

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

BEL FURY INVESTMENTS GROUP LLC,	)	
	)	
Appellant,	)	Case No 09R-156
	)	
v.	)	FINDINGS AND ORDER FINDING
	)	JURISDICTION OVER APPEAL
DAKOTA COUNTY BOARD OF	)	
EQUALIZATION,	)	
	)	
Appellee.	)	

The above-captioned case was called for a hearing pursuant to an Order to Show Cause entered 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 January 5, 2010, at 1:00 p.m., pursuant to an Amended Order to Show Cause and Notice of Hearing issued December 23, 2009.

Commissioners Hotz and Warnes were present. Commissioner Salmon was excused. Commissioner Wickersham was absent. Commissioner Warnes presided at the hearing.

Scott W. Bloemer, Managing Member of Bel Fury Investments Group LLC ("the Taxpayer") appeared by teleconference. The Dakota County Board of Equalization ("the County Board") appeared by teleconference; by and through legal counsel, Kim Watson, Dakota County Attorney. The Commission took statutory notice, received exhibits, and heard testimony.

**I.  
ISSUES**

Whether the appeal should be dismissed because the Taxpayer did not sign the Form 422 in the correct location.

**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. Scott W. Bloemer is a person who may file an appeal on behalf of Bel Fury Investments Group LLC.
3. The Taxpayer's Appeal was filed by mail in an envelope showing a postmark of August 24, 2009, and received in the Commission's office on August 25, 2009.
4. The Taxpayer's Protest to the County Board, Form 422, was signed in the wrong place by the Taxpayer, and the Dakota County Board of Equalization denied the Taxpayer's protest for that reason. (E1:1).
5. An Amended Order to Show Cause and Notice of Telephonic Hearing (Jurisdiction) was issued by the Commission on December 23, 2009, directing the Taxpayer to show why its appeal should not be dismissed for want of jurisdiction.
6. The Commission further finds that Neb. Rev. Stat. §77-1502 does not require that the protest be signed in any particular location on the form, nor does the statute prescribe any special form that must be used by the Taxpayer in filing its protest. See Neb. Rev. Stat. §77-1502 (Supp. 2009).

**III.  
APPLICABLE LAW**

1. The Commission, while making a decision, may not consider testimony, records, documents or other evidence which is not a part of the hearing record except those

identified in the Commission's rules and regulations or Section 77-5016 (3). Neb. Rev. Stat. § 77-5016(3) (Cum. Supp. 2008).

2. 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).
3. 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 905 (2000).
4. The Commission obtains jurisdiction over protests from County Board decisions. See Neb. Rev. Stat. §77-1502 (Supp. 2009).
5. "Each protest shall be signed and filed with the county clerk of the county where the property is assessed." Neb. Rev. Stat. §77-1502 (Supp. 2009).

#### **IV. ANALYSIS**

Scott W. Bloemer, testified that he is managing member of Bel Fury Investments Group LLC. He testified that he signed the protest form, Form 422, in the box that was meant for the County Board's signature. Taxpayer further testified that the County Board of Equalization did not ask him to resign the form. The Taxpayer also confirmed that he signed as the managing member of Bel Fury Investments Group LLC, and clearly stated that fact on the signature line. Neb. Rev. Stat. §77-1502 requires that the protest form be signed. (Supp. 2009). This statute does not require that the protest form be signed in any particular location, nor does the statute prescribe any special form that must be used by the Taxpayer in filing its protest. The

Commission finds that it does have jurisdiction over the appeal, because it met the signature requirements of Neb. Rev. Stat. §77-1502. (Supp. 2009).

**V.  
CONCLUSIONS OF LAW**

1. That the Commission has jurisdiction over the subject matter of the above captioned appeal.

**VI.  
ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. That this appeal shall be set for a hearing on the merits before the Commission.
2. That each party be provided with a copy of this order.

**IT IS SO ORDERED.**

Dated: January 15, 2010.

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William C. Warnes, Commissioner

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Robert W. Hotz, Commissioner

**SEAL**