

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

NEBCO, INC.,)	
)	
Appellant,)	Case No. 07SV-221
)	
v.)	DECISION AND ORDER FOR
)	DISMISSAL
CASS COUNTY BOARD OF)	
EQUALIZATION,)	
)	
Appellee.)	

The above-captioned case was called for a hearing on the merits of an appeal by NEBCO, Inc. ("the Taxpayer") to 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, on October 15, 2008, pursuant to an Order for Hearing and Notice of Hearing issued July 11, 2008. Commissioners Wickersham, Warnes, and Salmon were present. Commissioner Wickersham presided at the hearing. Commissioner Hotz was excused. The appeal was heard by a panel of three commissioners pursuant to 442 Neb. Admin. Code, ch. 4, §11 (10/07).

Shannon L. Doering appeared as legal counsel for the Taxpayer. The requirement that an officer, director, or full-time employee of the Taxpayer be present was waived.

Nathan Cox, County Attorney for Cass County, Nebraska, was present as legal counsel for the Cass County Board of Equalization ("the County Board").

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.
FINDINGS OF FACT**

The Commission finds and determines that:

1. The Taxpayer has a sufficient interest in the outcome of the above captioned appeal to maintain the appeal.
2. The parcel of real property to which this appeal pertains is described as 15-12-10 SE $\frac{1}{4}$ TL 22 (N $\frac{1}{2}$) (29.86) in Cass County, Nebraska, ("the subject property").
3. The County Assessor made a determination that the subject property should be disqualified for use of special valuation.
4. The Taxpayer protested that determination.
5. The County Board affirmed the determination of the County Assessor.
6. An appeal of the County Board's decision was filed with the Commission.
7. The County Board was served with a Notice in Lieu of Summons and duly answered that Notice.
8. An Amended Order for Hearing and Notice of Hearing issued on July 11, 2008, set a hearing of the appeal for October 15, 2008, at 11:00 a.m. CDST.
9. 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.
10. The above captioned appeal was consolidated for purposes of hearing by agreement of the parties with an appeal by NEBCO, INC from a decision of the Cass County Board of

Equalization in Case No. 07SV-222, and an appeal by Abel Construction Co. from a decision of the Cass County Board of Equalization in Case No. 07SV-220.

11. The Taxpayer moved for dismissal of the appeal in Case No. 07SV-221

II. APPLICABLE LAW

1. Subject matter jurisdiction of the Commission in this appeal is over 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).

III. CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this appeal.
2. The Commission has jurisdiction over the parties to this appeal.

VI. ORDER

IT IS ORDERED THAT:

1. The above captioned appeal is dismissed.
2. This decision, if no appeal is timely filed, shall be certified to the Cass County Treasurer, and the Cass County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Cum. Supp. 2006).

3. Any request for relief, by any party, which is not specifically provided for by this order is denied.
4. Each party is to bear its own costs in this proceeding.
5. This decision shall only be applicable to tax year 2007.
6. This order is effective for purposes of appeal on October 21, 2008.

Signed and Sealed. October 21, 2008.

Wm. R. Wickersham, Commissioner

William C. Warnes, Commissioner

Nancy J. Salmon, 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.