

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

Steve F. Hanel,  
Appellant,

v.

Douglas County Board of Equalization,  
Appellee.

Case No: 17R 0636

**DECISION AND ORDER FINDING  
JURISDICTION AND 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 February 9, 2018. Steve F. Hanel (the Taxpayer) appeared telephonically at the hearing before the Commission. Shakil A. Malik, 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 heard argument regarding its jurisdiction to hear this appeal.

**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.<sup>1</sup> 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.<sup>2</sup> Parties cannot confer subject matter jurisdiction on a tribunal by

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<sup>1</sup> Neb. Rev. Stat. §77-5013 (2016 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

On September 13, 2017, the Commission received an envelope containing a single appeal form, a check for a single \$25 filing fee, and 21 decisions of the Douglas County Board of Equalization made pursuant to Neb. Rev. Stat. §77-1502. The Douglas County Board adopted a resolution extending the deadline for hearing protests (Case File), so the the last day for filing was Monday, September 11, 2017.<sup>4</sup> 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>5</sup> The envelope containing the appeal was postmarked September 11, 2017, and received by the Commission on September 13, 2017. The materials that were contained in the envelope were thus timely filed.

Although the materials enclosed in the envelope were timely filed, Nebraska law requires that a separate filing fee accompany each appeal to the Commission, and the fee must be timely received by the Commission in order for it to have jurisdiction over an appeal.<sup>6</sup> The Commission's administrative rules require that a signed appeal form be filed for each determination appealed,<sup>7</sup> and that the required filing fee accompany the appeal.<sup>8</sup> The Nebraska Court of Appeals has determined that the Commission does not have jurisdiction over multiple appeals filed with a single filing fee.<sup>9</sup>

The Taxpayer submitted one filing fee and one appeal form; he is entitled to one appeal. At the hearing, the Taxpayer was asked to notify the Commission of which appeal he wished to pursue in the event that the Commission had jurisdiction over only one. The Taxpayer submitted

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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> If a filing deadline is on a weekend or state or federally recognized holiday, the next business day becomes the filing deadline. Neb. Rev. Stat. §49-1203 (Reissue 2010).

<sup>5</sup> Neb. Rev. Stat. §77-5013(2) (2016 Cum. Supp.).

<sup>6</sup> *Widtfeldt v. Tax Equal. and Rev. Comm.*, 15 Neb. App. 410, 728 N.W.2d 295 (2007).

<sup>7</sup> 442 NAC Ch. 5 § 001.01 (06/11).

<sup>8</sup> 442 NAC Ch. 5 § 001.09 (06/11).

<sup>9</sup> *Widtfeldt*, *supra*.

a written statement after the hearing selecting the parcel located at 1867 Blue Sage Parkway, parcel no. 2540387626.

For the foregoing reasons, the Commission determines that it has jurisdiction over the appeal of the County Board's determination regarding parcel no. 2540387626. Hereafter, Case No. 17R-0636 shall relate only to that appeal. The Commission does not have jurisdiction to review the remaining 20 decisions of the County Board.

#### **IV. CONCLUSION**

The Commission has jurisdiction only over the Taxpayer's appeal of the County Board's determination regarding parcel no. 2540387626.

#### **ORDER**

##### **IT IS THEREFORE ORDERED THAT:**

1. The above captioned appeal shall be scheduled for a hearing on the merits with regard to the County Board's determination regarding parcel number 2540387626.
2. The appeals relating to all other parcels are dismissed with prejudice.

**SIGNED AND SEALED:** March 20, 2018.

Seal

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Steven A. Keelte, Commissioner

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James D. Kuhn, Commissioner