

BEFORE THE NEBRASKA TAX EQUALIZATION AND REVIEW COMMISSION

MF Eastgate LLC,

2660 E 23rd LLC,

2700-2850 E 23rd LLC,

Eastgate Outlot LLC

v.

Dodge County Board of Equalization,
Appellee.

Case Nos. 19C 0211 & 19C 0212

Case No. 20C 0092

Case No. 20C 0091

Case No. 19C 0213

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PROPERTY, COUNTY CLERK

**ORDER FOR HEARING AND
NOTICE OF HEARING**

IT IS ORDERED:

1. The captioned appeals are consolidated for hearing pursuant to 442 Neb. Admin. Code, Ch. 5 § 007. A hearing on the merits of the captioned appeals will be held on **February 11, 2021, at 9:00 AM**, or as soon thereafter as possible. The hearing will be held at the Tax Equalization and Review Commission Hearing Room, Sixth Floor, Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.
2. The hearing will be conducted in accordance with CDC Guidelines, the Governor's Directed Health Measures, and any local health orders as applicable to the time and place of the scheduled hearing. The guidelines and measures to be observed may include, but are not limited to: restrictions on the number of people present in the hearing room, physical distancing guidelines, and required cloth face coverings.
3. If any party fails to appear at the hearing, the Commission may enter a default judgment against that party. The Commission will wait 15 minutes beyond the scheduled hearing time before ordering a default judgment.
4. A continuance of the hearing date and/or evidence exchange date may be granted for good cause if requested at least seven business days before the date of the hearing. A copy of the request for continuance must be served on each party identified below.
5. The proceeding will be an informal hearing before a quorum of the Commission per Neb. Rev. Stat. § 77-5016. The Commission may admit relevant evidence and will give effect to the privilege rules of evidence in Neb. Rev. Stat. §§ 27-501 to 27-513. Each party will

have the right to cross examine witnesses and to provide rebuttal evidence. Otherwise, the usual common law or statutory rules of evidence will not be in effect.

6. Each party has one hour to present evidence to the Commission. The Commission will adhere to that schedule unless additional time is allowed during the hearing.
7. The hearing will be recorded by the Commission. No other recording is allowed.
8. **PRIMARY EVIDENCE:** At least 30 days before the date of the hearing, each party shall:
 - a. Deliver one complete, legible copy of all documentary or photographic evidence to each other party and make any other physical evidence available for inspection;
 - b. Deliver the original and two complete, legible copies of all documentary or photographic evidence to the Commission;
 - c. Deliver to each opposing party an expert witness list giving the name of each expert witness who might testify; and
 - d. Deliver the expert witness list to the Commission if an expert might be asked to testify.
9. **RESPONSIVE EVIDENCE:** Responsive evidence means evidence a party may offer at the hearing to rebut or contradict evidence offered by an opposing party. At least 21 days before the date of the hearing, each party shall:
 - a. Deliver one complete, legible copy of all documentary or photographic responsive evidence to each other party and make any other physical responsive evidence available for inspection;
 - b. Deliver the original and two complete, legible copies of all documentary or photographic responsive evidence to the Commission;
 - c. Deliver to each opposing party an expert witness list giving the name of each expert witness who might testify to rebut or contradict evidence offered by an opposing party; and
 - d. Deliver the expert witness list to the Commission if an expert may be asked to testify as a responsive witness.
10. **PRE-HEARING CONFERENCE:** A pre-hearing conference of all parties to the captioned appeals shall be held at least ten days before the date of the hearing, and a report of the conference shall be provided to the Commission and all parties at least five days before the date of the hearing. The report of the pre-hearing conference shall set forth:
 - a. all resolved and unresolved issues determined as fully as possible;
 - b. the identification of exchanged exhibits that may be received without objection;

- c. the identification of any exchanged exhibits which are duplicates;
- d. the basis for objection, if any, to other exhibits; and
- e. a statement of all matters that may aid in simplification of presentation of the evidence or aid in the ultimate disposition of the appeals including, but not limited to, supporting law for the positions taken by the parties in the captioned appeals.
- f. whether the assessed valuation of each parcel should be the same for each consolidated tax year.

11. **PROPERTY RECORD FILES:** Each party shall provide, as an exhibit, copies of the county's Property Record File for any parcel that party will assert is a comparable parcel.

NOTE: A screen shot or print out of a web page is not a Property Record File. A Property Record File is only maintained in the office of the County Assessor and should be obtained from that office before the hearing.

12. **REQUIRED EVIDENCE:** Evidence offered by the Dodge County Board of Equalization shall include, for the tax year from which the appeal arose:
- a. Copies of all documents comprising the Dodge County Assessor's Property Record File for the parcel identified in the appeals;
 - b. Copies of all documents, including attachments, submitted to the Dodge County Board of Equalization as a protest or other basis for initiation of deliberations which led to the decision, order, determination, or action of the Dodge County Board of Equalization from which the appeals are taken;
 - c. Copies of all documents referenced in any written decision, order, determination, or action of the Dodge County Board of Equalization;
 - d. Copies of the documentation maintained by the Dodge County Board of Equalization or the County Assessor pursuant to Neb. Rev. Stat. § 77-1502(5).

This order does not require production of a transcript of the County Board of Equalization's proceedings or the production of any exhibits or information submitted to the County Board of Equalization by Appellant at a meeting or hearing.

13. Party mailing addresses and telephone numbers as known by the Commission are:

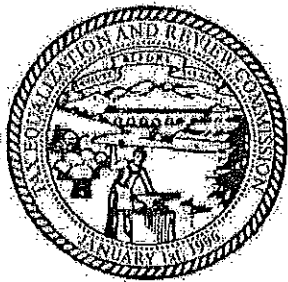
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14. The mailing address of the Commission is: Tax Equalization and Review Commission, PO Box 95108, Lincoln, NE 68509-5108.
15. A copy of this order shall be served on each party by mail at the addresses listed above. A copy shall also be mailed to the Dodge County Assessor.

SIGNED AND SEALED: November 9, 2020



Robert W. Hotz

Robert W. Hotz, Chairman
Tax Equalization and Review Commission