

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

DANIEL L. HUMSTON,

Appellant.

vs.

HAMILTON COUNTY BOARD OF  
EQUALIZATION,

Appellee.

CASE NO. 99R-43

ORDER DISMISSING APPEAL  
FOR FAILURE TO APPEAR

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned case for a hearing on the merits of the appeal in the City of Grand Island, Hall County, Nebraska, on the 21<sup>st</sup> day of June, 2000, pursuant to a Notice of Hearing issued the 8<sup>th</sup> day of March, 2000.

Daniel L. Humston ("the Taxpayer") failed to appear at the hearing. The Hamilton County Board of Equalization ("the County") appeared through Michael Powell, the Hamilton County Attorney. During the hearing, the Commission took judicial notice of certain information. Each of the parties was afforded the opportunity to present evidence and argument. The Commission also 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 (1998 Cum. 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

From the pleadings and the evidence contained in the record before it, the Commission finds and determines as follows:

1. That Taxpayer is the owner of record of certain residential real property as legally described in the petition ("the subject property").
2. That the County Assessor proposed valuing the subject property for purposes of taxation for tax year 1999 in the amount of \$64,918. (E1).
3. That Taxpayer timely protested that determination of value to the Hamilton County Board of Equalization ("the County") and requested that the assessed value be set in the amount of \$24,500. (E1).
4. That the County granted the protest in part and set the assessed value of the subject property in the amount of \$51,470 as of the assessment date. (E1).
5. That Taxpayer timely filed an appeal of that decision to the Commission.
6. That County was served with a Notice in Lieu of Summons, and duly answered that Summons.
7. That an Order for Hearing was issued in this case on the 8<sup>th</sup> day of March, 2000.
8. That an Affidavit of Service which appears in the records of the Commission establishes that a copy of the Order for Hearing was served on all parties.
9. That the Order for Hearing required the parties to exchange copies of all documentary, photographic, or other evidence on the opposing party, and to serve a copy of those exhibits on the Commission.

10. That the Taxpayer did not serve copies of any exhibits on the County or on the Commission.
11. That a Notice of Hearing was issued in this case on the 8<sup>th</sup> day of March, 2000, which set the case for a hearing on the merits of the appeal for the 12<sup>th</sup> day of June, 2000.
12. That an Affidavit of Service which appears in the records of the Commission establishes that a copy of the Notice of Hearing was served on all parties.
13. That Chapter 4, Title 442, Section 011.01 requires that, if the Taxpayer is a natural person, that person must appear at the hearing.
14. That the Notice of Hearing (Paragraph 3) states that if the Taxpayer fails to appear at the hearing the Commission may enter an order dismissing the case.
15. That the Commission called the above-captioned case for hearing on the merits in the City of Grand Island, Hall County, Nebraska, on the 21<sup>st</sup> day of June, 2000.
16. That no one appeared on behalf of the Taxpayer at the hearing.
17. That County appeared at the hearing through counsel, with its witnesses, and was prepared to defend the decision of the Hamilton County Board of Equalization.
18. That each of the parties was afforded an opportunity to present evidence and argument as required by Neb. Rev. Stat. §77-5015 (1999 Supp.).
19. That each of the parties was afforded an opportunity to cross-examine the witnesses as required by Neb. Rev. Stat. §77-5016(4) (1999 Supp.).
20. That from the record before the Commission, the Taxpayer has failed, neglected and refused to comply with the Order for Hearing and with substantive provisions of Title 442 and the Notice of Hearing.

**CONCLUSIONS OF LAW**

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

**ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

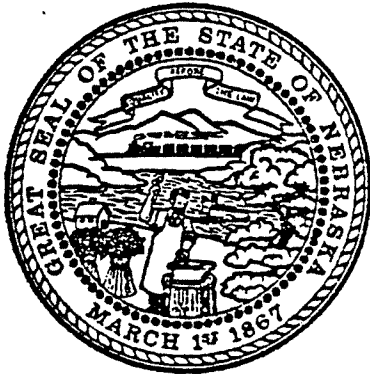
1. That this appeal is ordered dismissed with prejudice for failure to appear and for want to prosecution.
2. That therefore the Taxpayer's residential real property legally described as Part of the SW ¼ NW ¼, Section 1, Township 9, Range 8, consisting of approximately 2.67 acres. in Hamilton County, Nebraska, shall be valued as follows for tax year 1999, as determined by the Hamilton County Board of Equalization:

Land	\$10,720
Improvements	\$40,750
Total	\$51,470
3. That this decision, if no appeal is filed, shall be certified to the Hamilton County Treasurer, and the Hamilton County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
4. That each party is to bear its own costs in this matter.

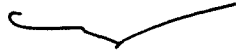
5. That this decision shall only be applicable to tax year 1999.

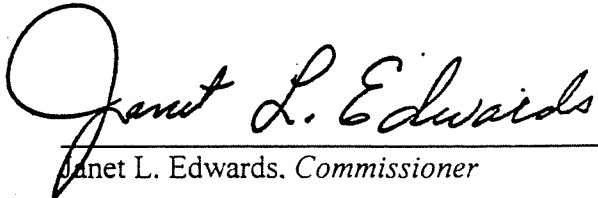
**IT IS SO ORDERED.**

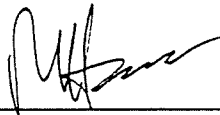
Dated this 23<sup>rd</sup> day of June, 2000.



*Seal*

  
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Mark P. Reynolds. *Chairman*

  
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Janet L. Edwards. *Commissioner*

  
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Robert L. Hans. *Commissioner*