

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

CAROLYN L. LEMMON,)	
)	
Appellant,)	CASE NO. 98A-315
)	98A-316
vs.)	
)	ORDER DISMISSING APPEALS
DAWES COUNTY BOARD OF EQUALIZATION,)	FOR FAILURE TO APPEAR
)	
Appellee.)	
)	

The Nebraska Tax Equalization and Review Commission ("Commission") called the above-captioned cases for a hearing on the merits of the appeals in the City of Chadron, Dawes County, Nebraska, on the 14th day of September, 1999, pursuant to a Notice of Hearing issued the 21st day of July, 1999.

Carolyn L. Lemmon ("Taxpayer") failed to appear at the hearing. Dennis D. King, Special Appointed Counsel appeared on behalf of the Dawes County Board of Equalization ("County"). 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 agricultural real property as legally described in the petitions ("subject properties").
2. That the County Assessor proposed valuing the subject properties for purposes of taxation for tax year 1998 in the amount of \$101,285, in Case Number 98A-315 (E1), and \$8,445 in Case Number 98A-316 (E2).
3. That Taxpayer timely protested those determinations of value to the Dawes County Board of Equalization ("County") and requested that the assessed values be set in the amount of \$61,770 in Case Number 98A-315 (E1), and \$5,205 in Case Number 98A-316 (E2).
4. That the County denied the protests. (E1;E2).
5. That Taxpayer timely filed appeals of those decisions 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 these cases on the 21st day of July, 1999.
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 these cases on the 21st day of July, 1999.
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 012.01A1 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 will enter an order dismissing the case.
15. That the Commission called the above-captioned cases for hearing on the merits of the appeals in the City of Chadron, Dawes County, Nebraska, on the 14th day of September, 1999.
16. That no one appeared on behalf of the Taxpayer at the hearing.
17. That County appeared at the hearing though counsel, with its witnesses, and was prepared to defend the decisions of the Dawes 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 (Reissue 1996).
19. That each of the parties was afforded an opportunity to cross-examine the witnesses as required by Neb. Rev. Stat. §77-5016(4) (1998 Cum. 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 these appeals should be dismissed.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. That these appeals are ordered dismissed with prejudice.
2. That Taxpayer's real property legally described as the N ½ of Section 25, Township 32, Range 51, consisting of approximately 320 acres, in Dawes County, Nebraska, shall be valued as follows for tax year 1998 in Case Number 98A-315:

Land	\$101,285
Improvements	\$ -0-
Total	\$101,285

3. That Taxpayer's real property legally described as the Pt S ½ NW ¼ of Section 34, Township 31, Range 51, consisting of approximately 23.67 acres, in Dawes County, Nebraska, shall be valued as follows for tax year 1998 in Case Number 98A-316:

Land	\$	8,445
Improvements	\$	-0-
Total	\$	8,445


4. That these decisions, if no appeal is filed, shall be certified to the Dawes County Treasurer, and the Dawes County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
5. That each party is to bear its own costs in this matter.
6. That these decisions shall only be applicable to tax year 1998.

IT IS SO ORDERED.

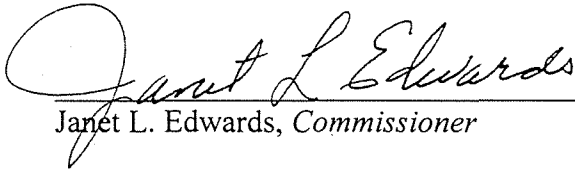
Dated this 21st day of September, 1999.



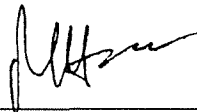
Seal



Mark P. Reynolds, *Chairman*



Janet L. Edwards, *Commissioner*



Robert L. Hans, *Commissioner*