

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

CRAIG SNYDER,	)	Case Nos. 06C-351,
	)	
B & H RENTALS, LLC	)	06C-352, 06C-353,
	)	06C-354, 06C-355, 06C-356, 06C-357,
	)	
DDB, INC.	)	06C-358, 06C-359, 06C-360, 06C-361,
	)	
GENERAL INVESTORS, INC.	)	06C-362, 06C-363 & 06C-364
	)	
Appellants,	)	FINDINGS AND ORDER DISMISSING
	)	APPEAL FOR WANT OF JURISDICTION
v.	)	
	)	
SALINE COUNTY BOARD OF EQUALIZATION,	)	
	)	
Appellee.	)	

The above-captioned case was called for a hearing pursuant to an Order to Show Cause entered by the Tax Equalization and Review Commission ("the Commission"). The hearing was held in the Commission's Hearing Room on the sixth floor of the Nebraska State Office Building in the City of Lincoln, Lancaster County, Nebraska, on November 2, 2006, pursuant to an Order to Show Cause and Notice of Telephonic Hearing (Jurisdiction) issued October 17, 2006. Commissioners Lore, Hans, and Warnes were present. Commissioner Warnes presided at the hearing.

Craig Snyder, appearing on behalf of himself, B & H Rentals, LLC, DDB, Inc., and General Investors, Inc., ("the Taxpayer") appeared, by teleconference, at the hearing. The Saline County Board of Equalization ("the County Board") appeared, by teleconference, through legal counsel, Mr. Tad Eickman, Saline County Attorney. The Commission took statutory notice, received exhibits and heard testimony.

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: (“the subject property”).
  - a. Case No. 06C-351: Crete City Lots 1-2-3-4 & W ½ Vac Forest Ave Blk 94, Saline County, Nebraska.
  - b. Case No. 06C-352: Crete City Lots 9-10-11-12 Blk 2, Saline County, Nebraska.
  - c. Case No. 06C-353: Crete City B & H Subdivision Lots 1-2-3-6-7-8, Saline County, Nebraska.
  - d. Case No. 06C-354: Crete City B & H Subdivision Lots 4-5, Saline County, Nebraska.
  - e. Case No. 06C-355: Crete City Hatch & Bayne Subdivision Lot 27 & S 20' Lot 28 Blk A, Saline County, Nebraska.
  - f. Case No. 06C-356: Crete City Hatch & Bayne Subdivision Lot 28 ex. N 10" & S 20' Blk A, Saline County, Nebraska.
  - g. Case No. 06C-357: Crete City Hatch & Bayne Subdivision Lot 29 & N 10' of Lot 28 Blk A, Saline County, Nebraska.
  - h. Case No. 06C-358: Crete City Lots 1-2-3-4-5 Blk 129, Saline County, Nebraska.

