

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

UNIVERSITY PARK JEHOVAH'S)	
WITNESSES,)	
)	Case No. 09C 549
Appellant,)	
)	DECISION AND ORDER
v.)	
)	
LANCASTER COUNTY BOARD OF)	
EQUALIZATION,)	
)	
Appellee.)	

The above-captioned case was called for a hearing on Order to Show Cause (Jurisdiction)(Unauthorized Signing of Appeal)(Standing) why the appeal by University Park Jehovah's Witnesses ("the Taxpayer") to the Tax Equalization and Review Commission ("the Commission") should not be dismissed. 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 January 11, 2010, pursuant to an Order to Show Cause (Jurisdiction)(Unauthorized Signing of Appeal)(Standing) issued December 30, 2009. Commissioner Wickersham was the presiding hearing officer. Commissioner Warnes was excused from participation by the presiding hearing officer. Commissioner Hotz was absent. Commissioner Salmon was present. The appeal was heard by a quorum of a panel of the Commission.

Roger W. Anderson, was present at the hearing. No one appeared as legal counsel for the Taxpayer.

Michael E. Thew a Deputy County Attorney for Lancaster County present as legal counsel Lancaster County Board of Equalization ("the County Board").

All parties appeared by telephone.

The Commission took statutory notice, received an exhibit and heard testimony.

The Commission is required to state its final decision and order concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. Neb. Rev. Stat. §77-5018 (Cum. Supp. 2008). The final decision and order of the Commission in this case is as follows.

I. ISSUES

Whether the appeal should be dismissed because it was not signed by a person authorized to act on behalf of University Park Jehovah's Witnesses.

II. 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. Roger W. Anderson is a person who may file an appeal on behalf of University Park Jehovah's Witnesses.

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 5 §001.04 (06/09).
2. 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 §001.36 (06/09).

3. If a party is a natural person, only that person or the “guardian” “conservator” or “next friend” (as those terms are defined in Nebraska State Law and Nebraska Supreme Court decisions) of that person may sign a petition/appeal. 442 Neb. Admin. Code, ch 5 §001.05C (06/09).
4. 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 §001.05D (06/09).
5. If a party is a trustee that party as trustee may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.05E (06/09).
6. Any other person who is a party including but not limited to a successor in interest, lessee, licensee, any bankruptcy trustee, receiver, personal representative or any other person appointed by a Nebraska Court or a Court of the United States, may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.04H (06/09).
7. Legal counsel for a party may sign an appeal/petition. 442 Neb. Admin. Code, ch 5 §001.04I (06/09).
8. A person without standing may not maintain an appeal. *Community Development Agency of the City of McCook v. PRP Holdings, L.L.C.*, 277 Neb. 1015, 767 N.W.2d 68 (2009).
9. Parties cannot confer subject matter jurisdiction on a tribunal by acquiescence or consent

nor may it be created by waiver, estoppel, consent, or conduct of the parties. *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

IV. ANALYSIS

Roger W. Anderson is an Elder in the Bethany Congregation of Jehovah's Witnesses. The Bethany Congregation of Jehovah's Witnesses shares use of property with the University Place Congregation of Jehovah's Witnesses. The property used by the joint Bethany and University Congregation of Jehovah Witnesses is owned by a corporation controlled by the University Place Congregation of Jehovah's Witnesses. The property is for sale. In the event of a sale the property may become taxable at the value determined by the County Board. Value as determined by the County Board exceeds the asking price established by the corporation and affects efforts to sell the property. The Bethany Congregation of Jehovah's Witness would benefit from a sale of the property and its interest is affected by the County Board's valuation. Roger W. Anderson signed the appeal as a representative of the University Park and Bethany Park Congregations of Jehovah's Witnesses. As an Elder of the Bethany Congregation of Jehovah's Witness Roger W. Anderson is a person authorized by the Commission's rules and regulations to file an appeal.

V. CONCLUSIONS OF LAW

1. The Commission does have subject matter jurisdiction in this appeal.

**VI.
ORDER**

IT IS ORDERED THAT:

1. The appeal in Case No. 09C 549 shall be set for further proceedings.
2. Each party is to bear its own costs in this proceeding.

Signed and Sealed January 15, 2010.

Nancy J. Salmon, Commissioner

Wm. R. Wickersham, Commissioner

SEAL