction. A comparable rule is applicable [to the Commission].")).

<sup>5</sup> *Main St. Props. LLC v. City of Bellevue*, 318 Neb. 116, 128 13 N.W.3d 911, 922 (2024); *Carlos H. v. Lindsay M.* 283 Neb. 1004, 815 N.W.2d 168 (2012). See also *Mid Am. Agri Prods.*, 312 Neb. at 350, 979 N.W.2d at 101.

13. 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>6</sup>

### III. FINDINGS OF FACT & CONCLUSIONS OF LAW

14. Form 422 filed by the Taxpayer did not have the Real Property Description filled out as required by Neb. Rev. Stat. § 77-1502.
15. In part, that section provides: “The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made, including the requested valuation, *and a description of the property to which the protest applies.*”<sup>7</sup> “If the protest does not contain or have attached the statement of the reason or reasons for the protest, including the requested valuation, *or the applicable description of the property*, the protest *shall* be dismissed by the county board of equalization.”<sup>8</sup>
16. “Jurisdiction is the inherent power or authority to decide a case.”<sup>9</sup> The Commission only has that “authority” which is 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.<sup>10</sup>
17. Again, 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>11</sup> If the county board of equalization lacked

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<sup>6</sup> *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000) superseded by statute on other grounds as stated in *In re App. No. C-4973 of Skrdlant*, 305 Neb. 635, 640, 942 N.W.2d 196, 200 (2020).

<sup>7</sup> Neb. Rev. Stat. §77-1502(2) (Cum. Supp. 2024) (emphasis added).

<sup>8</sup> *Id.* (emphasis added).

<sup>9</sup> *Hofferber v Hastings Utilities*, 282 Neb. 215, 225, 803 N.W.2d 1, 9 (2011) (citations omitted).

<sup>10</sup> See, e.g., *Grand Island Latin Club v. Nebraska Liquor Control Commission*, 251 Neb. 61, 67, 554 N.W.2d 778, 782 (1996).

<sup>11</sup> Cf. *Cargill Meat Sols. Corp. v. Colfax Cty. Bd. of Equalization*, 290 Neb. 726, 739, 861 N.W.2d 718, 727 (2015); *Lane v. Burt Cty. Rural Pub. Power Dist.*, 163 Neb. 1, 77 N.W.2d 773 (1956).

jurisdiction, then the Commission acquires no jurisdiction.<sup>12</sup> When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.<sup>13</sup> The Morrill County Board of Equalization did not have jurisdiction to hear this appeal and as such, the Commission does not have jurisdiction to hear this appeal.

18. The Assessed value of the Subject Property for tax year 2024 is \$56,920.
19. The appeal shall be dismissed.

**THEREFORE IT IS ORDERED:**

1. The above captioned appeal is dismissed with prejudice.
2. The assessed value of the Subject Property for tax year 2024 is: \$56,920.
3. As required by Neb. Rev. Stat. § 77-5018, this decision, if no appeal is filed, shall be certified within thirty days to the Morrill County Treasurer, and the officer charged with preparing the tax list for Morrill County.
4. Each party is to bear its own costs.

Signed and Sealed: January 16, 2026



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Jackie S. Russell, Commissioner

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<sup>12</sup> See *Mid Am. Agri Prods.*, 312 Neb. at 350, 979 N.W.2d at 101 (citing *Vill. at N. Platte v. Lincoln Cty. Bd. of Equalization*, 292 Neb. 533, 541, 873 N.W.2d 201, 207 (2016) ("It is well settled that if the court from which an appeal was taken lacked jurisdiction, then the appellate court acquires no jurisdiction. A comparable rule is applicable [to the Commission].").)

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