

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Douglas Sunderman
Appellant,

v.

Madison County Board of Equalization
Appellee

Case Nos: 16A 0176, 16A 0178, 16A 0179,
16A 0180, 16A 0181, 16A 0182, 16A 0183,
16A 0184 & 16A 0185

**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 13, 2016. Douglas Sunderman (the Taxpayer) appeared by telephone. Stephen Sunderman, the signor of the appeal forms filed with the Commission also appeared by telephone. Joseph Smith, Madison County Attorney, appeared telephonically on behalf of the Madison 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. The Commission received evidence and heard argument regarding the Jurisdiction of the Commission to hear these appeals.

II. STANDARD OF REVIEW

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 Neb. Rev. Stat. § 77-1502 may be appealed to the Tax Equalization and Review 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 subject matter jurisdiction on a tribunal by

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

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

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

III. ANALYSIS

An appeal before the Commission must be signed by a person allowed to do so by law and pursuant to the Rules and Regulations of the Commission. The Nebraska Administrative Code, Chapter 5, section 001.05, specifies the persons or legal entities who may sign an appeal or petition. In each of the appeals before the Commission, Stephen Lee Sunderman signed the appeal form. He asserted that his filing status was as a full time employee of Douglas Sunderman. At the hearing, he testified that he is employed by the Taxpayer and manages his properties. The properties are owned by the Taxpayer in his individual capacity. There was no evidence adduced that a legal entity owns any of the properties.

A full time, salaried employee is allowed to sign an appeal on behalf of a corporation, limited liability company, partnership, limited partnership, or other legal entity.⁴ However, the Rule does not allow full time employees of individual property owners to sign appeals on behalf of the owner. Therefore, Stephan Sunderman is not authorized by the Rules and Regulations to sign an appeal or petition pursuant to Chapter 5, Section 001.05. Therefore, the Commission determines that these appeals were not properly perfected.

IV. CONCLUSION

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

ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeals are dismissed with prejudice.

This decision, if no appeals are filed, shall be certified within thirty days to the Madison County Treasurer, and the officer charged with preparing the tax list for Madison County as required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.) 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 Nebraska Administrative Code, Ch. 5 §001.05D.

Jeff Hackerott
Box 250
Madison, NE 68748

Donna Primrose
Box 270
Madison, NE 68748

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

SIGNED AND SEALED December 21, 2016

Seal

Nancy J. Salmon, Commissioner

Robert W. Hotz, Commissioner