

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

J Dubbya Land, LLC.,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 13A 145 & 13C 572

**ORDER FOR DISMISSAL WITH
PREJUDICE**

THE COMMISSION BEING FULLY INFORMED IN THE PREMISES, FINDS AND DETERMINES AS FOLLOWS:

I. PROCEDURAL HISTORY

A jurisdictional show cause hearing was held on January 16, 2014. John A. Wanninger appeared telephonically at the hearing before the Commission as the President and owner of J Dubbya Land, LLC (the Taxpayer). Malina M. Dobson, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization (the County Board). The Commission took notice of its case files for the purpose of determining personal and subject matter jurisdiction.

II. STANDARD OF REVIEW

Section 77-5013 of the Nebraska Statutes provides that the Commission obtains jurisdiction over an appeal when it is timely filed, the filing fee is timely received and thereafter paid, and a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from, is timely filed.¹ Any action of the County Board of Equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.² Parties cannot confer subject matter

¹ See, Neb. Rev. Stat. 77-5013 (2012 Cum. Supp.).

² Neb. Rev. Stat. §77-1510 (Reissue 2009).

jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.³

III. ANALYSIS

On September 12, 2013, the Commission received appeals of the determinations of the County Board made pursuant to Neb. Rev. Stat. §77-1502 (Reissue 2009).⁴ The deadline for filing appeals of these determinations for tax year 2013 was on or before September 10, 2013, since the County Board had adopted a resolution to extend the deadline for hearing protests under section 77-1502.⁵ An appeal to the Commission is timely received if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission, or received by the commission on or before the date specified by law for filing the appeal.⁶ The evidence was undisputed that the appeals were hand-delivered to the Commission on September 12, 2013.⁷ Therefore, the Commission determines that the appeals were not timely filed.

IV. CONCLUSION

The Commission does not have jurisdiction to hear the above captioned appeals.

V. ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeals are dismissed with prejudice.
2. This decision, if no appeal is filed, shall be certified within thirty days to the Douglas County Treasurer, and the officer charged with preparing the tax list for Douglas County as follows:

Roger Morrissey
1819 Farnam Stre. Rm 400
Omaha, NE 68183-1000

John Ewing
1819 Farnam St., Rm H03
Omaha, NE 68183

³ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁴ See, Case File.

⁵ Neb. Rev. Stat. §77-1510 (Reissue 2009).

⁶ Neb. Rev. Stat. 77-5013(2) (2012 Cum. Supp.).

⁷ See, Case File.

as required by Neb. Rev. Stat. §77-5018 (2012 Cum. Supp.).

3. Each party is to bear its own costs in this matter.

SIGNED AND SEALED January 30, 2014

Seal

Robert W. Hotz, Commissioner

Nancy J, Salmon, Commissioner