STATE OF MICHIGAN

COURT OF APPEALS

CITY OF DETROIT,

Plaintiff-Appellee,

v

CHARTER TOWNSHIP OF PLYMOUTH,

Defendant-Appellant,

and

COUNTY OF WAYNE and WAYNE COUNTY TREASURER,

Defendants.

UNPUBLISHED
January 12, 2016

No. 327843
Wayne Circuit Court
LC No. 13-004635-CH

Before: TALBOT, C.J., and CAVANAGH and K. F. KELLY, JJ.

PER CURIAM.

Defendant, Charter Township of Plymouth (Plymouth), appeals as of right the trial court's final judgment, which partially vacated a judgment of foreclosure and quieted title to the subject property of the foreclosure at issue in this matter in its prior owner, plaintiff, City of Detroit (Detroit). We affirm.

I. FACTUAL BACKGROUND

This case arises out of Detroit's action to quiet title to a 190-acre parcel of vacant real property (the subject property) located in Plymouth, which was formerly part of a 323-acre parcel (the parent parcel) that once housed the Detroit House of Corrections. Detroit duly paid the property taxes for the parent parcel from 1994 through 2006. In June 2006, it sold a 133-acre parcel (the Demco parcel) to Demco 54, LLC (Demco) for $3,089,350, thereby effectively dividing the parent parcel into two parcels. After the sale, in 2007 and 2008, neither Detroit nor Demco paid the property taxes for any portion of the parent parcel. Thus, on April 23, 2010, the Wayne County Treasurer (the Treasurer) recorded a Certificate of Forfeiture for the parent parcel, and shortly thereafter it filed a petition seeking judicial foreclosure. Despite the Treasurer's attempts to notify it, Detroit never received notice of the foreclosure proceedings. Eventually, the Treasurer was granted a judgment of foreclosure, a notice of which was recorded.

Plymouth later purchased the entire parent parcel from the Treasurer for roughly the same amount as Detroit's unpaid taxes, which was only a fraction of the property's actual value.

After learning of the foreclosure, Detroit instituted the instant action to quiet title to the subject property. The parties filed cross-motions for summary disposition. After considering the matter, the trial court decided that the Treasurer's attempts to notify Detroit of the foreclosure proceedings were insufficient to comport with the requirements of due process. The trial court further held that, as property owned by a municipality, the subject property was exempt from forfeiture under the General Property Tax Act (GPTA), MCL 211.1, *et seq*. Therefore, the trial court granted Detroit summary disposition pursuant to MCR 2.116(C)(10), subsequently entering its final judgment that partially vacated the judgment of foreclosure, as to the subject property only, and quieted title to the subject property in Detroit.

Plymouth raises several claims of error on appeal. First, it argues that the trial court lacked subject-matter jurisdiction over this matter because Detroit failed to timely appeal from the foreclosure judgment, redeem the property, or seek cancellation of the foreclosure pursuant to MCL 211.78k(9). We disagree.

As a threshold matter, Plymouth's argument challenging the subject matter jurisdiction of the trial court is contained in its reply brief, not its principal appellate brief, which is improper under MCR 7.212(G) ("Reply briefs must be confined to rebuttal of the arguments in the appellee's or cross-appellee's brief"). Thus, ordinarily we would refuse to consider this improperly raised issue. See, e.g., *Kinder Morgan Mich, LLC v City of Jackson*, 277 Mich App 159, 174; 744 NW2d 184 (2007). However, since "[s]ubject-matter jurisdiction cannot be waived and can be raised at any time by any party or the court," *In re Contempt of Dorsey*, 306 Mich App 571, 581; 858 NW2d 84 (2014), we nevertheless reach the substantive merits of Plymouth's jurisdictional challenge. See also *Bezeau v Palace Sports & Entertainment, Inc*, 487 Mich 455, 479 n 2; 795 NW2d 797 (2010) (YOUNG J., dissenting) ("[S]ubject matter jurisdiction may be challenged at any time, even if raised for the first time on appeal.").

