

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

Robert Ewoldt,  
Appellant,

v.

Lancaster County Board of Equalization,  
Appellee.

Case No: 14R 373

**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. Robert Ewoldt (the Taxpayer) appeared telephonically at the hearing before the Tax Equalization and Review Commission (the Commission). Richard C. Grabow, Deputy Lancaster County Attorney, appeared telephonically on behalf of the Lancaster 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 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-

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

1502.<sup>2</sup> 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.<sup>3</sup>

### III. ANALYSIS

On September 15, 2014, the Commission received an envelope containing an appeal of the determination of the Lancaster County Board of Equalization made pursuant to Neb. Rev. Stat. §77-1502 (Reissue 2009).<sup>4</sup> The deadline for filing appeals of these determinations for tax year 2014 was 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>5</sup> The Lancaster County Board did adopt a resolution extending the deadline for hearing protests, so the filing deadline for tax year 2014 was September 10, 2014. 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.<sup>6</sup> The envelope containing the appeal was postmarked September 13, 2014 and received by the Commission on September 15, 2014.<sup>7</sup> 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 Lancaster County Treasurer, and the officer charged with preparing the tax list for Lancaster County as required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.) as follows:

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

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

<sup>6</sup> Neb. Rev. Stat. 77-5013(2) (2014 Cum. Supp.).

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

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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