

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

LLOYD H. BOONE,)	
)	
Appellant,)	CASE NO. 97R-59
)	
v.)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
DOUGLAS COUNTY BOARD)	AND ORDER
OF EQUALIZATION,)	
)	
Appellee.)	

The Nebraska Tax Equalization and Review Commission ("Commission") called this case for hearing in the City of Omaha, in Douglas County, Nebraska, on the 16th day of December, 1997, pursuant to a Notice of Hearing issued the 17th day of November, 1997.

Both parties were afforded an opportunity to present evidence and argument. Appellant failed to appear at the hearing. Appellee appeared through counsel and presented its argument. Neb. Rev. Stat. §77-5018 (1997 Supp.) requires that every final decision and order entered by the Commission which is adverse to a party be stated in writing or on the record and be accompanied by findings of fact and conclusions of law. The Commission, on its own motion, takes judicial notice of its case file in this case, Nebraska State Law, and Title 442 Nebraska Administrative Code. Based on that information, the only record before it, the Commission adopts these Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

From the record, the Commission finds and determines as follows:

- I. That Appellant failed to file a copy of the notice of final decision of the Douglas County Board of Equalization as directed on the appeal form.
- II. That the Commission served both parties with a Notice of Hearing setting the day and time of hearing as shown by the Affidavit of the Commission Secretary.
- III. That the Appellant failed to appear at said hearing.
- IV. That the Appellant failed to notify the Commission that he would not be appearing at the hearing.
- V. That the Appellant failed to notify the Appellee that he would not be appearing at the hearing.
- VI. That at the day and time of the hearing the Appellee and its witnesses appeared and were prepared to proceed with the hearing.
- VII. That Appellee has moved the Commission for an Order Dismissing this case.

JURISDICTION

Jurisdiction of the Tax Equalization and Review Commission is set forth in Neb. Rev. Stat. §77-5007 (1997 Supp.).

CONCLUSIONS OF LAW

“Jurisdiction is the inherent power or authority to decide a case. . .” *Wickersham v. State*, 218 Neb. 175, 183, 354 N.W.2d 134, 140 (1984). The Commission only has that “authority” specifically conferred upon it by the Constitution of the State of Nebraska, Nebraska State Statutes, or by the construction necessary to achieve the purpose of the relevant provisions or

act. See, e.g., *Grand Island Latin Club v. Nebraska Liquor Control Commission*, 251 Neb. 61, 554 N.W. 2d 778 (1996). Therefore the Commission's jurisdiction is limited to those matters set forth in Neb. Rev. Stat. §77-5004 (1997 Supp.) The Commission's jurisdiction is further limited by the provisions of Neb. Rev. Stat. §77-1511 (Reissue 1996) which requires the Taxpayer to have first presented to the County Board of Equalization any issue which is raised in an appeal before the Commission. From the record before it, the Commission cannot conclude as a matter of law that it has subject matter jurisdiction in the instant case. The Commission also notes that pursuant to Chapter 4, Title 442, Nebraska Administrative Code, Section 012, the Taxpayer is required to personally appear at hearings held before the Commission. The Taxpayer was further notified in Paragraph 2 of the Notice of Hearing dated 17 November 1997, that if he failed to appear, the case would be dismissed. The Commission therefore concludes as a matter of law as follows:

- I. That the Commission is authorized to enter an Order of Default Judgment pursuant to Neb. Rev. Stat. §77-5015 (Reissue 1996).
- II. That the Commission is also authorized to enter an Order of Default Judgment pursuant to Title 442, Nebr. Admin. Code, Chapter 2, Section 001.10.
- III. That the Commission must afford all parties an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (Reissue 1996).
- IV. That the Commission has satisfied all requirements of Nebraska State Law and its Rules and Regulations regarding Show Cause hearings.
- V. That since the Appellant has failed to appear, the Appellee is entitled to an Order Dismissing this case with prejudice.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

- I. That this case is dismissed with prejudice.
- II. That therefore the order of the Douglas County Board of Equalization setting the assessed value of the subject property legally described as the irregular northeast 328.10 feet of Lot 1, Abbouds First Addition, consisting of approximately 1.225 acres more or less, more commonly known as 8909 Washington Circle, Omaha, Douglas County, Nebraska, in the amount of \$179,800 for tax year 1997 is affirmed.
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Douglas County Treasurer, and the Douglas County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1997).
- IV. That each party is to bear its own costs in this matter

IT IS SO ORDERED.

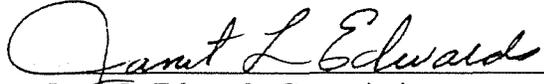
Dated this 12th day of January, 1998.



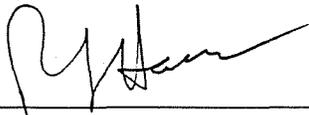
Seal



 Mark P. Reynolds, Chairman



 Janet L. Edwards, Commissioner



 Robert L. Hans, Commissioner