- i. Case No. 06C-359: Crete City Lots 1-2-3 & N ½ of 4 Blk 226, Saline County, Nebraska.
  - j. Case No. 06C-360: Crete City Hatch & Bayne Subdivision Lot 24 & S 62' of Lot 25 Blk A, Saline County, Nebraska.
  - k. Case No. 06C-361: Crete City Hatch & Bayne Subdivision N 28' of Lot 25 & all of Lot 26 Blk A, Saline County, Nebraska.
  - l. Case No. 06C-362: Crete City Lots 1-2-3 & E1/2 Vac Alley Blk 135, Saline County, Nebraska.
  - m. Case No. 06C-363: Crete City Lot 7-8-9-10 Blk 220, Saline County, Nebraska.
  - n. Case No. 06C-364: Crete City Sack's Addition Lot 1 Blk 2, Saline County, Nebraska.
2. The Taxpayer's Appeals were filed in person in the Commission's office on August 25, 2006.
  3. An Order to Show Cause and Notice of Telephonic Hearing (Jurisdiction) was issued by the Commission on October 17, 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 Commission's 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. The county board of equalization must take action on protests filed pursuant to Neb. Rev. Stat. §77-1502, no later than July 25 of each year. Neb. Rev. Stat. §77-1502(1) (2005 Supp.).
5. A county board of equalization which has failed to act on a protest within the statutory time frame is deemed to have denied that protest. *Sumner v. Colfax County*, 14 Neb. 524, 16 N.W. 756 (1883).
6. The county clerk shall mail to the protester notice of the board's decision on or before August 2 of each year. Neb. Rev. Stat. §77-1502(5) (2005 Supp.).
7. 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.).
8. 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 Commission received Exhibits 1-14, which are copies of the Saline County Board of Equalization's final determination (Form 422) in each of the Taxpayer's protests. Each of these final determination Form 422's has a section to be filled in and certified by the County Clerk indicating the date the protest was heard, the date of the decision, and the date notice of decision mailed to protester. No portion of this certification was completed. (E1- E14). Further, each of the final determinations is signed and dated by the County Board Chairperson on July 26, 2006, one day after the final date for the county board of equalization to act on the protests. See, Neb. Rev. Stat. §77-1502 (2005 Supp.). However, the Nebraska Supreme Court has determined that a county board of equalization which has failed to act on a protest within the statutory time frame is deemed to have denied that protest. See, *Sumner v. Colfax County*, 14 Neb. 524, 16 N.W. 756 (1883). The Taxpayer testified that he received notice of the county board of equalization's action on or about July 28, 2006, and that he thought that he had 30 days from the date he received the notice from the County Board to appeal to the Commission. The record before the Commission demonstrates that the Taxpayer did receive timely notice of the decision of the County Board as required by Neb. Rev. Stat. §77-1502(5) (2005 Supp.). 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 each of the appeals.

**IV.  
ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. The Appeal of Craig Snyder, B & H Rentals, LLC, DDB, Inc., and General Investors, Inc., concerning the valuation of:
  - a. Case No. 06C-351: Crete City Lots 1-2-3-4 & W ½ Vac Forest Ave Blk 94, Salines County, Nebraska.
  - b. Case No. 06C-352: Crete City Lots 9-10-11-12 Blk 2, Saline County, Nebraska.
  - c. Case No. 06C-353: Crete City B & H Subdivision Lots 1-2-3-6-7-8, Saline County, Nebraska.
  - d. Case No. 06C-354: Crete City B & H Subdivision Lots 4-5, Saline County, Nebraska.
  - e. Case No. 06C-355: Crete City Hatch & Bayne Subdivision Lot 27 & S 20' Lot 28 Blk A, Saline County, Nebraska.
  - f. Case No. 06C-356: Crete City Hatch & Bayne Subdivision Lot 28 ex. N 10" & S 20' Blk A, Saline County, Nebraska.
  - g. Case No. 06C-357: Crete City Hatch & Bayne Subdivision Lot 29 & N 10' of Lot 28 Blk A, Saline County, Nebraska.
  - h. Case No. 06C-358: Crete City Lots 1-2-3-4-5 Blk 129, Saline County, Nebraska.

- i. Case No. 06C-359: Crete City Lots 1-2-3 & N ½ of 4 Blk 226, Saline County, Nebraska.
- j. Case No. 06C-360: Crete City Hatch & Bayne Subdivision Lot 24 & S 62' of Lot 25 Blk A, Saline County, Nebraska.
- k. Case No. 06C-361: Crete City Hatch & Bayne Subdivision N 28' of Lot 25 & all of Lot 26 Blk A, Saline County, Nebraska.
- l. Case No. 06C-362: Crete City Lots 1-2-3 & E1/2 Vac Alley Blk 135, Saline County, Nebraska.
- m. Case No. 06C-363: Crete City Lot 7-8-9-10 Blk 220, Saline County, Nebraska.
- n. Case No. 06C-364: Crete City Sack's Addition Lot 1 Blk 2, Saline County, Nebraska.

Are dismissed for want of jurisdiction.

- 2. This decision, if no appeal is timely filed, shall be certified to the Saline County Treasurer, and the Saline 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 13, 2006.



**SEAL**

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William C. Warnes, Commissioner

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Susan S. Lore, Commissioner

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Robert L. Hans, Commissioner