

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

Lindsey DeBerry,  
Appellant,

Case No. 24R 1515

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 December 16, 2024 at 9:00AM. Lindsey DeBerry (the Taxpayer) appeared telephonically. Landon L. Friesen, 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 testimony, 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

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

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> 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>3</sup>

Neb Rev. Stat. § 77-1510 allows for an appeal to this Commission of any action of a county board of equalization “pursuant to section 77-1502... on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.” The Douglas County Board had adopted a resolution extending the deadline for hearing protests. Accordingly, the deadline for filing an appeal with the Commission was September 10, 2024.

Neb. Rev. Stat. § 77-1507.01 provides that “[a]ny person otherwise having a right to appeal may petition [the Commission] in accordance with section 77-5013, on or before December 31 of each year... if a failure to give notice prevented the timely filing of a protest or appeal provided for in sections 77-1501 to 77-1510.”

In addition, Neb. Rev. Stat. § 77-1315(2) states:

On or before June 1, in addition to the notice of preliminary valuation sent pursuant to section 77-1301, the county assessor shall notify the owner of record as of May 20 of every item of real property which has been assessed at a value different than in the previous year. Such notice shall be given by first-class mail addressed to such owner’s last-known address. It shall identify the item of real property and state the old and new valuation, the date of convening of the county board of equalization, and the dates for filing a protest (emphasis added).

### III. FINDINGS OF FACT

On October 4, 2024, the Commission received an appeal related to the Subject Property. At the Show Cause hearing, DeBerry testified he

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

<sup>3</sup> *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

contacted an office at Douglas County to inquire about not receiving a notice of a change in valuation. He was informed that no notice of a change in valuation was mailed. Because he was not notified of a change in valuation, DeBerry testified, he did not file a protest of the assessment for tax year 2024.

#### IV. ANALYSIS

The record in this appeal indicates the assessed value of the parcel for tax year 2023, was \$362,600.<sup>4</sup> DeBerry protested that assessment in June 2023, and then appealed the County Board determination of taxable value of the same amount. Before that appeal was resolved by the Commission, the County Assessor did not change the assessment amount for tax year 2024, and therefore, did not give notice to DeBerry of a change in valuation, as would have been required had there been a change in valuation from tax year 2023 to tax year 2024. Taxpayers may protest assessments, whether there has been a change in valuation from the prior tax year or not, from June 1 to June 30 of the applicable tax year.<sup>5</sup> DeBerry did not protest the tax year 2024 assessment in June 2024, which was at the same amount of \$362,00 as it was for tax year 2023.

On July 23, 2024, the Commission held a hearing on the tax year 2023 appeal and issued an order to lower the taxable value of the parcel to \$335,000 on August 6, 2024. Thus, the order to lower the tax year 2023 value came after May 20, 2024, which was the latest date the County Assessor was required to send notice of a change in valuation for tax year 2024.

As noted above, DeBerry testified he did not receive notice of a change in valuation. DeBerry asserted his assessed valuation changed from tax year 2023 to tax year 2024. This is incorrect.<sup>6</sup>

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<sup>4</sup> See, Case No. 23R 1363, Decision and Order Reversing the Decision of the Douglas County Board of Equalization, issued August 6, 2024.

<sup>5</sup> Neb. Rev. Stat. § 77-1502(1).

<sup>6</sup> See, the record in this case and the record in Case No. 23R 1363.

Since no notice was required to be given as of May 20, 2024,<sup>7</sup> there was no failure to give notice that prevented the timely filing of a protest, as contemplated by Section 77-1507.01.

However, DeBerry conceded the 2023 valuation was not changed until the Decision and Order from this Commission.<sup>8</sup> As noted above, the hearing regarding the 2023 appeal was on July 23, 2024, and the Order was issued August 6, 2024.<sup>9</sup>

According to the record in the appeals for both tax years, the 2024 valuation was at the same amount as the 2023 valuation prior to the issuance of the Commission's August 6, 2024, Decision and Order.

Accordingly, the county assessor was not required to provide notice of a change in value on or before June 1, 2024, because as of June 1, 2024, the value of DeBerry's property had not changed. Regardless of whether a notice of change in valuation is required, any taxpayer wishing to protest the assessed value of their property must do so in accordance with the deadlines set forth in Neb. Rev. Stat. § 77-1502.

Because the 2024 assessed value of DeBerry's property was unchanged from the 2023 valuation as of June 1, 2024, a notice of change in valuation was not required to be mailed. Accordingly, the Commission finds there was no failure to provide notice that prevented the timely filing of a protest for tax year 2024. Therefore, the provisions of Neb. Rev. Stat. § 77-1507.01 are not applicable in this case and the deadline for protesting to the County Board, as well as appealing to the Commission, have since passed. As such, the Commission finds the appeal to be untimely, and therefore the Commission lacks jurisdiction to hear the appeal.

## V. CONCLUSION

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

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<sup>7</sup> See, Neb. Rev. Stat. § 77-1315(2).

<sup>8</sup> See, Case No. 23R 1363, Decision and Order Reversing the Decision of the Douglas County Board of Equalization, issued August 6, 2024.

<sup>9</sup> *Id.*

**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

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

**SIGNED AND SEALED:** January 7, 2025



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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner