

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

JANICE M. LEETCH,	)	
	)	
Appellant,	)	Case No. 08H 001
	)	
v.	)	DECISION AND ORDER
	)	OF DISMISSAL FOR WANT OF
HALL COUNTY BOARD OF	)	JURISDICTION
EQUALIZATION,	)	
	)	
Appellee.	)	

The above-captioned case was called for a hearing on Order to Show Cause (Filing Defect) to determine whether an appeal by Janice M. Leetch ("the Taxpayer") to the Tax Equalization and Review Commission ("the Commission") should not be dismissed. 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 25, 2008, pursuant to an Order to Show Cause (Filing Defect) issued November 4, 2008. Commissioners Wickersham, Salmon, and Hotz were present. Commissioner Wickersham was the presiding hearing officer. Commissioner Warnes was excused from participation by the presiding hearing officer. A panel of three commissioners was created pursuant to 442 Neb. Admin. Code, ch. 4, §011 (10/07).

Janice M. Leetch was not present at the hearing. No one appeared as legal counsel for the Taxpayer.

Mark J. Young, County Attorney for Hall County, Nebraska, appeared by telephone, as legal counsel for the Hall County Board of Equalization ("the County Board").

The Commission took statutory notice, received exhibits, and heard testimony.

The Commission is required to state its final decision and order concerning an appeal, with findings of fact and conclusions of law, on the record or in writing. Neb. Rev. Stat. §77-

5018 (Cum. Supp. 2006). The final decision and order of the Commission in this case is as follows.

**I.  
ISSUES**

Whether the appeal should be dismissed for late filing.

**II.  
FINDINGS OF FACT**

The Commission finds and determines that:

1. The Taxpayer has a sufficient interest in the outcome of the above captioned appeal to maintain the appeal.
2. The appeal captioned above with the required filing fee and documentation was received on September 30, 2008. (Case File).
3. The appeal in this case was filed based on an action of the County Board pursuant to section 77-3519 of Nebraska Statutes.

**III.  
APPLICABLE LAW**

1. 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. Neb. Rev Stat. §77-5013 (Cum. Supp. 2006).

2. An appeal is deemed 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.
3. An appeal from an action of a county board of equalization pursuant to section 77-13519 of Nebraska Statutes must be filed within 30 days of the decision to deny the complaint filed with the County Board.
4. 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 90 (2000).

#### IV. ANALYSIS

The Taxpayer has not produced evidence showing that the appeal was timely filed. The appeal should be dismissed.

#### V. CONCLUSIONS OF LAW

1. The Commission does not have subject matter jurisdiction in this appeal.

#### VI. ORDER

#### IT IS ORDERED THAT:

1. The appeal in Case No. 08H 001 is dismissed.

2. Each party is to bear its own costs in this proceeding.

Signed and Sealed November 26, 2008.



SEAL

*Nancy J. Salmon*  
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Nancy J. Salmon, Commissioner

*Robert W. Hotz*  
\_\_\_\_\_  
Robert W. Hotz, Commissioner

*Wm. R. Wickersham*  
\_\_\_\_\_  
Wm. R. Wickersham, Commissioner

**APPEALS FROM DECISIONS OF THE COMMISSION MUST SATISFY THE REQUIREMENTS OF NEB. REV. STAT. §77-5019 (CUM. SUPP. 2006), OTHER PROVISIONS OF NEBRASKA STATUTES, AND COURT RULES.**