

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Ryan N. Nietfeldt,
Appellant,

v.

Douglas County Board of Equalization,
Appellee.

Case No: 13R 626

**DECISION AND 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 January 15, 2014. Ryan N. Nietfeldt appeared telephonically at the hearing before the Nebraska Tax Equalization and Review (the Commission) as the Appellant. Malina M. Dobson, Deputy Douglas County Attorney, appeared telephonically on behalf of the Douglas County Board of Equalization (the County Board). The Commission took notice of its case file for the purpose of determining personal jurisdiction and subject matter jurisdiction. The Commission received exhibits and took testimony.

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 pursuant to section 77-1502 may be appealed to the 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-

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

1502.² Parties cannot confer 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

On September 11, 2013, the Commission received an envelope containing an appeal of the determination of the Douglas County Board of Equalization made pursuant to Neb. Rev. Stat. §77-1502 (Reissue 2009). (Case File). The envelope did not contain the applicable \$25 filing fee. The deadline for filing the filing fee for tax year 2013 was on or before September 10, 2013, since the County Board had adopted a resolution to extend the deadline for hearing protests under section 77-1502.⁴ A filing fee 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 On October 15, 2013, the Commission received a letter requesting a show cause hearing on the issue of jurisdiction which also contained a \$25 check for the filing fee. The envelope containing the filing fee was postmarked October 14, 2013, and received by the Commission on October 15, 2013. (Case File). The filing fee was not timely filed, therefore, the Commission finds that the appeal was not timely filed.

IV. CONCLUSION

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

V. ORDER

IT IS THEREFORE ORDERED THAT:

1. The above captioned appeal is dismissed with prejudice.
2. 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:

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

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

⁴ See, Neb. Rev. Stat. §77-1510 (Reissue 2009), and Case File.

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

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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 January 24, 2014

Seal

Robert W. Hotz, Commissioner

Nancy J. Salmon, Commissioner