

STATE OF MICHIGAN
COURT OF APPEALS

MICHAEL CHRISTOPHER BASTUBA,
Petitioner-Appellant,

UNPUBLISHED
June 26, 2014

v

CITY OF FARMINGTON HILLS,
Respondent-Appellee.

No. 312746
Michigan Tax Tribunal
LC No. 00-420182

Before: O'CONNELL, P.J., and FITZGERALD and MARKEY, JJ.

PER CURIAM.

Petitioner appeals as of right the decision of the Michigan Tax Tribunal affirming respondent's calculation of the assessed and taxable values of his residential real property for tax years 2011 and 2012. We affirm.

Petitioner's appeal to this Court does not challenge the tribunal's determination of the assessed or taxable values of the subject property or the amount of property tax assessed. Instead, petitioner raises several issues challenging the legality and constitutionality of the imposition of tax against his residential property. The tribunal declined to address these issues on the ground that it lacked jurisdiction to address constitutional arguments. We agree and find that the tribunal properly determined that it lacked subject matter jurisdiction over petitioner's constitutional and legal claims.

Absent fraud, this Court's review of a tribunal's decision is limited to determining whether the tribunal made an error of law or adopted a wrong legal principle. Const 1963, art VI, § 28; *Meadowbrook Village Assoc v Auburn Hills*, 226 Mich App 594, 596; 574 NW2d 924 (1997). Jurisdictional questions are subject to de novo review. *Kasberg v Ypsilanti Twp*, 287 Mich App 563, 565; 792 NW2d 1 (2010).

"Circuit courts are courts of general jurisdiction with original jurisdiction over all civil claims and remedies, except when the constitution or statute confers exclusive jurisdiction on another court." *Ammex, Inc v Dep't of Treasury*, 272 Mich App 486, 494; 726 NW2d 755 (2006), citing MCL 600.601; MCL 600.605. MCL 205.731 sets forth the jurisdiction of the Tax Tribunal, providing, in pertinent part:

The tribunal has exclusive and original jurisdiction over all of the following:

(a) A proceeding for direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization, under the property tax laws of this state.

(b) A proceeding for a refund or redetermination of a tax levied under the property tax laws of this state.

Thus, the tribunal's jurisdiction is based on "either the subject matter of the proceeding (e.g., a direct review of a final decision of an agency relating to special assessments under property tax laws) or the type of relief requested (i.e., a refund or redetermination of a tax under the property tax laws.)" *Prayer Temple of Love v Wayne Co Treasurer*, 286 Mich App 108, 112; 777 NW2d 507 (2009), citing *Wikman v City of Novi*, 413 Mich 617, 631; 322 NW2d 103 (1982); *Kasberg*, 287 Mich App at 566-567.

The tribunal "is well-qualified to resolve the disputes concerning those matters that the Legislature has placed within its jurisdiction: assessments, valuations, rates, allocation, and equalization." *Prayer Temple*, 286 Mich App at 112 (citations omitted). It is the "longstanding policy" of this state "to have a tribunal with special expertise resolve nonconstitutional issues relating to tax bases and assessments." *Jackson Community College v Dep't of Treasury*, 241 Mich App 673, 682; 621 NW2d 707 (2000). "The need to preserve the tribunal's exclusive jurisdiction is especially great where . . . factual issues requiring the tribunal's expertise are present." *Prayer Temple*, 286 Mich App at 112; quoting *Michigan Consolidated Gas Co v China Twp*, 114 Mich App 399, 402; 319 NW2d 565 (1982). As such, this Court has recognized that "[t]he Tax Tribunal has original and exclusive jurisdiction over those tax issues which involve the accuracy and methodology of the property tax assessment" imposed under the property tax laws. *Johnston v Livonia*, 177 Mich App 200, 208; 441 NW2d 41 (1989); see also, *Ammex*, 272 Mich App at 495, citing *Kostyu v Dep't of Treasury*, 170 Mich App 123, 128-129; 427 NW2d 566 (1988). Further, this Court has recognized that, where a petitioner's claim implicates whether the taxing authority followed statutory procedures and requires factual determinations concerning the bases for the assessment, the Tax Tribunal is the appropriate forum. *Meadowbrook*, 226 Mich App at 597. However, "[t]he Tax Tribunal has no jurisdiction to hold statutes invalid or to consider constitutional matters." *Prayer Temple*, 286 Mich App at 112, citing *WPW Acquisition Co v City of Troy (On Remand)*, 254 Mich App 6, 8; 656 NW2d 881 (2002); *Ammex*, 272 Mich App at 495-496; *Meadowbrook*, 226 Mich App at 596-597, citing *Wikman*, 413 Mich at 647; *Johnston*, 177 Mich App at 208. "Rather, the circuit court has jurisdiction to consider such matters." *Ammex*, 272 Mich App at 495-496, quoting *WPW Acquisition*, 254 Mich at 8; see also, *Prayer Temple*, 286 Mich App at 112.

It is evident from our review of the certified record of the tribunal's proceedings that petitioner's appeal to the Tax Tribunal did not involve the City's valuation of his property or the accuracy or methodology of the property tax assessment, nor did his claims "necessitate that the tribunal make factual determinations" or "concern whether respondent followed statutory procedures," issues which are squarely within the tribunal's jurisdiction. *Prayer Temple*, 286 Mich App at 112; *Ammex*, 272 Mich App at 495; *Meadowbrook*, 226 Mich App at 597; *Johnston*, 177 Mich App at 208. Rather, the "core" of petitioner's claims before the tribunal directly attacked the constitutionality and legality of the imposition of property tax against his

property. *Kostyu*, 170 Mich App at 130. “[T]he Tax Tribunal does not have jurisdiction over constitutional questions and has no authority to hold statutes invalid. . . . Rather, the circuit court has jurisdiction to consider such matters.” *Ammex*, 272 Mich App at 495-496, quoting *WPW Acquisition*, 254 Mich App at 8, 10. Thus, we find that tribunal correctly concluded that it did not have jurisdiction to consider petitioner’s constitutional claims. *Meadowbrook*, 226 Mich App at 596-598. Jurisdiction over petitioner’s claims regarding the constitutionality and legality of the imposition of property tax against petitioner’s property rests in the Oakland Circuit Court.

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey