

STATE OF MICHIGAN  
COURT OF APPEALS

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ABUNDANT LIFE CHRISTIAN CENTER, a/k/a  
ABUNDANT LIFE CHRISTIAN MINISTRIES,

UNPUBLISHED  
August 1, 2013

Petitioner-Appellant,

v

No. 310713  
Michigan Tax Tribunal  
LC No. 00-382316

CHARTER TOWNSHIP OF REDFORD,

Respondent-Appellee.

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Before: BORRELLO, P.J., and JANSEN and M. J. KELLY, JJ.

PER CURIAM.

Petitioner appeals by right the Michigan Tax Tribunal's decision dismissing petitioner's ad valorem tax exemption claims for lack of jurisdiction for the tax years 2006 and 2007. For the reasons set forth in this opinion, we affirm.

Petitioner is a Wayne County religious organization and is exempt from federal income tax pursuant to Internal Revenue Code § 501(c)(3), 26 USC 501. In 2005, petitioner purchased a seven-parcel property to use for its offices, worship facilities, and outreach ministries. Petitioner claimed an exemption for the taxable value adjustment applicable to property transfers. See generally MCL 211.27a. Petitioner subsequently claimed an exemption from ad valorem taxes as a "house of worship" pursuant to MCL 211.7s by sending letters to the respondent's treasurer. Respondent did not authorize the exemption claim until approximately 2009, when it notified petitioner that four of the seven parcels would be exempt from ad valorem taxes for the 2009 tax year.

Petitioner appealed the denial to the Michigan Tax Tribunal (MTT). In the appeal, petitioner sought ad valorem exemptions for all seven parcels for the tax years 2006 through 2009. The MTT held proceedings for nearly two years, which included a hearing, a proposed opinion, exceptions, and a reconsideration motion. The MTT ultimately issued a judgment in which, relevant to this appeal, the MTT concluded that it had no jurisdiction over petitioner's exemption claim for the 2006 and 2007 tax years. It is from this ruling that petitioner brings this appeal.

We review de novo the question of whether the MTT had jurisdiction over petitioner's claim for the 2006 and 2007 tax years. *Kasberg v Ypsilanti Twp*, 287 Mich App 563, 566; 792 NW2d 1 (2010). A protest to the Board of Review is a statutory prerequisite to the exercise of

jurisdiction by the MTT. *Covert Twp v Consumers Power Co*, 217 Mich App 352, 355; 551 NW2d 464 (1996); *Nicholson v Birmingham Bd of Review*; 191 Mich App 237, 241; 477 NW2d 492 (1991). The jurisdiction statute applicable to the 2006 tax year is MCL 205.735. The statute mandates: “For an assessment dispute as to the valuation of property or if an exemption is claimed, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute . . . .” MCL 205.735(2). A similar statute governs jurisdiction for the 2007 tax year: “for an assessment dispute as to the valuation or exemption of property, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute . . . .” MCL 205.735a(3).

The MTT concluded that it had no jurisdiction over petitioner’s exemption claim for the 2006 and 2007 tax years by finding that petitioner failed to protest the exemption claim to the Board of Review. The MTT noted in its Judgment that the issuance of ad valorem tax bills gave petitioner of the notice of the lack of exemption. In its order denying reconsideration, the MTT explained, “[The MTT] could infer that since the subject property was not exempt from taxation in either 2006 or 2007, petitioner would have received a tax bill in each tax year for the taxes due.”

Petitioner acknowledges on appeal that it did not protest its exemption claim to respondent’s Board of Review for the 2006 and 2007 tax years. Petitioner argues, however, that respondent’s failure to act on the exemption claim deprived petitioner of the opportunity to protest to the Board. We reject this argument for the reasons more fully stated below.

First, the record reveals that petitioner had notice of the property’s ad valorem tax status. Specifically, the record on appeal includes the Property Transfer Affidavit form that petitioner submitted as an exhibit to its exceptions to the MTT’s proposed judgment. The affidavit form states that the form “is used by the assessor to ensure the property is assessed properly and receives the correct *taxable value*.” In this case, petitioner averred in the form that the property should not be uncapped, on the ground that petitioner is a house of worship. This averment demonstrates petitioner’s awareness of the tax status of the property when petitioner purchased it. In addition, the record established that in 2006 and 2007, petitioner claimed to the assessor that the property was exempt from ad valorem taxes. Petitioner’s letters to the assessor further established that petitioner knew the property was subject to ad valorem taxes absent an official grant of exemption. Furthermore, these letters established that petitioner knew respondent had not granted petitioner’s exemption claim. On the basis of this record, we conclude that petitioner had notice of the ad valorem taxes on the property, and that petitioner was obligated to protest the exemption claim to the Board of Review to obtain an official grant of exemption.

Second, even if petitioner had no actual notice of the ad valorem tax status of the property, petitioner has not established that notice is a prerequisite to the obligation to protest to the Board of Review. In this case, the MTT found that it could “infer” petitioner would have received a tax bill in each tax year. Although the MTT termed this finding as an inference, the finding could also be upheld as a proper exercise of judicial notice. MRE 201(b) authorizes tribunals to take judicial notice of facts that are “either (1) generally known within the territorial jurisdiction of the trial court, or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” In this case, the ad valorem taxes on the property were a matter of public record. See <http://www.redfordtwp.com>. Given that the

assessments were public information, capable of ready and accurate determination, the MTT properly took judicial notice of the tax assessments. See MRE 201(b).

