

STATE OF MICHIGAN
COURT OF APPEALS

JOHN M. RAPLINGER and MARILYN M.
RAPLINGER,

UNPUBLISHED
November 8, 2002

Petitioners-Appellants,

v

No. 234198
Michigan Tax Tribunal
LC No. 00-281769

TOWNSHIP OF MARENISCO,

Respondent-Appellee.

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Petitioners appeal as of right the decision of the Michigan Tax Tribunal (“MTT”) dismissing their case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In 1998 petitioners engineered two transfers of property for estate planning purposes. Respondent deemed one transfer of the property to be a transfer of ownership that served to uncapped the taxable value of the property. MCL 211.27a. Petitioners first received notice that the taxable value of the property had been increased when they received their tax bill in 1999. Petitioners sought to appeal the matter, and contended that because they did not receive notice in the manner dictated by statute the appeal period was effectively tolled and the MTT had jurisdiction to hear the matter.

The MTT sua sponte dismissed the case. It observed that petitioners were required to file a letter of appeal within thirty-five days of receiving notice of the uncapping of the taxable value of their property. MCL 211.27b(6). The MTT concluded that because petitioners’ letter of appeal was filed more than thirty-five days after their receipt of actual notice, the appeal was untimely and did not properly invoke the Tribunal’s subject matter jurisdiction. MCL 205.731; MCL 205.735.

We review a decision of the MTT to determine whether the MTT erred as a matter of law or adopted an erroneous legal principle. We accept the MTT’s factual findings as final if those findings are supported by competent, material, and substantial evidence. *Skybolt Partnership v Flint*, 205 Mich App 597, 599-600; 517 NW2d 838 (1994).

Petitioners argue the MTT erred by dismissing the case. They acknowledge that they received actual notice of the increase when they received their tax bill, but assert that because they did not receive the type of notice required by MCL 211.27b(6), specifically notice by first-class mail, the thirty-five-day appeal period was tolled. We disagree and affirm the MTT's decision. An appeal to the MTT must be filed in a timely manner, i.e., within thirty or thirty-five days depending on the provision under which it is filed, to invoke the jurisdiction of the Tribunal. MCL 205.735(2). Petitioners did not file an appeal within thirty-five days of receiving notice of the uncapping of the taxable value of their property. Petitioners' assertion they did not receive notice by first-class mail is uncontradicted; however, they acknowledge they received actual notice of the increase when they received their tax bill. The MTT did not err as a matter of law in concluding that because petitioners did not file their appeal within thirty-five days after receiving actual notice of the uncapping of the taxable value of their property, they did not properly invoke the jurisdiction of the Tribunal. MCL 205.731; MCL 205.735; *Skybolt, supra*, 603-604.

Affirmed.

/s/ Richard Allen Griffin
/s/ Hilda R. Gage
/s/ Patrick M. Meter