

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Douglas & Kimberly Rath Trust, Douglas B.
Rath, Trustee,
Appellant,

v.

Lancaster County Board of Equalization,
Appellee

Case No: 11R 530

Decision Affirming the Determination of the
County Board of Equalization
(Default Judgment)

For the Appellant:
None.

For the Appellee:
Michael E. Thew,
Lancaster County Attorney.

Heard before Commissioners Thomas D. Freimuth and Nancy J. Salmon.

I. THE SUBJECT PROPERTY

The Subject Property is a residential parcel located in Lancaster County. The legal description of the parcel is found in the Case File.

II. PROCEDURAL HISTORY

The Lancaster County Assessor determined that the assessed value of the subject property was \$664,300 for tax year 2011. Douglas B. Rath, as Trustee of the Douglas & Kimberly Rath Trust (Taxpayer), protested this assessment to the Lancaster County Board of Equalization (County Board). The County Board determined that the assessed value for tax year 2011 was \$664,300.

The Taxpayer appealed the decision of the County Board to the Tax Equalization and Review Commission (Commission). The Commission issued an Order for Single Commissioner Hearing and Notice on September 5, 2012, setting the hearing date for October 31, 2012. Upon an election by a party to have this appeal heard by a panel of the Commission¹, on September 12, 2012, the Commission issued an Order to Vacate Single Commissioner Designation and Amended Order for Hearing and Notice setting this appeal for a hearing before a panel of the

¹ Pursuant to Neb. Rev. Stat. §77-5015.02(3) (2012 Cum. Supp.)

Commission on November 21, 2012. Affidavits of Service which appear in the records of the Commission establish that a copy of each of the Orders for Hearing and Notice of Hearing listed above was served on all parties.²

The Commission held a hearing on November 21, 2012. Michael Thew, Deputy County Attorney for Lancaster County, was present telephonically. No one appeared on behalf of the Taxpayer as directed by the Commission's Order for Hearing. The County Board moved for a default judgment in favor of the County Board's determination.

III. STANDARD OF REVIEW

"In all appeals, excepting those arising under section 77-1606, if the appellant presents no evidence to show that the order, decision, determination or action appealed from is incorrect, the commission shall deny the appeal."³ The Commission is authorized to enter default judgments.⁴

IV. CONCLUSION

The Taxpayer failed to appear at the hearing as required by the Order for Hearing and Notice of Hearing and therefore presented no evidence to show that the order, decision, determination or action appealed from was incorrect. The motion for an Order of Default Judgment should be granted and the decision of the County Board is Affirmed.

V. ORDER

IT IS ORDERED THAT:

1. The Motion of the County Board for Default Judgment is granted.
2. The Decision of the Lancaster County Board of Equalization determining the value of the Subject Property for tax year 2011 is Affirmed.
3. That the Assessed value of the Subject Property for tax year 2011 is: \$664,300.
4. This decision and order, if no appeal is timely filed, shall be certified to the Lancaster County Treasurer and the Lancaster County Assessor, pursuant to Neb. Rev. Stat. §77-5018 (2012 Cum. Supp.)

² See, Case File

³ Neb. Rev. Stat. §77-5016(9) (2012 Cum. Supp.)

⁴ Neb. Rev. Stat. §77-5015 (2012 Cum. Supp.).

5. Any request for relief, by any party, which is not specifically provided for by this order is denied.
6. Each Party is to bear its own costs in this proceeding.
7. This decision shall only be applicable to tax year 2011.
8. This order is effective for purposes of appeal on June 3, 2013.

Signed and Sealed: June 3, 2013

Thomas D. Freimuth, Commissioner

SEAL

Nancy J. Salmon, Commissioner

Appeals from any decision of the Commission must satisfy the requirements of Neb. Rev. Stat. §77-5019 (2012 Cum. Supp.), other provisions of Nebraska Statute and Court Rules.