

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Family Video Movie Club, Inc.,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case Nos: 13C 537 and 13C 538

**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. Douglas Collinger appeared telephonically at the hearing before the Commission. Malina M. Dobson, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization. The Commission took notice of its case files for the purpose of determining personal jurisdiction 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 jurisdiction on a tribunal by acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.³

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

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

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

III. ANALYSIS

Nebraska Statutes section 77-5013(4) grants the Commission the authority to specify the requirements for the execution of an appeal or petition in the Commission Rules and Regulations. Chapter 5, section 001.05 specifies the persons who may sign an appeal or petition. As it applies in this case, since the owner of the Subject Property is a corporation, an individual authorized by the governing documents of the corporation is authorized to sign the appeal.⁴ Douglas Collinger, the person who signed the appeals, is an Agent for the Taxpayer, Family Video Movie Club, Inc. There is no evidence that Collinger was authorized by the governing documents of Family Video Movie Club, Inc. to sign the appeals on its behalf. An individual who is merely an Agent is not authorized by the Commission to sign an appeal or petition pursuant to Chapter 5, Section 001.05. Therefore, the Commission determines that the appeals were not properly perfected.

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

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

⁴ Title 442, Neb. Admin. Code, ch 5 §001.05D (6/11).

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