

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Hampton, LLC.
Appellant,

v.

Lancaster County Board of Equalization,
Appellee.

Case No: 12C 206

**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 June 18, 2013. Robert D. Hampton, Member of Hampton, LLC (the Taxpayer) appeared telephonically at the hearing before the Commission. Michael E. Thew, Deputy Lancaster County Attorney, appeared telephonically on behalf of the Lancaster County Board of Equalization (County Board). The Commission took notice of its case files for the purpose of determining personal and subject matter jurisdiction. The Taxpayer provided one exhibit which was received by the Commission.

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.¹ Any action of the County Board of Equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review 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 77-1502.² Parties cannot confer subject matter

¹ See, Neb. Rev. Stat. 77-5013 (2012 Cum. Supp.).

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

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

On September 6, 2012, the Commission received an envelope containing an appeal of the determination of the County Board made pursuant to Neb. Rev. Stat. §77-1502 (Reissue 2009). (Case File). The envelope did not contain a copy of the decision, order, determination, or action appealed from, or other information that documents the decision, order, determination, or action appealed from. The deadline for filing the appeal for tax year 2012 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 77-1502.⁴ The Lancaster County Board did adopt a resolution extending the deadline for hearing protests (Case File), so the filing deadline for tax year 2012 was September 10, 2012. The appeal 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.⁵ The envelope did not contain a copy of the County Board decision, but rather contained a copy of a referee recommendation to the County Board. The County Board decision had not, as of the hearing date, been received by the Commission. Therefore, the Commission determines that the appeal was not timely filed.

The Commission determines that it does not have jurisdiction over the appeal or petition.

IV. CONCLUSION

V. 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.

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

⁴ Neb. Rev. Stat. §77-1510 (Reissue 2009).

⁵ Neb. Rev. Stat. 77-5013(2) (2012 Cum. Supp.).

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 follows:

Norman Agena,
Lancaster County Assessor,
555 S 10th St. Rm 102
Lincoln, NE 68508

Andy Stebbing,
Lancaster County Treasurer
555 S 10th St. Rm 102
Lincoln, NE 68508

as required by Neb. Rev. Stat. §77-5018 (2012 Cum. Supp.).

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

SIGNED AND SEALED June 20, 2013

Seal

Robert W. Hotz, Commissioner

Nancy J. Salmon, Commissioner