

**NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

HOLLIDAY SERVICES, INC.,)	
)	
Appellant,)	CASE NOs 05C-126, & 05C-127
)	
v.)	DECISION AND ORDER AFFIRMING
)	THE DECISION OF THE CHEYENNE
CHEYENNE COUNTY BOARD OF)	COUNTY BOARD OF EQUALIZATION
EQUALIZATION,)	
)	
Appellee.)	DEFAULT JUDGEMENT
)	

The above-captioned cases were called for a hearing on the merits of appeals by Holliday Services, Inc. to the Tax Equalization and Review Commission ("the Commission"). The hearing was held in a meeting room at the Days Inn at Scottsbluff in Scotts Bluff County, Nebraska, on June 14, 2006, pursuant to a Notice and Order for Hearing issued February 23, 2006. Commissioners Wickersham, Warnes, Lore, and Hans were present. Commissioner Wickersham presided at the hearing.

Wyatt G. Surber appeared without counsel. The Cheyenne County Board of Equalization ("the County Board") appeared through legal counsel, Paul B. Schaub, County Attorney for Cheyenne County, Nebraska.

The Commission took statutory notice and received exhibits as provided by the parties.

The County Board moved for a default judgment.

The Commission is required by Neb. Rev. Stat. §77-5018 (Reissue 2003) to state its final decision concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. The final decision and order of the Commission in the consolidated cases is as follows.
:

**I.
FINDINGS**

The Commission finds and determines that:

1. The Taxpayer is the owner of record of certain real property described as shown in the following table ("the subject property").
2. Taxable value of each parcel of the subject property placed on the assessment roll as of January 1, 2005, ("the assessment date") by the Cheyenne County Assessor, value as proposed by the Taxpayer in timely protests, and taxable value as determined by the County Board is shown in the following tables:

Case No. 05C-126

Description: Tract 3, James Subdivision, Sidney, Cheyenne County, Nebraska.

	Assessor Value	Taxpayer Protest Value	Board Determined Value
Land	\$54,372.00	\$31,427.00	\$54,372.00
Total	\$54,372.00	\$31,427.00	\$54,372.00

Case No. 05C-127

Description: Tract 4, James Subdivision, Sidney, Cheyenne County, Nebraska.

	Assessor Value	Taxpayer Protest Value	Board Determined Value
Land	\$54,372.00	\$31,427.00	\$54,372.00
Improvement	\$339,741.00	\$194,646.00	\$339,741.00
Total	\$394,113.00	\$226,073.00	\$394,113.00

3. The Taxpayer timely filed appeals of the County Board's decisions to the Commission.

4. The County Board was served with Notices in Lieu of Summons and duly answered those Notices.
5. The Taxpayer's appeals were consolidated for hearing by order of the Commission.
6. An Order for Hearing and Notice of Hearing issued on February 23, 2006, set a hearing of the Taxpayer's appeals for June 14, 2006, at 2:00 p.m. MDST.
7. An Affidavit of Service which appears in the records of the Commission establishes that a copy of the Order for Hearing and Notice of Hearing was served on all parties. (Case File).
8. Wyatt G. Surber an officer of Nebraska Transport Company, ("NTC")
9. Wyatt G. Surber is not an officer, director, or full time employee of Holliday Services Inc.
10. The protests filed with the County Board was filed on behalf of Holliday Services Inc. (E1 and E2)
11. Appeals of the County Board's decisions were filed by an officer of Holliday Services Inc. (Case Files)
12. Holliday services Inc. failed to appear through legal counsel, an officer, a director or full time employee at the hearing as required by 442 Neb. Admin. Code ch4 §011.01B (01/05).
13. The notice of hearing states in Paragraph 2 that if the Taxpayer fails to appear at the hearing, the Commission may enter an order dismissing the Appeal.
14. The County Board moved for an order of default judgement.
15. The County Board's motion for an Order of Default Judgement should be granted.

**II.
CONCLUSIONS OF LAW**

1. Subject matter jurisdiction of the Commission in this appeal is over all issues raised during the county board of equalization proceedings. *Arcadian Fertilizer, L.P. v. Sarpy County Bd. of Equalization*, 7 Neb.App. 655, 584 N.W.2d 353, (1998)
2. The Commission has jurisdiction over the parties to this appeal.
3. Each of the parties has been afforded an opportunity to present evidence and argument as provided by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2004).
4. The Commission is authorized to enter default judgements by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2004).

**III.
ORDER**

IT IS THEREFORE ORDERED THAT:

1. The motion of the County Board for a Default Judgement is granted.
2. The decisions of the County Board determining taxable value of the subject property as of the assessment date, January 1, 2005, are affirmed.
3. Taxable value of each parcel of the subject property for the tax year 2005 is:

Case No 05C-126

Land value	\$54,372.00
Total value	<u>\$54,372.00.</u>

Case No 05C-127

Land value	\$ 54,372.00
Improvements	\$339,741.00
Total value	<u>\$394,113.00.</u>

4. This decision, if no appeal is timely filed, shall be certified to the Cheyenne County Treasurer, and the Cheyenne County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Supp. 2005).
5. Any request for relief, by any party, which is not specifically provided for by this order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This decision shall only be applicable to tax year 2005.
8. This order is effective for purposes of appeal June 21, 2006.

Signed and Sealed. June 21, 2006.

Wm. R. Wickersham, Commissioner

Susan S. Lore, Commissioner

Robert L. Hans, Commissioner

William C. Warnes, Commissioner

SEAL

ANY PARTY SEEKING REVIEW OF THIS ORDER MAY DO SO BY FILING A PETITION WITH THE APPROPRIATE DOCKET FEES IN THE NEBRASKA COURT OF APPEALS. THE PETITION MUST BE FILED WITHIN THIRTY DAYS AFTER THE DATE OF THIS ORDER AND MUST SATISFY THE REQUIREMENTS OF STATE LAW CONTAINED IN NEB. REV. STAT. §77-5019 (SUPP. 2005). IF A

PETITION IS NOT TIMELY FILED, THIS ORDER BECOMES FINAL AND CANNOT BE CHANGED.