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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

Alliance), after determining that the appeal was not timely filed. We affirm.

FACTS

On September 19, 2007, Midwest Renewable Energy, LLC, and Marquette Equipment Finance, LLC (Marquette), executed a master lease agreement for certain ethanol manufacturing equipment, including two distillation columns. In November, Marquette assigned its interest in the lease to Prime Alliance and agreed to file personal property tax returns on the equipment as an agent for Prime Alliance.

On April 30, 2010, Marquette filed a 2010 Nebraska personal property return with the Lincoln County assessor.[1] The return showed the 2010 taxable value of the two distillation columns as $0. After reviewing the return, the assessor determined that the taxable value of the columns should have been $776,832 and notified Marquette in a letter dated May 6, 2010, that the assessor had changed the value on the property tax return accordingly.[2]

On June 4, 2010, Prime Alliance filed a form entitled "Property Valuation Protest" with the Lincoln County clerk. Prime Alliance challenged the assessor's change to the taxable value of the columns and asked the Lincoln County Board of Equalization (Board) to review the assessor's decision.[3] On July 19, the Board upheld the assessor's change and ruled that the 2010 taxable value of the distillation columns was $776,832.

On August 23, 2010, Prime Alliance filed an appeal from this order to TERC. Subsequently, TERC ordered Prime Alliance and the Board to appear at a hearing convened for the purpose of determining whether TERC had jurisdiction to hear the appeal. After conducting an evidentiary hearing, TERC found that Prime Alliance's appeal was untimely because it was filed more than 30 days after the Board's decision and thus did not

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[1] See Neb. Rev. Stat. § 77-1229 (Reissue 2009).

[2] See Neb. Rev. Stat. §§ 77-1233.02, 77-1233.04, and 77-1233.06 (Reissue 2009).

[3] See § 77-1233.06.

meet the requirements of § 77-1233.06. TERC rejected Prime Alliance's argument that the appeal was timely filed pursuant to Neb. Rev. Stat. §§ 77-1502 and 77-1510 (Reissue 2009). Prime Alliance then perfected this timely appeal.

ASSIGNMENTS OF ERROR

Prime Alliance assigns, restated and consolidated, that TERC erred in finding that the appeal was not timely filed pursuant to §§ 77-1502 and 77-1510, and further erred in failing to reverse the decision of the Board on the merits.

STANDARD OF REVIEW

[1-3] Appellate courts review decisions rendered by TERC for errors appearing on the record.[4] 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.[5] Questions of law arising during appellate review of TERC decisions are reviewed de novo on the record.[6]

[4] Statutory interpretation is a question of law, which an appellate court resolves independently of the trial court.[7]

ANALYSIS

The assessor was authorized by § 77-1233.04(1) to "change the reported valuation of any item of taxable tangible personal property listed on the [personal property] return to conform the valuation to net book value." Section 77-1233.06 provides a procedure whereby a taxpayer may appeal from such action. Under this statute, the appeal is first considered by the county board of equalization and a dissatisfied taxpayer may

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[4] *Darnall Ranch v. Banner Cty. Bd. of Equal.*, 280 Neb. 655, 789 N.W.2d 26 (2010).

[5] *Id.*

[6] *Id.*

[7] *American Amusements Co. v. Nebraska Dept. of Rev.*, 282 Neb. 908, 807 N.W.2d 492 (2011); *State v. State Code Agencies Teachers Assn.*, 280 Neb. 459, 788 N.W.2d 238 (2010).

further appeal to TERC within 30 days after the decision of that board.[8]

Prime Alliance acknowledges that its appeal was not timely under § 77-1233.06, but argues that it had an alternative avenue of appeal under §§ 77-1502 and 77-1510. Those statutes pertain to the processing of written protests filed by taxpayers, which are first considered by county boards of equalization. A taxpayer dissatisfied with an action taken by a board of equalization may appeal to TERC "on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests."[9] Prime Alliance argues that its appeal to TERC filed on August 23, 2010, was timely and therefore conferred jurisdiction upon TERC to consider and resolve its appeal.

The same argument was made in *Republic Bank v. Lincoln Cty. Bd. of Equal.*[10] That appeal, like this one, was triggered by a county assessor's change of the taxpayer's reported valuation to conform to book value. There, as here, the taxpayer listed the valuation of its tangible personal property as zero and did not file a protest of its reported valuation pursuant to § 77-1502. We concluded in *Republic Bank* that §§ 77-1233.04 and 77-1233.06 controlled the taxpayer's appeal from the Board to TERC, noting that the initial filing of the return reporting zero valuation "invited the action of the assessor and placed the taxpayer on the appellate path provided in [chapter 77, article 12, of the Nebraska Revised Statutes]."[11] We specifically rejected the taxpayer's argument that §§ 77-1502 and 77-1510 afforded an alternative method of appeal. We noted that the taxpayer "proffers no reason why a sensible statutory scheme would provide two deadlines for the taking of the same act," and we further concluded the language of § 77-1502(1) did not support the taxpayer's argument because the taxpayer was not protesting its reported valuation, but, rather,

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[8] See § 77-1233.06(2) to (4).

[9] § 77-1510.

[10] *Republic Bank v. Lincoln Cty. Bd. of Equal., ante* p. 721, 811 N.W.2d 682 (2012).

[11] *Id.* at 727, 811 N.W.2d at 687.

was appealing from action taken by the county assessor.[12] We agreed with TERC's reasoning that the taxpayer's appeal from the Board to TERC was not from a protest made under chapter 77, article 15, of the Nebraska Revised Statutes.

Our reasoning and holding in *Republic Bank* control the identical jurisdictional issue presented in this appeal.

CONCLUSION

For the reasons more fully set forth in *Republic Bank*, we conclude that TERC did not err in dismissing Prime Alliance's appeal for lack of subject matter jurisdiction, due to the fact that the appeal was not timely filed under § 77-1233.06(4). Accordingly, we affirm.

AFFIRMED.

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[12] *Id.* at 730, 811 N.W.2d at 689.

STATE OF NEBRASKA EX REL. COMMISSION ON UNAUTHORIZED PRACTICE OF LAW, RELATOR, V. BILLY ROY TYLER, RESPONDENT.

811 N.W.2d 678

Filed April 20, 2012. No. S-11-713.

1. **Rules of the Supreme Court: Attorneys at Law.** The Nebraska Supreme Court has the inherent power to define and regulate the practice of law and is vested with exclusive power to determine the qualifications of persons who may be permitted to practice law.
2. ____: ____. The inherent power of the Nebraska Supreme Court to define and regulate the practice of law includes the power to prevent persons who are not attorneys admitted to practice in this state from engaging in the practice of law.
3. **Attorney and Client: Actions.** A legal proceeding in which a party is represented by a person not admitted to practice law is considered a nullity and is subject to dismissal.
4. **Rules of the Supreme Court: Attorneys at Law.** Pursuant to its inherent authority to define and regulate the practice of law in Nebraska, the Nebraska Supreme Court has adopted rules specifically addressed to the unauthorized practice of law.

Original action. Injunction issued.

Sean J. Brennan, Special Prosecutor, for relator.