

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Hawkins Development Group LLC,
Appellant,

v.

Sarpy County Board of Equalization,
Appellee.

Case No: 15C 0288

**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 17, 2015. Matthew J. Hawkins, President of Hawkins Development Group LLC, appeared telephonically at the hearing before the Commission. Andrea Gosnold-Parker, Deputy Sarpy County Attorney, appeared telephonically on behalf of the Sarpy 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.

II. STANDARD OF REVIEW

Neb. Rev. Stat. §77-5013 provides that 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 §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. §77-1502.² Parties cannot confer

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

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

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 August 26, 2015, 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).⁴ The envelope was postmarked August 24, 2015, but it did not contain a copy of the decision, order, determination, or action appeal from, or other information that documents the decision, order, determination, or action appealed from the County Board.⁵ The deadline for filing the appeal for tax year 2015 was on or before August 24, 2015 since the County Board did not adopt a resolution extending the deadline for hearing protests.⁶ An 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.⁷ The envelope that was postmarked August 24, 2015 did not contain a copy of the County Board decision.⁸ A copy of the County Board decision was transmitted to the Commission by facsimile on September 29, 2015.⁹ Therefore, the Commission finds that the jurisdictional requirements of Neb. Rev. Stat. §77-5013 were not met.

IV. CONCLUSION

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 See, Case File.

⁵ *Id.*

⁶ Neb. Rev. Stat. §77-1510 (Reissue 2009). See also, Case File.

⁷ Neb. Rev. Stat. 77-5013(2) (2014 Cum. Supp.).

⁸ See, Case File.

⁹ *Id.*

2. As required by Neb. Rev. Stat. §77-5018 (2014 Cum. Supp.), this decision, if no appeal is filed, shall be certified within thirty days to the Sarpy County Treasurer, and the officer charged with preparing the tax list for Sarpy County as follows:

Dan Pittman
1210 Golden Gate Dr. Ste 1122
Papillion, NE 68046

Rich James
1210 Golden Gate Dr.
68046

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

SIGNED AND SEALED December 21, 2015

Seal

Robert W. Hotz, Commissioner

Nancy J. Salmon, Commissioner