

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

NORTH OMAHA CHURCH OF
CHRIST,

Appellant,

v.

DOUGLAS COUNTY BOARD
OF EQUALIZATION,

Appellee.

Case No. 26E 0001

**ORDER FOR DISMISSAL
WITH PREJUDICE**

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a jurisdictional show cause hearing on June 1, 2026, at 9:00 a.m. Mr. Billy Brizendine appeared telephonically on behalf of North Omaha Church of Christ (the Taxpayer). No one appeared on behalf of the Douglas County Board of Equalization (the County Board). The Commission took notice of its case files, heard argument and testimony, and received evidence 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 A taxpayer may appeal the

¹ 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).

denial of a property tax exemption by the County Board pursuant to Neb. Rev. Stat. § 77-202.04(1) within thirty days of the denial.²

When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.³ 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.⁴

III. FINDINGS OF FACT

Mr. Billy Brizendine (Mr. Brizendine) is the treasurer for the Taxpayer and is the individual who signed the Taxpayer's appeal. In March 2026, Mr. Brizendine sent the appeal form, a letter addressed to the Commission (Appeal Letter), and the filing fee to the Commission by mail. On March 17, 2026, the Commission received the appeal documents. There was no decision of the County Board in the documents received relating to the Taxpayer or a denied exemption. Mr. Brizendine captioned his Appeal Letter as addressed to the Commission, but it appears to have been originally written to the County Board. In his Appeal Letter, Mr. Brizendine addressed the County Board saying he was appealing the denial of the tax exemption due to "extenuating circumstances."

Mr. Brizendine described those circumstances in his Appeal Letter as follows: Mr. Brizendine mailed the exemption application prior to the due date and just prior to leaving town. Mr. Brizendine was unaware the County Board had not received the exemption application until he received a tax bill. The same day Mr. Brizendine mailed the exemption application, Mr. Brizendine also mailed a check to the Taxpayer's insurance carrier for the policy premium. When Mr.

² Neb. Rev. Stat. § 77-202.04(1) (Reissue 2018).

³ *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.

⁴ *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).

Brizendine returned from out of town, he received a notice from the insurance carrier saying that it had not received the payment. He then says he asked for a one-week delay before cancelling the check issued and sending another. Less than a week later, the insurance carrier informed Mr. Brizendine that it had received the check for the insurance premium. The insurance carrier then told him there had been a mail interruption. Mr. Brizendine speculated in the Appeal Letter that the same mail interruption may have prevented the timely filing of the exemption application, but he does not know.

At the jurisdictional hearing, Mr. Brizendine testified on behalf of the Taxpayer. Mr. Brizendine stated the tax year at issue is tax year 2024, which is payable in 2025. He testified he was initially informed by the Taxpayer's insurance company they had not received payment, but they did receive it a week later. He believes the letter to the County Board never made it to the County Board due to a similar mail issue. Mr. Brizendine called the County Board and was told that the only way to appeal the decision was to write a letter to the County Board. Mr. Brizendine said he wrote a letter and sent it to the County Board. The County Board replied stating there would have to be a hearing. Mr. Brizendine says he followed their instructions thus far to alleviate the situation. Mr. Brizendine also said he has filed these applications for the Taxpayer every year for over 30 years and never had an issue until the present appeal.

The time frame of these events is unclear. When questioned by the Commission, Mr. Brizendine stated he did not recall the date he mailed the letter to the County Board and the insurance premium but said it was prior to the due date. He did not specify whether the letter referenced was the same as the Appeal Letter or a different letter. Mr. Brizendine did say he mailed the letter to the County Board from the mailbox in the hallway of the Department of Veteran's Affairs where he works. Mr. Brizendine then testified he did recall the insurance company subsequently notified him it received payment "a couple weeks" after that payment was due.

When asked if he retained copies of the exemption application, Mr. Brizendine said he had not. Mr. Brizendine had printed the application and sent it to the County rather than filing it online. When asked if the Taxpayer applied for a tax exemption in 2025, Mr. Brizendine testified he has not received any documents from the County Board for that tax year. Mr. Brizendine stated he usually receives them in October of each year. The Commission also inquired whether Mr. Brizendine had applied for a waiver of the December 31 deadline under section 77-202.01.⁵ Mr. Brizendine replied he did file a form for the 2024 tax year, but it came back as being denied.

Mr. Brizendine had not submitted a copy of the County Board's decision denying the exemption application to the Commission as of the hearing date. Mr. Brizendine stated at the hearing he did not have the copy of the decision with him, but that it was at the Taxpayer's office. The Commission held the record open for up to one week from the hearing date to allow Mr. Brizendine to submit the decision of the County Board. Mr. Brizendine submitted a copy of the County Board's decision⁶ to the Commission on June 3, 2026, via email.

The County Board's decision is written on the Form 451 Exemption Application submitted to the County Board by Mr. Brizendine on behalf of the Taxpayer.⁷ The application portion was not dated by Mr. Brizendine, but he indicated in the application that it was for tax year 2025.⁸ There is a stamp by the County Assessor indicating the application was received on January 12, 2026.⁹ The Douglas County Assessor recommended the application be denied as untimely, and the County Board denied the application on February 10, 2026.¹⁰

⁵ See Neb. Rev. Stat. § 77-202.01(2) (Supp 2025).

⁶ See Exhibit 1.

⁷ *Id.* at 1.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

IV. ANALYSIS

It is unclear whether Mr. Brizendine intended to file for a tax exemption in tax year 2025 or 2026. If the tax year in which Mr. Brizendine intended to apply for an exemption was 2025, the application to the County Assessor was untimely.

Any organization, society, or taxpayer which fails to file an exemption application on or before December 31 may apply on or before June 30 to the county assessor. The organization, society, or taxpayer shall also file in writing a request with the county board of equalization for a waiver so that the county assessor may consider the application for exemption. The county board of equalization shall grant the waiver upon a finding that good cause exists for the failure to make application on or before December 31.¹¹

The December 31 deadline refers to the year prior to the year for which the exemption is sought.¹² Thus, a waiver of the December 31 deadline may be applied for up to June 30 of the year for which the exemption is sought.

If Mr. Brizendine intended to apply for an exemption in tax year 2026, then the Taxpayer's remedy is to apply to the County Assessor by June 30, 2026, and also "file in writing a request with the county board of equalization for a waiver so that the county assessor may consider the application for exemption."¹³

In any case, to establish the Commission's jurisdiction, an appeal must be timely filed with details of the decision, order, determination, or action appealed from, the filing fee timely paid, and the Commission must have the authority to hear the appeal.¹⁴ All of these conditions were met except that the Commission did not receive the County Board's decision appealed from until June 3, 2026, nearly four months

¹¹ Neb. Rev. Stat. § 77-202.01(2) (Supp 2025).

¹² Neb. Rev. Stat. § 77-202.01(1) (Supp 2025).

¹³ Neb. Rev. Stat. § 77-202.01(2) (Supp 2025).

¹⁴ Neb. Rev. Stat. § 77-5013(1) (Cum. Supp. 2024).

after the decision was issued.¹⁵

Because the decision appealed from was not filed within 30 days of the date of the decision, the Commission lacks jurisdiction over the Taxpayer's appeal.

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, 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:

Timothy Cavanaugh
Douglas County Treasurer
1819 Farnam St, Rm H02
Omaha, NE 68183

Michael Goodwillie
Douglas County Assessor
1819 Farnam St, Floor 4
Omaha, NE 68183

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

SIGNED AND SEALED: June 5, 2026.

SEAL



Steven A. Keetle, Commissioner

James D. Kuhn, Commissioner

¹⁵ See Exhibit 1.