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heard from Reinhart, but the admission of Stopak's statement was harmless error. Reinhart claims trial counsel should have objected to several other statements, but those statements were either admissible as nonhearsay or their admission was, at most, harmless error, and therefore, the failure to object did not prejudice Reinhart. None of Reinhart's assignments of error have merit. The judgment of the district court is affirmed.

AFFIRMED.

REPUBLIC BANK, INC., APPELLANT, V. LINCOLN COUNTY BOARD OF EQUALIZATION, APPELLEE.

811 N.W.2d 682

Filed April 20, 2012. No. S-11-533.

1. **Taxation: Judgments: Appeal and Error.** Appellate courts review decisions rendered by the Tax Equalization and Review Commission for errors appearing on the record.
2. **Judgments: Appeal and Error.** When reviewing a judgment for errors appearing on the record, an appellate court's inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable.
3. **Taxation: Appeal and Error.** Questions of law arising during appellate review of Tax Equalization and Review Commission decisions are reviewed de novo on the record.
4. **Statutes: Appeal and Error.** Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court.
5. **Taxation: Appeal and Error.** Appeals may be taken from a county board of equalization to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act.
6. **Jurisdiction: Time: Appeal and Error.** To acquire jurisdiction over the subject matter of the action, there must be strict compliance with the time requirements of the statute granting the appeal.
7. **Statutes: Appeal and Error.** The rules of statutory interpretation require an appellate court to give effect to the entire language of a statute, and to reconcile different provisions of the statutes so they are consistent, harmonious, and sensible.
8. **Taxation: Statutes.** Neb. Rev. Stat. § 77-1502 (Reissue 2009) describes a process by which a taxpayer files a return and can initiate a protest to challenge an assessed value of real or personal property.
9. **Statutes: Jurisdiction.** Jurisdictional statutes are to be strictly construed.

10. **Statutes.** It is not within the province of the courts to read a meaning into a statute that is not there.

Appeal from the Tax Equalization and Review Commission. Affirmed.

Tim W. Thompson and Angela R. Shute, of Kelley, Scritsmier & Byrne, P.C., for appellant.

Rebecca Harling, Lincoln County Attorney, and Joe W. Wright for appellee.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

MILLER-LERMAN, J.

NATURE OF CASE

This is an appeal from a May 25, 2011, decision and order of the Nebraska Tax Equalization and Review Commission (TERC) with respect to 2010 tangible personal property taxes. TERC dismissed the appeal filed by Republic Bank, Inc. (Republic), after concluding that it did not have subject matter jurisdiction because Republic's appeal was not timely filed. Republic appeals. Because we agree with TERC that the appeal was controlled exclusively by and not timely filed under Neb. Rev. Stat. § 77-1233.06(4) (Reissue 2009), we affirm.

STATEMENT OF FACTS

On September 19, 2007, Midwest Renewable Energy, LLC, and Marquette Equipment Finance, LLC (Marquette), executed a "Master Lease Agreement" regarding two boilers, "Nebraska Boiler Model NB-500D-70," with related components and one Barr-Rosin, Inc., feed-type ring drying system with related components. These three items involving ethanol manufacturing equipment are the tangible personal property at issue in this case. On September 24, Marquette assigned certain rights in this property to Republic by a "Sales and Assignment Agreement." Marquette filed the 2010 personal property tax returns related to this property.

Chapter 77 of the Nebraska Revised Statutes pertains to "Revenue and Taxation." As a general matter, under chapter 77,

every person having taxable tangible personal property with a situs in Nebraska must make a complete list of that property annually. Neb. Rev. Stat. § 77-1201 (Reissue 2009). Under Neb. Rev. Stat. § 77-1229 (Reissue 2009), a return containing this complete list and value must be filed with the county assessor. A taxpayer can also file a protest regarding the return filed under § 77-1229 suggesting a valuation different from that listed on the return. See Neb. Rev. Stat. § 77-1502 (Reissue 2009).

