

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

BYRON REED COMPANY, INC.,)	
)	
Appellant,)	Case No. 07C-151
)	
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 November 28, 2007, pursuant to an Order To show Cause (Jurisdiction Unauthorized Signing of Appeal) issued to Byron Reed Company, Inc. 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, on November 28, 2007. Commissioners Wickersham, Salmon, and Hotz were present. Commissioner Wickersham presided at the hearing.

Gregory M. McGillivray, Vice President of Byron Reed Company, Inc., appeared by telephone. No one appeared as legal counsel for Byron Reed Company, Inc..

Thomas S. Barrett, a Deputy County Attorney for Douglas County, Nebraska, appeared by telephone as legal counsel for the Douglas 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.
ISSUES**

Whether the appeal in this case was signed by a person authorized to sign appeals filed with the Commission.

**II.
FINDINGS OF FACT**

The Commission finds and determines that:

1. The appeal in this case was signed by Gregory M. McGillivary Vice President. (Case File)
2. Gregory M. McGillivary is a Vice President of Byron Reed Company, Inc.
3. The owner of the parcel whose taxable value is in dispute was on the date of the appeal LBD Properties LLC.
4. The owner of the parcel whose taxable value is in dispute was Maurice M. Udes, Trustee, Maurice M. Udes Revocable Trust 2.
5. Byron Reed Company, Inc., has not at any pertinent time had an ownership interest in the parcel whose taxable value is in dispute.
6. Byron Reed Company, Inc., is not obligated to pay without reimbursement any portion of the taxes that might be levied on the taxable value of the parcel for the year 2007.

**III.
APPLICABLE LAW**

1. An appeal form must be signed by a party, legal counsel for a party or a person authorized by law or the Commission's rules and regulations to sign an appeal. 442 Neb. Admin. Code, ch 2, §001.03 (01/07).
2. Only a person who will be directly affected by the outcome of an appeal is one who has a real interest in the appeal or has a legal or equitable right, title, or interest in the subject of the appeal may be a party. 442 Neb. Admin. Code, ch 2, §001.35 (01/07).
3. If a party is a corporation, limited liability company, partnership, limited partnership, or other legal entity, association, union or organization, the entity or organization may sign an appeal/petition through a director, an officer, a full-time salaried employee, member or manager of a limited liability company, or other individual authorized by law or the governing documents of the entity, association or organization. 442 Neb. Admin. Code, ch 5, §001.04D (01/07).
4. If a party is a trustee, that party as trustee may sign an appeal/petition. 442 Neb. Admin. Code, ch 5, §001.04E (01/07)
5. Legal counsel for a party may sign an appeal/petition. 442 Neb. Admin. Code, ch 5, §001.04I (01/07).
6. No person, other than a party, legal counsel for a party, or a person authorized by law or by the Commission's rules may sign an appeal/petition. 442 Neb. Admin. Code, ch 5, §001.04K (01/07).

IV. ANALYSIS

The parcel whose taxable value was appealed was, at the times relevant to this proceeding, owned by Maurice M. Udes as Trustee of the Maurice M. Udes Revocable Trust 2 or LBD Properties Inc. Byron Reed Company, Inc's sole interest in the parcel for which taxable value is in dispute was as a property manager. There is no evidence that as a property manager, Byron Reed Company, Inc. is a person who will be directly affected by the outcome of an appeal or is one who has a real interest in the appeal, or has a legal or equitable right, title, or interest in the subject of the appeal.

There is no evidence that Gregory M. McGillivary was at any time pertinent to this proceeding a trustee of the Maurice M. Udes Revocable Trust 2 or a director, an officer, a full-time salaried employee, member or manager of LBD Properties LLC or other individual authorized by law or the governing documents of LBD Properties LLC to sign an appeal to the Commission. Gregory M. McGillivary, Vice President of Byron Reed Company, Inc. is not a person authorized by the Commission's rules and regulations to sign an appeal on behalf of Maurice M. Udes Trustee of the Maurice M. Udes Revocable Trust 2 or LBD Properties LLC the persons who owned the property or were responsible for payment of real property taxes.

There is no showing that Byron Reed Company, Inc., has a sufficient interest to maintain this appeal and the appeal must be dismissed.

**V.
CONCLUSIONS OF LAW**

1. The Commission does not have subject matter jurisdiction in this appeal because the appeal was not signed by a person authorized to sign appeals filed with the Commission.

**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 Douglas County Treasurer, and the Douglas 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 June 8, 2009.

Signed and Sealed. June 8, 2009.

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.