BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

ANTHONY R. VLACH, Appellant, v. JAMES KAMM, TAX COMMISSIONER & SARAH SCOTT, PROPERTY TAX ADMINISTRATOR, Appellee(s).	Case Nos. 26H 0002, 26H 0003 ORDER FOR DISMISSAL

THE COMMISSION FINDS AS FOLLOWS:

I. PROCEDURAL HISTORY

The Commission held a hearing on a Motion to Dismiss Based on Jurisdiction on August 20, 2026, at 2:00 PM. Nathan Kinport, Attorney with the Nebraska Dept of Revenue Property Assessment Divisions appeared telephonically on behalf of the Tax Commissioner and Property Tax Administrator. Lori and Anthony R. Vlach (the Taxpayer) appeared telephonically. Daniel Gubler, 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.[1] When an appellate tribunal is without jurisdiction to act, the appeal must be dismissed.[2] 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.[3]

III. FINDINGS OF FACT

On March 23, 2026, the Commission received an envelope containing appeals of the determinations of the Tax Commissioner made pursuant to Neb. Rev. Stat. § 77-3520.[4] Included in this envelope were two letters from the Property Assessment Division of the Nebraska Department of Revenue, each dated February 23, 2026, addressing the Taxpayer's property tax exemptions. On May 22, 2026, the Tax Commissioner filed a Motion to Dismiss Based on Jurisdiction, alleging that no appealable decision had been made in the above captioned matters.

The Commission heard the testimony of Lori Vlach regarding 2022 and 2023 homestead exemption applications of the Taxpayer and subsequent petition regarding the reduction of those claims for exemption by the Tax Commissioner. The Testimony of Lori Vlach and the exhibits offered show that the Tax Commissioner has not held a hearing conducted in accordance with the Administrative Procedures Act, as required by Neb. Rev. Stat. 77-3520, and has not made a decision regarding the Taxpayer's petitions.

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[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).

[2] *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.

[3] *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).

[4] See Case Files. The March 23, 2026, envelope contained one appeal form, a single filling fee and two letters from the Department of Revenue. A second appeal form and filing fee were received on March 31, 2026 (postmarked March 25, 2026).

IV. ANALYSIS

The March 23, 2026, envelope received by the Commission contained two letters that said in relevant part that: "The Nebraska Department of Revenue (Department) received your petition to review your 2022 [2023] Nebraska Homestead Exemption Application, Form 458. The Department had completed its review of your 2022 [2023] homestead application and your homestead exemption has been adjusted to…"[5]

While the Commission can certainly see how the Taxpayer thought that these letters were decisions of the Tax Commissioner regarding their 77-3520 petitions, the evidence presented at the Hearing on the Motion to Dismiss demonstrates that this is not the case. The March 31, 2026, letter of the Property Tax Administrator shows that the Department is still working to schedule the hearing required by Neb. Rev. Stat. §77-3520, and that they are still working to facilitate the hearing process.[6]

As the record shows that the Tax Commissioner has not yet reached a final, appealable decision on the Taxpayer's homestead exemption review, the Commission must determine that the envelope did not contain a copy of the decision, order, determination, or action appeal from, or other information that documents the decision, order, determination, or action appealed from (Tax Commissioner's Decision). Once the Tax Commissioner issues a final, appealable decision, the Taxpayers may appeal that decision to the Commission per applicable statutes and regulations.

"Jurisdiction is the inherent power or authority to decide a case."[7] The Commission only has that "authority" which is specifically conferred upon it by the Constitution of the State of Nebraska, the

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[5] The language was the same for both years, year 2023 added to 2022 letter language. See, Case Files, also Exhibits 6 & 7.
[6] Exhibit 10
[7] *Hofferber v Hastings Utilities*, 282 Neb. 215, 225, 803 N.W.2d 1, 9 (2011) (citations omitted).

Nebraska State Statutes, or by the construction necessary to achieve the purpose of the relevant provisions or act.[8] The Commission does not have the authority to hear an appeal of a petition filed under Neb. Rev. Stat. §77-3520 until the Tax Commissioner has made a determination regarding that petition under the Administrative Procedures Act and a timely appeal is made in accordance with Neb. Rev. Stat §77-5013, including a copy of the Tax Commissioner's Decision.

Therefore, the Commission determines that it does not have jurisdiction over the appeals.

V. CONCLUSION

The Commission does not have jurisdiction to hear the above captioned appeals, and the appeals should be dismissed.

THEREFORE, IT IS ORDERED:

1. The above captioned appeals are dismissed
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

[8] *See, e.g., Grand Island Latin Club v. Nebraska Liquor Control Commission*, 251 Neb. 61, 67, 554 N.W.2d 778, 782 (1996).

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

SIGNED AND SEALED: October 22, 2026.

SEAL



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Steven A. Keetle, Commissioner

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James D. Kuhn, Commissioner