

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

JOSEPH J. DANIELS.)	Case No. 97R-493
)	
Appellant.)	
)	
vs.)	AMENDED ORDER OF
)	DISMISSAL WITH PREJUDICE
)	FOR FAILURE TO APPEAR
SARPY COUNTY BOARD OF)	(NOT DATE OF ORDER CHANGE)
EQUALIZATION.)	
)	
Appellee.)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for hearing on the merits in the City of Papillion, Sarpy County, Nebraska, on the 6th day of April, 1998, pursuant to a Notice of Hearing issued the 25th day of February, 1998.

Appellant failed to appear. Appellee appeared through a Deputy Sarpy County Attorney and the Sarpy County Assessor. During the hearing, the Commission took judicial notice of certain information, and received all evidence which had been provided by the parties in accordance with the provisions of the Notice of Hearing.

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, in compliance with that mandate, adopts the following as its final decision and order in this case:

FINDINGS OF FACT

1. That Appellant did not timely file an appeal challenging a decision of the Sarpy County Board of Equalization regarding the assessed valuation of certain property owned by Appellant.
2. That Appellee denied the protest, from which decision Appellant appealed to the Tax Equalization and Review Commission.
3. However, said appeal was filed September 10th, 1997, well after the statutory deadline for filing the appeal (August 25, 1997.)
4. That Appellant was notified of the filing deadline, however Appellant insisted that his appeal be filed.
5. That Appellee was served with a Notice in Lieu of Summons, and duly answered that Summons. That the Appellee demurred to the Appeal, noting the late filing.
6. That an Order to Show Cause and a Notice of Hearing was issued in this case on the 25th day of February, 1998.
7. An Affidavit of Service which appears in the records of the Commission establishes that a copy of the Notice of Hearing was mailed to all parties.
8. That Chapter 4, Title 442, Section 012.01A1 requires that, if the appellant is a natural person, that person must appear at the hearing.
9. That the Notice of Hearing specifically states in paragraph 3 that if the Appellant fails to appear the Commission will enter an order dismissing the case.
10. That the Commission called the above-captioned case for hearing on the merits in the City of Papillion, Sarpy County, Nebraska, on the 6th day of April, 1998.

11. That no one appeared on behalf of the Appellant at the hearing.
12. That Appellee appeared at the hearing through counsel, with its witnesses, and was prepared to defend the decision of the Sarpy County Board of Equalization.
13. That each of the parties was afforded an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (Reissue 1996).
14. That each of the parties was afforded an opportunity to cross-examine the witnesses as required by Neb. Rev. Stat. §77-5016 (4) (1997 Supp.).

CONCLUSIONS OF LAW

That the Commission must, and hereby does conclude as a matter of law that in light of the late filing of the appeal, and the Appellant's failure to appear in violation of Title 442, Nebraska Administrative Code, and for want of prosecution, this appeal should be dismissed.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That this appeal is ordered dismissed with prejudice.
2. That the property legally described as Lot No. 2, Seven Hills Estates, Sarpy County, Nebraska, shall be valued as follows for tax year 1997, as determined by the Sarpy County Board of Equalization:

Land	\$ 39,360
Improvements	\$279,518
Total	\$318,878

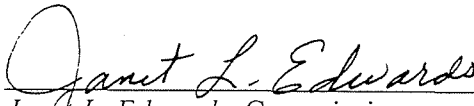
3. That this decision, if no appeal is filed, shall be certified within thirty days to the Sarpy County Treasurer, and the Sarpy County Assessor; pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
4. That each party is to bear its own costs in this matter.
5. That this decision shall only be applicable to tax year 1997.

IT IS SO ORDERED.


Dated this 16th day of April, 1998.



Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner

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