

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

Geoffrey A. & Lynne D. Coleman,
Appellant,

v.

Lancaster County Board of Equalization,
Appellee.

Case No: 15R 291

**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 10, 2015. Geoffrey A. Coleman appeared at the hearing before the Commission. Ryan M. Swaroff, Deputy Lancaster County Attorney, appeared telephonically on behalf of the Lancaster County Board of Equalization (the County Board). Without objection, the Commission took notice of the case file 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 Neb. Rev. Stat. §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

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

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

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.³

III. ANALYSIS

The Lancaster County Board adopted a resolution extending the deadline for hearing protests for tax year 2015. Therefore, the deadline for filing the appeal in this case was September 10, 2015. Geoffrey Coleman mailed a copy of the County Board decision and the filing fee to the Commission on September 10, 2015. The filing did not include the appeal form. The envelope was postmarked September 10, 2015 and was stamped as received by the Commission on September 14, 2015. The appeal form was later provided to the Commission in an envelope dated October 19, 2015. An appeal to the Commission 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.⁴ Since the envelope containing the filing that was mailed on September 10, 2015 did not include the appeal form, as required by Neb. Rev. Stat. §77-5013, the appeal was not timely filed, and the Commission cannot take jurisdiction of the appeal.⁵

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.
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 Lancaster County Treasurer, and the officer charged with preparing the tax list for Lancaster County as follows:

³ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

⁴ Neb. Rev. Stat. 77-5013(2) (2014 Cum. Supp.).

⁵ *Creighton St. Joseph Regional Hospital v. Nebraska Tax Equalization and Review Commission*, 260 Neb. 905, 620 N.W.2d 90 (2000).

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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