

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CENTRE MANAGEMENT,

Petitioner-Appellant,

v

CITY OF FERNDALE,

Respondent-Appellee.

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UNPUBLISHED

August 10, 2004

No. 248266

Tax Tribunal

LC No. 00-290579

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

PER CURIAM.

In this action concerning the taxation of commercial property, petitioner Centre Management appeals as of right the Michigan Tax Tribunal's (MTT) "order denying petitioner's motion for summary disposition [and] sua sponte order of dismissal." We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This action arises from the revision of the taxable value of petitioner's commercial property that was built in 1941. By letter dated October 26, 2001, respondent notified petitioner that "[a] substantial clerical error at the time of data input had [sic] resulted in 'omission' of a section of the industrial building" at issue here. The letter indicated that the mistake had been corrected and that the "Board of Review will meet on December 11, 2001 at 9:00 a.m. ... to correct Assessment Rolls for year 2000 and 2001 ...." The letter notified petitioner that any objections to the listed changes could be protested to the Board at the December meeting.

Petitioner failed to protest to the Board of Review at the December meeting, and apparently at that time the taxable value for petitioner's property was retroactively raised from \$262,940 to \$334,580 for 2000, and from \$271,350 to \$345,280 for 2001. In March 2002, petitioner requested the State Tax Commission (STC) to "roll back" the changed assessments. However, on April 29, 2002, the STC indicated that it lacked jurisdiction. Thereafter, petitioner filed a petition with the MTT. On February 14, 2003, petitioner moved for summary disposition, claiming that respondent raised the taxable value of petitioner's commercial property in excess of the limits found in MCL 211.27a.<sup>1</sup> The MTT denied petitioner's motion for summary

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<sup>1</sup> Respondent maintained that the increase in taxable value was due to an omission of a part of  
(continued...)

disposition and, sua sponte, dismissed petitioner's appeal for lack of jurisdiction. This appeal ensued.

Petitioner raises four separate issues on appeal. We begin with the jurisdictional issues. Petitioner argues that the MTT has jurisdiction under MCL 211.154, MCL 205.735(2), and MCL 205.731, to review STC decisions. We disagree.

This Court's review of MTT decisions is limited. *Michigan Milk Producers Ass'n v Dep't of Treasury*, 242 Mich App 486, 490; 618 NW2d 917 (2000). Absent a claim of fraud, we may determine only whether the MTT committed an error of law or adopted a wrong legal principle. *Id.*; *Michigan Bell Telephone Co v Dep't of Treasury*, 229 Mich App 200, 206; 581 NW2d 770 (1998). This Court will not disturb the tribunal's factual findings if they are supported by competent, material, and substantial evidence on the whole record. *Michigan Milk Producers Ass'n, supra* at 490-491. Additionally, we review de novo statutory interpretation. *Id.* at 491.

The MTT has exclusive and original jurisdiction to review final decisions relating to assessments or valuations under the property tax laws. MCL 205.731(a). An assessment dispute concerning the valuation of property must be protested before the local board of review before the MTT can acquire jurisdiction. MCL 205.735(1); *Covert Twp v Consumers Power Co*, 217 Mich App 352, 355; 551 NW2d 464 (1996); *Manor House Apartments v City of Warren*, 204 Mich App 603, 604-605; 516 NW2d 530 (1994). Once a court determines that it has no jurisdiction, it should not proceed further except to dismiss the action. *Fox v Bd of Regents of the Univ of Michigan*, 375 Mich 238, 243; 134 NW2d 146 (1965); *Electronic Data Systems Corp v Flint Twp*, 253 Mich App 538, 544-545; 656 NW2d 215 (2002). Here, petitioner did not protest to the Board of Review at the December meeting. Thus, the MTT cannot acquire jurisdiction. MCL 205.735(1); *Covert Twp, supra*; *Manor House, supra*.

To the extent that petitioner argues that the STC has the authority to correct the increase in taxable value set by a Board of Review for incorrectly reported and/or allegedly omitted property, we disagree. This Court has interpreted MCL 211.154 to allow assessments to be corrected only if a property's status is misrepresented, such as when a taxpayer incorrectly claimed that the property was tax-exempt. *City of Detroit v Norman Allan & Co*, 107 Mich App 186, 191-192; 309 NW2d 198 (1981) (MCL 211.154 "applies when property has been incorrectly reported as exempt property but is thought to be ... taxable property. The issue in such cases is the proper status of the property, whether it is amendable to taxation in the first place."); see also *General Motors Corp v State Tax Comm*, 200 Mich App 117, 119-120; 504 NW2d 10 (1993). Thus, MCL 211.154 did not confer jurisdiction on the STC to correct an assessor's error in mistakenly undervaluing the property in previous years because MCL 211.154 does not apply to property conceded to be taxable but alleged to be improperly assessed.

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the building resulting from a clerical error at the time of data input, MCL 211.53b, not the result of uncapping of taxable value, MCL 211.27a. Respondent provided the appraiser's hand-written notes that show the correct dimensions and calculation of total area of 5786 square feet, whereas the data input shows the dimension of 75 x 20, which equals 1500 square feet.

Because neither the STC nor the MTT had jurisdiction, petitioner's petitions were properly dismissed. *Electronic Data Systems, supra*. Further, in light of our conclusions, we need not address petitioner's other arguments on appeal.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Jessica R. Cooper  
/s/ Kirsten Frank Kelly