

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

Patricia A. Sabaliauskas,  
Appellant,

v.

Sarpy County Board of Equalization,  
Appellee.

Case No: 14H 002

**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 14, 2015. Patricia A. Sabaliauskas (the Taxpayer) appeared telephonically at the hearing before the Tax Equalization and Review Commission (the Commission). Bonnie Moore, Deputy Sarpy County Attorney, appeared telephonically on behalf of the Sarpy County Board of Equalization (the County Board). 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.<sup>1</sup> Any 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 has adopted a resolution to extend the deadline for hearing protests under section 77-1502.<sup>2</sup> Parties cannot confer subject matter jurisdiction on a tribunal by

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<sup>1</sup> See, Neb. Rev. Stat. 77-5013 (2014 Cum. Supp.).

<sup>2</sup> Neb. Rev. Stat. §77-1510 (Reissue 2009).

acquiescence or consent nor may it be created by waiver, estoppel, consent, or conduct of the parties.<sup>3</sup>

### III. ANALYSIS

The Taxpayer filed an appeal of the homestead exemption determination made by the County Board pursuant to Neb. Rev. Stat. §77-3519 (2014 Cum. Supp.).<sup>4</sup> The deadline for filing appeals of these determinations was within thirty days after the date of the determination by the County Board.<sup>5</sup> A copy of the County Board's determination which accompanied the appeal indicates that the County Board's determination was made on August 19, 2014.<sup>6</sup> The envelope containing the appeal was postmarked October 31, 2014 and received by the Commission on November 3, 2014.<sup>7</sup>

At the hearing, the Taxpayer testified that she was unaware of the 30 day filing deadline, and that she had not mailed the appeal within thirty days of the County Board's determination. Therefore, the Commission determines that the appeal was not timely filed.

### IV. CONCLUSION

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

### V. ORDER

#### IT IS THEREFORE ORDERED THAT:

1. The above captioned appeal is dismissed with prejudice.
2. This decision, if no appeal is filed, shall be certified within thirty days to the Sarpy County Treasurer, and the officer charged with preparing the tax list for Sarpy County as required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.) as follows:

Dan Pittman  
1210 Golden Gate Dr. Ste 1122  
Papillion, NE 68046

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

<sup>4</sup> See, Case File.

<sup>5</sup> See, Neb. Rev. Stat. §3519 (2014 Cum. Supp.).

<sup>6</sup> See, Case File.

<sup>7</sup> See, Case File.

Rich James  
1210 Golden Gate Dr.  
68046

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

**SIGNED AND SEALED** January 23, 2015

**Seal**

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Robert W. Hotz, Commissioner

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Nancy J. Salmon, Commissioner