On April 30, 2010, Marquette filed a Nebraska personal property return for 2010. The return filed in Marquette's name reported a value of zero dollars for the property. After receiving additional information from Marquette, the assessor determined that the taxable value of the listed property should have been $4,170,149 rather than zero dollars. The assessor's comments explaining the change state, "Whether or not the taxpayer actually takes [the] federal depreciation for property which is depreciable has no bearing on its taxability for personal property taxation — if it's depreciable tangible personal property, it is subject to personal property taxation." The assessor's comments reflect Marquette's position that the property was not taxable as to it and thus had a zero taxable value as to Marquette.

The assessor notified Marquette in a letter dated May 6, 2010, of her action changing the value. The assessor listed the amended value of the personal property on a form entitled "Notice of Change in Personal Property Assessment." On the form, the assessor listed the amended value of the two boilers as $1,389,754, the amended value of the Barr-Rosin feed-type ring drying system as $2,003,563, and the amended value of certain distillation columns as $776,832. However, it is undisputed that Republic's interest howsoever described is limited to the boilers and the Barr-Rosin feed-type ring drying system and that another entity is said to have an interest in the distillation columns. Therefore, the personal property in which Republic has an interest has a taxable value according to the assessor of $3,393,317 for 2010.

On June 4, 2010, Marquette filed a form with the Lincoln County clerk. By doing so, Marquette appealed the action of

the assessor changing the taxable value of the property and asked the Lincoln County Board of Equalization (Board) to review the assessor's action.

A hearing was held before the Board on July 12, 2010. On July 19, the Board upheld the assessor's action.

The decision of the Board was mailed to Marquette on July 21, 2010. However, Republic did not receive a copy of the Board's decision from Marquette until August 20, when Marquette e-mailed a copy of the Board's decision to Republic's legal counsel.

On August 20, 2010, counsel for Republic mailed an appeal from the Board's decision to TERC, along with a check in the amount of $25 for the filing fee. TERC received the appeal on August 23.

TERC ordered Republic and the Board to appear at a hearing "in order to determine whether [TERC had] jurisdiction." After conducting an evidentiary hearing, TERC filed a decision and order on May 25, 2011. TERC found that Republic's appeal was filed more than 30 days after the Board's decision. TERC concluded that Republic's appeal was untimely because it did not meet the requirements of § 77-1233.06(4), which states that an "[a]ppeal may be taken within thirty days after the decision of the county board of equalization to [TERC.]" TERC rejected as inapplicable Republic's argument that the appeal was timely under § 77-1502 and Neb. Rev. Stat. § 77-1510 (Reissue 2009), pertaining to actions commenced as protests to assessed valuations which may be appealed on or before August 24. TERC concluded that it lacked subject matter jurisdiction and dismissed the appeal.

Republic appeals.

ASSIGNMENTS OF ERROR

Republic claims that TERC erred when it dismissed its appeal for lack of subject matter jurisdiction and failed to reach the merits of its appeal from the decision of the Board.

STANDARDS OF REVIEW

[1-3] Appellate courts review decisions rendered by TERC for errors appearing on the record. *Darnall Ranch v. Banner*

Cty. Bd. of Equal., 280 Neb. 655, 789 N.W.2d 26 (2010). When reviewing a judgment for errors appearing on the record, an appellate court's inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable. *Id*. Questions of law arising during appellate review of TERC decision are reviewed de novo on the record. *Id*.

[4] Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court. *American Amusements Co. v. Nebraska Dept. of Rev.*, 282 Neb. 908, 807 N.W.2d 492 (2011).

ANALYSIS

TERC found that Republic had failed to file its appeal from the Board within 30 days and concluded that the appeal was untimely filed under § 77-1233.06(4). TERC dismissed Republic's appeal for lack of subject matter jurisdiction. Republic claims for a variety of reasons that TERC erred in dismissing its appeal. We conclude that TERC did not err when it relied on § 77-1233.06(4) and dismissed Republic's appeal. In view of our disposition of the jurisdictional issue, we do not reach the merits of Republic's additional assignment of error to the effect that TERC should have considered the substance of the appeal from the Board's decision.

[5,6] Appeals may be taken from a county board of equalization to TERC in accordance with the Tax Equalization and Review Commission Act. Neb. Rev. Stat. § 77-5001 et seq. (Reissue 2009 & Cum. Supp. 2010). We have previously considered compliance with time requirements in connection with appeals to TERC and stated that for TERC "[t]o acquire jurisdiction over the subject matter of the action, there must be strict compliance with the time requirements of the statute granting the appeal." *Falotico v. Grant Cty. Bd. of Equal.*, 262 Neb. 292, 295-96, 631 N.W.2d 492, 496 (2001).

