

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Georgie J. Bighia Et Al
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 15C 0406

**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 December 21, 2015. Mark J. Holmberg appeared telephonically at the hearing before the Commission as legal counsel for the Taxpayer. Malina M. Dobson, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization (the County Board). Without objection, the Commission took notice of its case files for the purpose of determining personal jurisdiction and subject matter jurisdiction. The Commission received evidence and argument offered regarding the Jurisdiction of the Commission to hear this appeal.

II. STANDARD OF REVIEW

Neb. Rev. Stat. §77-5013 provides that the Commission obtains jurisdiction over an appeal when the appeal form 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 pursuant to §77-1502 may be appealed to the Tax Equalization and Review Commission (the Commission) in accordance with Neb. Rev. Stat. §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 for hearing protests under Neb. Rev. Stat. §77-1502.² Parties cannot confer

¹ See, Neb. Rev. Stat. §77-5013 (2014 Cum. Supp.).

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

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

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 of the Commission's Rules and Regulations specifies the persons who may sign an appeal or petition.⁴ John H. Dickerson, signee of the appeal, is an asset manager under a management agreement for the Subject Property. The Subject Property is owned by the George J. Bighia Revocable Trust.⁵ John H. Dickerson is not a trustee of the George J. Bighia Revocable Trust. Neither the Management Agreement⁶, Neb. Rev. Stat. §76-2401 to 76-2430, or the Nebraska Real Estate License Act authorize an asset manager under a management agreement to sign an appeal or petition on behalf of the Taxpayer. John H. Dickerson has not demonstrated that he was appointed by a Nebraska Court or Court of the United States as a Personal Representative of the Taxpayer. An individual who is an asset manager under a management agreement for the Subject Property 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 appeal was not properly perfected.

IV. CONCLUSION

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

ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeal is dismissed with prejudice.
2. As required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.), 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:

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

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

⁵ E1:1

⁶ E1

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

SIGNED AND SEALED January 5, 2016.

Seal

Robert W. Hotz, Commissioner

Steven A. Keetle, Commissioner