

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

Kohl's Illinois, Inc., a.k.a. Kohl's  
Department Stores, Inc.,  
Appellant,

v.

Lancaster County Board of Equalization,  
Appellee.

Case No: 17C 0146

**ORDER FOR DISMISSAL**

**THE COMMISSION FINDS AND DETERMINES AS FOLLOWS:**

1. The Subject Property in the above captioned appeal is an improved commercial parcel in Lancaster County, with a legal description of Wilderness Hills Commercial 2nd Addition, Lot 1, Parcel ID 16-30-113-001-000.
2. On February 25, 2019, the Commission entered an Order Compelling Discovery in this appeal.
3. The Order Compelling Discovery provided, in part, that “No later than March 25, 2019, Appellant shall provide complete responses to the discovery requests served upon it by Appellee on July 11, 2018.”
4. On April 8, 2019, Appellee filed a Motion for Sanctions supported by an Affidavit averring that Appellee had not received the ordered discovery responses from Appellant as of April 4, 2019. This Motion for Sanctions included a certification that the Motion was served upon legal counsel for Appellant by mailing on April 4, 2019.
5. No response to the Motion for Sanctions has been filed by Appellant as of the date of this Order for Dismissal.
6. Neb. Admin. Code Ch. 12 § 011.02 provides, in relevant part:

011.01 Motion for Order Compelling Discovery. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery[.]

011.02A Sanctions. If a party ... fails to obey an order to provide or permit discovery, including an order made under subsection 011.01 of this rule, the Commission may make such orders in regard to the failure as are just, and among others the following:

011.02A3 An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the petition or appeal or any part thereof, or rendering a judgment by default against the disobedient party.

7. Appellant has failed to comply with the Commission's Order Compelling Discovery.
8. Appellant has not requested an extension of the time for compliance, nor has Appellant provided any explanation for the failure to comply.
9. Appellant has failed to file a response to the Motion for Sanctions.
10. Dismissal of the appeal is an appropriate sanction under these circumstances.

**THEREFORE IT IS ORDERED:**

1. The appeal filed in Case No. 17C 0146 is dismissed with prejudice.
2. The decision of the Lancaster County Board of Equalization determining the value of the Subject Property for tax year 2017 is affirmed.
3. The taxable value of the Subject Property for tax year 2017 is \$5,928,800.
4. This Decision and Order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (Reissue 2018).
5. Any request for relief by any party, which is not specifically provided for by the Decision and Order is denied.
6. Each party is to bear its own costs in this proceeding.
7. This Decision and Order shall only be applicable to tax year 2017.
8. This Decision and Order is effective for purposes of appeal on April 22, 2019.

Signed and Sealed: April 22, 2019

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Steven A. Keetle, Commissioner

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Robert W. Hotz, Commissioner

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James D. Kuhn, Commissioner