In the instant case, the statute granting the appeal to TERC is determined by the manner in which Marquette's initial filing led to the assessor's action with which Marquette disagreed and which eventually led Republic to seek TERC review. The event which gives rise to the case did not commence by Marquette's

filing a valuation protest. Instead, viewing the property as not taxable as to it, Marquette filed a return listing the value of the property as zero, and as such, Marquette failed to value the property in conformity with the net book value of the property as reported to the assessor. Such failure required a corrective action by the assessor, who changed the reported valuation to conform to the net book value. Marquette challenged this action of the assessor before the Board. As TERC correctly identified in its order, under this scenario, after the Board's decision, the only statutes granting an appeal from the Board to TERC are found in chapter 77, article 12, of the Nebraska Revised Statutes (Article 12).

Neb. Rev. Stat. § 77-1233.04 (Reissue 2009) and § 77-1233.06, which we read together, control Republic's appeal from the Board to TERC. These statutes provide as follows:

Section 77-1233.04, entitled "Taxable tangible personal property tax returns; change in value; omitted property; procedure; penalty; county assessor; duties," provides in part:

> (1) The county assessor shall list and value at net book value any item of taxable tangible personal property omitted from a personal property return of any taxpayer. The county assessor shall change the reported valuation of any item of taxable tangible personal property listed on the return to conform the valuation to net book value.

Section 77-1233.06, entitled "Taxable tangible personal property tax valuation or penalty; appeal; procedure; collection procedures," provides:

> For purposes of section 77-1233.04:
>
> (1) The county assessor shall notify the taxpayer, on a form prescribed by the Tax Commissioner, of the action taken, the penalty, and the rate of interest. The notice shall also state the taxpayer's appeal rights and the appeal procedures. Such notice shall be given by first-class mail addressed to such taxpayer's last-known address. The entire penalty and interest shall be waived if the omission or failure to report any item of taxable tangible personal property was for the reason that the property was timely reported in the wrong tax district;

> (2) The taxpayer may appeal the action of the county assessor, either as to the valuation or the penalties imposed, to the county board of equalization within thirty days after the date of notice. . . .
>
> . . . .
>
> (4) Upon ten days' notice to the taxpayer, the county board of equalization shall set a date for hearing the appeal of the taxpayer. The county board of equalization shall make its determination on the appeal within thirty days after the date of hearing. The county clerk shall, within seven days after the determination of the county board, send notice to the taxpayer and the county assessor, on forms prescribed by the Tax Commissioner, of the action of the county board. Appeal may be taken within thirty days after the decision of the county board of equalization to [TERC.]

As noted, Marquette filed the 2010 Nebraska personal property return and listed the valuation of the property as zero but, as discussed below, did not file a protest of a valuation as reported to the assessor under §§ 77-1502 and 77-1510. See § 77-1229. Marquette's initial action lead the assessor to "change the reported valuation of [the] taxable tangible personal property listed on the return to conform the valuation to net book value" under the authority of § 77-1233.04(1) and to notify the taxpayer under § 77-1233.06(1). Thus, the filing by Marquette invited the action of the assessor and placed the taxpayer on the appellate path provided in Article 12.

The letter notice from the assessor addressed to Marquette's representative stated that the zero valuation would not be accepted and that the assessor changed the value from zero to $4,170,149, later clarified to $3,393,317. This letter further stated that "Statute # 77-1233.06" explained the procedures to appeal. A form entitled "Notice of Change in Personal Property Assessment" was also sent to Marquette notifying it that the "total taxable value has been changed from the previously reported value" of zero to $4,170,149. The form itself states that it is "[a]uthorized by Section 77-1233.06." These references to Article 12 alert the taxpayer to the applicable appellate procedure under Article 12.

