

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

ROBERT M. VASSELL,)	
)	
Appellant,)	Case No. 07R-253
)	
v.)	DECISION AND ORDER DISMISSING
)	APPEAL AFTER SHOW CAUSE
DOUGLAS COUNTY BOARD OF)	HEARING
EQUALIZATION,)	
)	
Appellee.)	

The above-captioned case was called for a hearing on December 17, 2007, pursuant to an Order To show Cause (Jurisdiction Filing Defect) issued to Robert V. Vassell ("the Taxpayer") by the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Commission's Hearing Room on the sixth floor of the Nebraska State Office Building in the City of Lincoln, Lancaster County, Nebraska. Commissioners Wickersham, Salmon, and Hotz were present. Commissioner Wickersham presided at the hearing.

Robert M. Vassell appeared at the hearing by telephone. No one appeared as legal counsel for the Taxpayer.

Thomas S. Barrett, a Deputy County Attorney for Douglas County, Nebraska appeared on behalf of the Douglas County Board of Equalization ("the County Board") by telephone.

The Commission took statutory notice, received exhibits and heard testimony.

The Commission is required by Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006) to state its final decision and order 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 this case is as follows.

**I.
ISSUES**

Whether required documentation was timely filed.

**II.
FINDINGS OF FACT**

The Commission finds and determines that:

1. The appeal in this case was initially filed with the Commission on September 12, 2007 after mailing on September 10, 2007. (Case File).
2. The initial filing of the appeal did not include a copy of the decision, action, order or determination appealed from or other documentation of that decision, action, order or determination.
3. The appeal in this case was refiled November 6, 2007. (Case File).
4. The Douglas County Board of Equalization by resolution has extended the time for consideration of protests filed in the year 2007.

**III.
APPLICABLE LAW**

1. The Commission has jurisdiction when an appeal is timely filed and other conditions imposed by statute are met. Neb. Rev. Stat. §77-5013 (1)(b) (Cum supp. 2006).
2. The Commission obtains jurisdiction over an appeal when 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. Neb. Rev. Stat. §77-5013 (1)(d) (Cum. Supp. 2006).

3. An appeal is timely received if placed in the United States mail, postage prepaid, with a legible postmark, for delivery to the commission, or received by the commission on or before the date specified for filing. Neb. Rev. Stat. §77-5013 (2) (Cum supp. 2006).
4. Any action of the county board of equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for protests under section 77-1502. Neb. Rev. Stat. §77-1510 (Cum. Supp. 2006).

IV. ANALYSIS

A review of the Case File in this appeal shows that on September 12, 2007, the Commission received a filing from the Taxpayer in an envelope postmarked September 10, 2007. The filing as shown in the Commission records consisted of an appeal form with an attachment and a check in the amount of \$25.00 in payment of the filing fee. The attachment to the appeal form was a statement addressed to the Tax Equalization and Review Commission dated September 9, 2007. The statement indicated that three attachments were attached to it. Two letters, one dated June 29, 2007, and another dated July 2, 2007, to the Douglas County Board of Equalization were attached. The Taxpayer testified that the third document intended to be attached was an MLS report prepared by a real estate agent. The filing, received September 12, 2007, was returned by the Commission to the Taxpayer on September 28, 2007, with the explanation that the filing did not contain a copy of the final action, order, determination or decision of the Douglas County Board appealed from or other information that documented that

action, order, determination, or decision. The filing of September 10, 2007, did not contain all of the information required by section 77-5013 of Nebraska Statutes and the Commission does not have jurisdiction based on that filing.

The Commission received another filing from the Taxpayer on November 8, 2007. The November 8, 2007, filing contained a copy of the decision of the Douglas County Board of Equalization denying a protest made by the Taxpayer pertaining to property at 520 N .86 St. in Douglas County. The last date for filing appeals was, however, September 10, 2007, and the filing of November 8, 2007, was not timely received. The Commission does not have jurisdiction by reason of the second filing.

**V.
CONCLUSIONS OF LAW**

1. The Commission does not have subject matter jurisdiction in this appeal because a copy of the decision, action order, or determination appealed from or other documentation of that decision, action, order, or determination was not timely filed.

**VI.
ORDER**

IT IS ORDERED THAT:

1. The appeal is dismissed.
2. This decision, if no appeal is timely filed, shall be certified to the County Treasurer, and the County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006).
3. Each party is to bear its own costs in this proceeding.

4. This order is effective for purposes of appeal on January 3, 2008

Signed and Sealed. January 3, 2008.

Wm. R. Wickersham, Commissioner

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner

SEAL

APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2006), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.