

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Matthew Lee Andersen,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 13R-869 and 13R-870

Decision and Order Finding Jurisdiction
and Dismissing an Appeal

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

I. PROCEDURAL HISTORY

On September 11, 2013, the Tax Equalization and Review Commission (the Commission) received two completed appeal forms, two filing fees, and two copies of the same Douglas County Board of Equalization (the County Board) determination.¹ The description of the parcels on the appeal forms were the same except for the last line which indicated, “Structure #1” in Case No. 13R-369, and “Structure #2” in Case No. 13R-370.²

A jurisdictional show cause hearing was convened on January 16, 2014, to determine if the Commission has jurisdiction over two separate appeals even though only one County Board determination was filed. Matthew Lee Andersen appeared at the hearing before the Commission. Malina Dobson, Deputy Douglas County Attorney, appeared telephonically on behalf of the County Board. The Commission took notice of the case files for the purpose of determining personal jurisdiction and subject matter jurisdiction.

II. LAW

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.³ Any

¹ Postmarked September 10, 2013 See, Case Files.

² See Case Files

³ See, Neb. Rev. Stat. 77-5013 (2012 Cum. Supp.).

action of the County Board of Equalization pursuant to section 77-1502 may be appealed to the Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the County Board has adopted a resolution to extend the deadline to hear protests.⁴ The Douglas County Board did adopt a resolution to extend the deadline to hear protests. 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.⁵ An appeal is required to be filed for each parcel of real property.⁶ A parcel, as defined by Nebraska Law, means a contiguous tract of land determined by its boundaries, under the same ownership, and in the same tax district and section.⁷

III. ANALYSIS

Matthew Lee Andersen appeared and offered testimony at the hearing before the Commission. The testimony before the Commission was that the real property described in each of the above captioned appeals consists of two different homes on one lot. Each of the homes has a separate street address for mailing purposes, and for that reason, according to Andersen, two appeals were filed. Both homes are located on a single parcel of land in Douglas County and are identified by the Douglas County Assessor's office as a single parcel with a single Parcel ID number. The Commission finds that the real property described in each of the above captioned appeals are a single parcel and the Commission has jurisdiction over the entire Subject Property, including both homes located on the same parcel, with the filing of a single appeal. The Commission should therefore schedule Case No. 13R-869 for a hearing on the merits of the appeal and dismiss Case No. 13R-870.

IV. CONCLUSION

The Commission has jurisdiction to hear the appeal filed on the decision of the County Board in Case No. 13R-869, and the appeal in Case No. 13R-870 should be dismissed.

⁴ Neb. Rev. Stat. §77-1510 (Reissue 2009).

⁵ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000). The Commission is an intermediate appellate tribunal. *Brenner v. Banner Cty. Bd. Of Equal.*, 276 Neb. 275, 753 N.W.2d 802 (2008).

⁶ See, Title 442, Neb. Admin. Code, ch 5 §001.01A (6/11)

⁷ See, Neb. Rev. Stat. §77-132 (Reissue 2009)

ORDER

IT IS THEREFORE ORDERED THAT:

1. The appeal in Case No. 13R-869 be scheduled for a hearing on the merits.
2. The appeal in Case No. 13R-870 is dismissed.

SIGNED AND SEALED January 28, 2014.

Seal

Robert W. Hotz, Commissioner

Nancy J. Salmon, Commissioner