Marquette timely appealed to the Board using a "Form 422." Notice of its unsuccessful appeal of the action of the assessor to the Board was endorsed on form 422 and mailed to Marquette on July 21, 2010. Form 422 notifying Marquette of the Board's decision contains "Instructions" regarding "Appeals." Although the instructions state that an appeal of a decision of the Board to TERC regarding personal property for which a valuation protest had been filed is due on or before August 24, elsewhere, form 422 clearly provides that "[a]ll other decisions of the county board of equalization" may be appealed within 30 days of the final decision to TERC. This 30-day provision is consistent with the Article 12 procedure, § 77-1233.06(4), which provides that an "[a]ppeal may be taken within thirty days after the decision of the county board of equalization to [TERC.]"

[7] We summarize the record and foregoing law relative to Republic's attempted appeal to TERC as follows: Marquette, viewing the tangible personal property as not taxable as to it, filed a return with the value of zero dollars for the property, and the assessor changed the reported valuation to conform to the net book value under § 77-1233.04(1); Marquette appealed this action of the assessor to the Board under § 77-1233.06(2); the Board affirmed the assessor's action; and Republic attempted to appeal that decision of the Board to TERC but failed to do so within 30 days of the decision, as required under § 77-1233.06(4). Read together, the foregoing statutes under Article 12 are a sensible and harmonious appellate procedure, as TERC correctly concluded. See *AT&T Communications v. Nebraska Public Serv. Comm., ante* p. 204, 211, 811 N.W.2d 666, 672 (2012) (stating "the rules of statutory interpretation require this court to give effect to the entire language of a statute, and to reconcile different provisions of the statute so they are consistent, harmonious, and sensible"). These statutes control the outcome of this case.

The appeal to TERC had to be filed on or before August 18, 2010. Republic mailed its appeal on August 20, and it was received by TERC on August 23. TERC correctly determined that Republic's appeal was filed greater than 30 days after the

decision of the Board, that the appeal was untimely, and that it lacked subject matter jurisdiction. See § 77-1233.06(4).

Republic acknowledges its appeal to TERC was untimely under § 77-1233.06(4) found in Article 12, but urges us to read provisions in chapter 77, article 15, of the Nebraska Revised Statutes (Article 15), as providing an additional alternative timeframe which would permit its appeal from the Board to TERC to be filed until August 24, 2010. Republic relies on §§ 77-1502 and 77-1510. We conclude the provisions of § 77-1510 permitting an appeal from the Board to TERC until August 24 do not apply to this case and reject Republic's argument to the contrary.

Section 77-1502(1) provides:

> The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. . . . Protests regarding taxable tangible personal property returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30.

Section 77-1502(2) provides in part:

> Each protest shall be signed and filed with the county clerk of the county where the property is assessed. The protest shall contain or have attached a statement of the reasons or reasons why the requested change should be made and a description of the property to which the protest applies.

Section 77-1502(4) provides that the county clerk or county assessor must prepare a separate report on each protest, including a description of the property and a recommendation of the county assessor. After the Board considers a protest, the protestor must be informed of the date the board heard the protest, the decision of the board, and the date of the decision. Section 77-1502(4) provided that notice of the board's decision must be mailed to the protestor on or before August 2. See, currently, § 77-1502(6) (Supp. 2011). Section 77-1510 provides: "Any action of the county board of equalization pursuant to section 77-1502 may be appealed

to [TERC] in accordance with section 77-5013 on or before August 24 . . . ."

[8] Section 77-1502 describes a process by which a taxpayer files a return and can initiate a protest to challenge an assessed value of real or personal property. The duties of the clerk or assessor and the actions of the Board are described. The outcome before the Board of the protest process under § 77-1502 can be appealed to TERC on or before August 24, 2010.

Republic asserts that its case involves a "[protest] regarding taxable tangible personal property returns filed pursuant to section 77-1229," as that phrase is found in § 77-1502(1), and that its case can be characterized as a "protest" case under Article 15 as well as a "change" case under Article 12, § 77-1233.04(1), which we have discussed above. In the instant case, Article 15 would permit an appeal to TERC until August 24, 2010, see § 77-1510, whereas Article 12 would only permit an appeal to TERC until 30 days after July 19, see § 77-1233.06(4). TERC examined the statutes and concluded that Republic's appeal from the Board to TERC was not from a protest made under Article 15. We agree with TERC's analysis.