Third, petitioner's premise concerning notice is incorrect. Petitioner argues that because the actual tax bills are not part of the record, petitioner cannot be deemed to have actual or constructive notice of the bills. Petitioner's argument relies on the premise that a taxpayer has no obligation to pay or protest ad valorem taxes unless the petitioner has actual notice of the taxes. MCL 211.44(1) requires the township treasurer to mail a tax statement to each property owner in the township. Significantly for this case, however, the same statute specifically states, "Failure to send or receive the notice does not prejudice the right to collect or enforce the payment of the tax." MCL 211.44(2). Absent some indication that any failure to send or receive the tax bills on the property issue relieved petitioner of the obligation to pursue its exemption claim, petitioner cannot avoid the jurisdictional requirement of presenting a protest to the Board of Review.

Petitioner next argues that the exemption claim did not constitute an "assessment dispute" within the meaning of MCL 205.735(3) and MCL 205.735a(6). These sections, however, are not the controlling sections with regard to the Board of Review requirement. The operative sections of the statutes regarding the requirement for a protest to the Board of Review are section 2 for the 2006 statute (MCL 205.735(2)), and section 3 for the 2007 statute (MCL 205.735a(3)). As noted above, both of these sections expressly address exemption claims. The 2006 statute states: "For an assessment dispute as to the valuation of property *or if an exemption is claimed*, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute." MCL 205.735a(2) (emphasis added) The 2007 statute states, "for an assessment dispute as to the valuation *or exemption of property*, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute . . . ." MCL 205.735a(3)(emphasis added). Accordingly, no further inquiry into the meaning of the term "assessment dispute" is necessary or warranted in this appeal. See *Electronic Data Sys Corp v Flint Twp*, 253 Mich App 538, 545-546; 656 NW2d 215 (2002) (courts must apply plain language of tax tribunal jurisdictional statutes).

Lastly, petitioner argues that the application of the jurisdictional requirement deprived petitioner of its procedural due process rights to notice and the opportunity to be heard. This Court recently explained the parameters of procedural due process claims:

The federal and state constitutions both guarantee that a person may not be deprived of life, liberty, or property without due process of law. US Const, Am XIV; Const 1963, art 1, § 17; *Hanlon v Civil Serv Comm*, 253 Mich App 710, 722; 660 NW2d 74 (2002). "Procedural due process limits actions by the government and requires it to institute safeguards in proceedings that affect those rights protected by due process, such as life, liberty, or property." *Kampf v Kampf*, 237 Mich App 377, 382; 603 NW2d 295 (1999). "Whether the due process guarantee is applicable depends initially on the presence of a protected 'property' or 'liberty' interest." *Hanlon*, 253 Mich App at 723. "It is only when a protected interest has been found that we may proceed to determine what process is due." *Williams v Hofley Mfg Co*, 430 Mich 603, 610; 424 NW2d 278 (1988). [*In re Parole of Hill*, 298 Mich App 404, 412; 827 NW2d 407 (2012).]

In administrative actions, procedural due process requires three factors: adequate notice, an opportunity to be heard, and a fair and impartial tribunal. *Hughes v Almena Twp*, 284 Mich App 50, 69; 771 NW2d 453 (2009).

In this case, petitioner had sufficient notice of the tax assessment but failed to avail itself of the opportunity to be heard before the Board of Review. The MTT properly took judicial notice of the fact that taxes had been assessed on the parcels at issue. Moreover, the record establishes that the petitioner knew that taxes had been assessed as of 2005, regardless of whether petitioner received periodic tax bills. Accordingly, petitioner cannot now argue that it had no notice of the assessment.

Thus, petitioner's notice argument is limited to whether any lack of specific notice of the need to protest the exemption to the Board of Review was a denial of procedural due process. In this regard, petitioner's reliance on *Morehouse v Mackinaw Twp*, unpublished opinion per curiam of the Court of Appeals, issued March 17, 2009 (Docket No. 281483), is unavailing. In *Morehouse*, the MTT took jurisdiction of an appeal on the ground that respondent failed to provide notice of a retroactive increase in the assessed value of the property at issue. Unpub op at 1. The *Morehouse* panel relied primarily on *Parkview Mem Ass'n v Livonia*, 183 Mich App 116; 454 NW2d 169 (1990). *Parkview* was decided prior to November 1990 and is thus not binding on this panel. MCR 7.215(J)(1). More importantly, however, in *Parkview*, the taxpayers' claims were not ripe because the Board had not ruled on the petitioners' assessments. 183 Mich App at 119. The *Parkview* Court observed that the township's "late notices [to the taxpayer] were not given in a manner reasonably calculated under all the circumstances to apprise petitioners of the assessments and to afford them an opportunity to be heard." 183 Mich App at 120.

In contrast to the precedent petitioner cites, in this case, the tax assessments indicated that the Board of Review consistently placed petitioner's properties on the official tax rolls. To pursue its exemption claim, petitioner was required to protest the assessment to the Board. In sum, petitioner received sufficient notice of the assessments to comport with the constitutional procedural due process requirements. We therefore uphold the MTT's determination that petitioner failed to comply with the jurisdictional requirements of MCL 205.735 and MCL 205.735a, and we reject petitioner's request that the Court deem these controlling statutes to be procedural.

Affirmed. No costs awarded to either party, a public question being involved. MCR 7.216(A)(7). MCR 7.219(A). *City of Bay City v Bay County Treasurer*, 292 Mich App 156, 172; 807 NW2d 892 (2011).

/s/ Stephen L. Borrello  
/s/ Kathleen Jansen  
/s/ Michael J. Kelly