

**NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

THOMAS P. FOGARTY,)	
)	
Appellant,)	CASE NO 07R-595
)	
v.)	DECISION AND ORDER
)	AFFIRMING THE DECISION OF THE
DOUGLAS COUNTY BOARD OF)	DOUGLAS COUNTY BOARD OF
EQUALIZATION,)	EQUALIZATION
)	
Appellee.)	
)	DEFAULT JUDGMENT

The above-captioned case was called for a hearing on the merits of an appeal by Thomas P. Fogarty ("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 March 10, 2009, pursuant to a Notice and Order for Hearing issued January 2, 2009.

Commissioners Warnes and Salmon were present. Commissioner Warnes was the presiding hearing officer. Commissioner Wickersham was excused from participation by the presiding hearing officer. A panel of three commissioners was created pursuant to 442 Neb. Admin. Code, ch. 4, §011 (10/07). Commissioner Hotz was absent. The appeal was heard by a quorum of a panel of the Commission.

The Taxpayer did not appear as directed by the Commission's order for hearing. No one appeared as legal counsel for the Taxpayer.

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 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 (Cum. Supp. 2008) 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 this case is as follows.

**I.
FINDINGS**

The Commission finds and determines that:

1. The parcel of real property to which this appeal pertains ("the Subject Property") is described in the table below.
2. Actual value of the subject property placed on the assessment roll as of January 1, 2007, ("the assessment date") by the Douglas County Assessor, value as proposed by the Taxpayer in a timely protest, and taxable value as determined by the County Board is shown in the following table:

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Description: PINEWOOD ADD LOT 5 BLOCK 3 IRREG, Douglas County, Nebraska.

	Assessor Notice Value	Taxpayer Protest Value	Board Determined Value
Land	\$16,300.00	Included in Total	\$16,300.00
Improvement	\$139,500.00	Included in Total	\$134,500.00
Total	\$155,800.00	\$132,000.00	\$150,800.00

3. An appeal of the County Board's decision was filed with the Commission.

4. The County Board was served with a Notice in Lieu of Summons and duly answered that Notice.
5. An Order for Hearing and Notice of Hearing issued on January 2, 2009, set a hearing of the Taxpayer's appeal for March 10, 2009, at 11:00 a.m. CDST.
6. 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).
7. Each of the parties has been afforded an opportunity to present evidence and argument as provided by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2008).
8. The Taxpayer failed to file any exhibits with the Commission excepting the County's final determination which was filed with the Appeal Form.
9. The Taxpayer failed to appear at the hearing.
10. The Order for Hearing and Notice of Hearing issued by the Commission states in Paragraph 2 that if the Taxpayer fails to appear at the hearing, the Commission may enter an order dismissing the Appeal.
11. The County Board moved for an order of default judgment.
12. The County Board's motion for an Order of Default Judgment should be granted.

II. CONCLUSIONS OF LAW

1. The Commission has subject matter jurisdiction in this appeal.
2. Subject matter jurisdiction of the Commission in this appeal is over all questions necessary to determine taxable value. Neb. Rev. Stat. §77-5016(7) (Supp. 2007).
3. The Commission has jurisdiction over the parties to this appeal.

4. The Commission is authorized to enter default judgments by Neb. Rev. Stat. §77-5015 (Cum. Supp. 2008).

**III.
ORDER**

IT IS ORDERED THAT:

1. The motion of the County Board for a Default Judgment is granted.
2. The decision of the County Board determining taxable value of the subject property as of the assessment date, January 1, 2007, is affirmed.

3. Actual value of the subject property for the tax year 2007 is:

Land value	\$ 16,300.00
Improvement value	<u>\$134,500.00</u>
Total value	<u>\$150,800.00.</u>

4. 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. 2008).
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 2007.

8. This order is effective for purposes of appeal March 10, 2009.

Signed and Sealed. March 10, 2009.

Nancy J. Salmon, Commissioner

William C. Warnes, 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.