The rules of statutory interpretation require this court to give effect to the entire language of a statute, and to reconcile different provisions of the statutes so they are consistent, harmonious, and sensible. See *AT&T Communications v. Nebraska Public Serv. Comm., ante* p. 204, 811 N.W.2d 666 (2012). Although Republic suggests it had a choice of deadlines by which to appeal, Republic proffers no reason why a sensible statutory scheme would provide two deadlines for the taking of the same act. Further, the language of § 77-1502(1) upon which Republic relies does not support the meaning it urges.

Republic's analysis focuses on events commencing at the Board level where the action of the assessor was upheld. Republic characterizes the proceedings as a "protest" and contends that such protest was "regarding" the return filed by Marquette on April 30, 2010, as "regarding" is used in

§ 77-1502(1), thus bringing the case within that statute. TERC rejected this argument. As TERC correctly determined, even if the hearing before the Board was a "protest" as the term is used in a casual manner, it "did not relate to the filing made [by Marquette] pursuant to section 77-1229 on April 30," but instead was a hearing challenging the actions made by the assessor. Republic had no quarrel with the zero valuation on the return as filed. Instead, the appeal before the Board was regarding "the action of the county assessor" under § 77-1233.06(2) and thus a case under Article 12. The decision of the Board was controlled by the 30-day provision in § 77-1233.06(4) and not subject to a protest-related appeal deadline of August 24 in § 77-1510.

Republic makes some additional arguments concerning unclear language in forms which may have caused confusion and suggests that it would be equitable for this court to deem its appeal as having been timely filed. Notwithstanding general instructions, the forms, for the most part, refer the taxpayer to the statutes for the definitive schedules. We note that a pamphlet in the record recites the appeal deadline as August 24; however, this pamphlet pertains to real property tax protests and is inapplicable. Further, we have previously rejected an argument addressed to an incorrect date on a form and concluded that the statute controlled. See *Creighton St. Joseph Hosp. v. Tax Eq. & Rev. Comm.*, 260 Neb. 905, 620 N.W.2d 90 (2000).

[9,10] In sum, Republic asks this court to grant relief from the effect of the 30-day deadline of § 77-1233.06(4) which we have concluded applies to this case. The controlling statute states that appeals must be filed within a certain time period. Jurisdictional statutes are to be strictly construed. *Metropolitan Util. Dist. v. Aquila, Inc.*, 271 Neb. 454, 712 N.W.2d 280 (2006). It is not within the province of the courts to read a meaning into a statute that is not there. See *State v. Alford*, 278 Neb. 818, 774 N.W.2d 394 (2009). Having identified the applicable statute, we are unable to extend the time period which has been specified therein by the Legislature.

CONCLUSION

TERC determined that Republic's appeal from the Board was not timely filed under § 77-1233.06(4) and correctly concluded that it lacked subject matter jurisdiction. We affirm.

AFFIRMED.

PRIME ALLIANCE BANK, INC., APPELLANT, V. LINCOLN COUNTY BOARD OF EQUALIZATION, APPELLEE.

811 N.W.2d 690

Filed April 20, 2012. No. S-11-526.

1. **Taxation: Judgments: Appeal and Error.** Appellate courts review decisions rendered by the Tax Equalization and Review Commission for errors appearing on the record.
2. **Judgments: Appeal and Error.** When reviewing a judgment for errors appearing on the record, an appellate court's inquiry is whether the decision conforms to the law, is supported by competent evidence, and is neither arbitrary, capricious, nor unreasonable.
3. **Taxation: Appeal and Error.** Questions of law arising during appellate review of Tax Equalization and Review Commission decisions are reviewed de novo on the record.
4. **Statutes: Appeal and Error.** Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court.

Appeal from the Tax Equalization and Review Commission. Affirmed.

Nicholas K. Niemann and Matthew R. Ottemann, of McGrath, North, Mullin & Kratz, P.C., L.L.O., for appellant.

Rebecca Harling, Lincoln County Attorney, and Joe W. Wright for appellee.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

STEPHAN, J.

This is an appeal from a decision and order of the Nebraska Tax Equalization and Review Commission (TERC) dismissing an appeal filed by Prime Alliance Bank, Inc. (Prime