

The Commission is required by Neb. Rev. Stat. §77-5018 (Reissue 2003) to state its final decision, with findings of fact and law, on the record or in writing.

**I.
FINDINGS**

The Commission finds and determines that:

PROCEDURAL FINDINGS

1. The Taxpayer is the owner of record of certain commercial real property described in the appeals as:
 - a. Case No. 06C-331: 16-9-9 Lot 33 Blk 2, Woodland Hills Golf Club Subdiv Amend Plat(3) North Palmyra, Otoe County, Nebraska .
 - b. Case No. 06C-332: 16-9-9 Lot 34 Blk 2 Woodland Hills Golf Club Subdiv Amend Plat (3) 2.49 Ac North Palmyra, Otoe County, Nebraska.
 - c. Case No. 06C-333: 16-9-9 Part of Outlot A Woodland Hills Golf Subdiv (NW1/4 & NE1/4) 45.89 Ac North Palmyra, Otoe County, Nebraska.
 - d. Case No. 06C-334: 16-9-9 Part of Outlot A Woodland Hills Golf Club Sub in NE1/4 NW1/4 24.99 Ac North Palmyra, Otoe County, Nebraska.
 - e. Case No. 06C-335: 16-9-9 Part of Outlot A Woodland Hills Golf Club Sub in W1/2 NW1/4 Exc. Tracts 37.42 Ac North Palmyra, Otoe County, Nebraska.
 - f. Case No. 06C-336: 17-9-9 Part of Outlot A Woodland Hills Golf Club Sub (NE1/4) 21.21 Ac North Palmyra, Otoe County, Nebraska.
 - g. Case No. 06C-337: 17-9-9 Part of Outlot A Woodland Hills Golf Club Sub (E 40 Ac of NE1/4) North Palmyra 39.19 Ac, Otoe County, Nebraska.

2. The Taxpayer's Appeals were filed in person in the Commission's office on August 30, 2006.
3. An Order to Show Cause and Notice of Telephonic Hearing (Jurisdiction) was issued by the Commission on October 16, 2006, directing the Taxpayer to show why its appeal should not be dismissed for want of jurisdiction.

II. CONCLUSIONS OF LAW

1. The Commission, while making a decision, may not consider testimony, records, documents or other evidence which is not a part of the hearing record except those identified in the Commissions rules and regulations or Section 77-5016 (3). Neb. Rev. Stat. § 77-5016(3) (2005 Supp.).
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. *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 905 (2000).
3. The Commission obtains jurisdiction over an appeal when the appeal, 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 and the filing fee is timely received and thereafter paid. Neb. Rev. Stat. 77-77-5013 (2004 Cum. Supp).
4. Appeals from County Board of Equalization decisions made pursuant to section 77-1502 must be filed on or before August 24 of each year. Neb. Rev. Stat. 77-1510 (2005 Supp.).

5. An appeal is timely filed if placed in the United States mail, postage prepaid, with a legible postmark for delivery to the commission on or before the filing deadline. Neb. Rev. Stat. 77-5013 (2004 Cum. Supp.).

III. ANALYSIS

The issue presented in this proceeding is whether or not the Commission has jurisdiction to hear the appeal of the Taxpayer when the appeal was not timely filed. The Taxpayer testified that he was advised by the County Assessor's office that the filing deadline for his appeals was September 1, 2006. The Commission cannot hear an appeal that was not filed in accordance with the statutory requirements. *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 905 (2000). The Commission must order dismissal of the appeal.

IV. ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The Appeals of Flodman Golf Partners and Flodman Links & Flodman Golf Partners , concerning the valuation of:
 - a. Case No. 06C-331: 16-9-9 Lot 33 Blk 2, Woodland Hills Golf Club Subdiv Amend Plat(3) North Palmyra, Otoe County, Nebraska .
 - b. Case No. 06C-332: 16-9-9 Lot 34 Blk 2 Woodland Hills Golf Club Subdiv Amend Plat (3) 2.49 Ac North Palmyra, Otoe County, Nebraska.

- c. Case No. 06C-333: 16-9-9 Part of Outlot A Woodland Hills Golf Subdiv (NW1/4 & NE1/4) 45.89 Ac North Palmyra, Otoe County, Nebraska.
- d. Case No. 06C-334: 16-9-9 Part of Outlot A Woodland Hills Golf Club Sub in NE1/4 NW1/4 24.99 Ac North Palmyra, Otoe County, Nebraska.
- e. Case No. 06C-335: 16-9-9 Part of Outlot A Woodland Hills Golf Club Sub in W1/2 NW1/4 Exc. Tracts 37.42 Ac North Palmyra, Otoe County, Nebraska.
- f. Case No. 06C-336: 17-9-9 Part of Outlot A Woodland Hills Golf Club Sub (NE1/4) 21.21 Ac North Palmyra, Otoe County, Nebraska.
- g. Case No. 06C-337: 17-9-9 Part of Outlot A Woodland Hills Golf Club Sub (E 40 Ac of NE1/4) North Palmyra 39.19 Ac, Otoe County, Nebraska.

Are dismissed for want of jurisdiction.

- 2. This decision, if no appeal is timely filed, shall be certified to the Otoe County Treasurer, and the Otoe County Assessor, pursuant to Neb. Rev. Stat. § 77-5018 (2005 Supp.).
- 3. Each party is to bear its own costs in this matter.
- 4. This decision shall only be applicable to tax year 2006.

IT IS SO ORDERED.

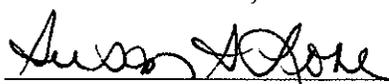
Dated: November 7, 2006.



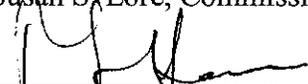
SEAL



William C. Warnes, Commissioner



Susan S. Lore, Commissioner



Robert L. Hans, Commissioner