"Questions surrounding subject-matter jurisdiction present questions of law and are reviewed de novo." *Dorsey*, 306 Mich App at 581. Likewise, "issues of constitutional and statutory construction" are legal questions reviewed de novo. *In re Petition by Wayne Co Treasurer for Foreclosure*, 478 Mich 1, 6; 732 NW2d 458 (2007) (*Perfecting Church*).

In support of its argument, Plymouth cites *Perfecting Church*, which construed a former version of the pertinent statutory provision, MCL 211.78k(6), and also evaluated the constitutionality of that provision. *Id.* at 6-11. In pertinent part, MCL 211.78k(6) provides:

> [F]ee simple title to property set forth in a petition for foreclosure filed under section 78h [MCL 211.78h] on which forfeited delinquent taxes, interest, penalties, and fees are not paid on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section, or in a contested case within 21 days of the entry of a judgment foreclosing the property under this section, *shall vest absolutely in the foreclosing governmental unit, and the foreclosing governmental unit shall have absolute title to the property*. . . . The foreclosing governmental unit's title is not subject to any recorded or

> unrecorded lien *and shall not be stayed or held invalid* except as provided in subsection (7) [governing appeals from such foreclosure judgments] or (9) [providing a procedure by which the "foreclosing governmental unit may cancel the foreclosure"]. [MCL 211.78k(6), (7), and (9); emphasis added.]

The former version of MCL 211.78k(6) construed in *Perfecting Church* did not contain the "on or before the March 31 immediately succeeding the entry of a judgment foreclosing the property under this section" language. 2006 PA 611; *Perfecting Church*, 478 Mich at 7. Thus, under that former version, the property owner had 21 days to either "redeem the property or appeal the judgment of foreclosure[.]" *Id.* at 8. The *Perfecting Church* Court ultimately construed MCL 211.78k(6) to mean that, "[i]f a property owner does not redeem the property or appeal the judgment of foreclosure within 21 days, then MCL 211.78k(6) *deprives the circuit court of jurisdiction to alter the judgment of foreclosure*," thereby permitting "a foreclosing governmental unit to ignore completely the mandatory notice provisions of the GPTA, seize absolute title to a taxpayer's property, and sell the property, leaving the circuit court impotent to provide a remedy for the blatant deprivation of due process." *Id.* at 8, 10 (emphasis added). Hence, the plain language of the provision is "patently unconstitutional" as applied "in cases where the foreclosing entity fails to provide constitutionally adequate notice[.]" *Id.* Since "the Legislature cannot create a statutory regime that allows for constitutional violations with no recourse," the *Perfecting Church* Court held "that portion of the statute purporting to limit the circuit court's jurisdiction to modify judgments of foreclosure is unconstitutional and unenforceable as applied to property owners who are denied due process." *Id.* at 10-11.

Plymouth argues that, under the *Perfecting Church* construction of MCL 211.78k(6), the trial court lacked subject-matter jurisdiction to decide this matter. Plymouth fails to recognize that there is a fundamental difference between, on the one hand, whether the trial court had subject-matter jurisdiction to modify the foreclosure judgment under MCL 211.78k(6), and, on the other hand, whether the circuit had subject-matter jurisdiction to hear and decide this matter at all. "Generally, subject-matter jurisdiction is defined as a court's power to hear and determine a cause or matter." *Dorsey*, 306 Mich App at 581. "More specifically, subject-matter jurisdiction is the deciding body's authority to try a case of the kind or character pending before it, *regardless of the particular facts of the case*." *Id.* (emphasis added). The circuit court is "a court of general equity jurisdiction," with the power to issue declaratory rulings, including declaratory rulings regarding the constitutionality of laws. *Universal Am-Can Ltd v Attorney General*, 197 Mich App 34, 37; 494 NW2d 787 (1992). Hence, even if Plymouth is correct that it complied with all of the GPTA's statutory notice provisions, and that it also provided constitutionally adequate notice of the foreclosure to Detroit, the trial court nevertheless had subject-matter jurisdiction to hear and decide this matter. Whether its decision was erroneous, i.e., whether the trial court incorrectly determined that Plymouth gave insufficient notice to comport with due process, does not impact the court's original subject-matter jurisdiction over this action. See *Clohset v No Name Corp (On Remand)*, 302 Mich App 550, 562; 840 NW2d 375 (2013) ("[O]nce a court acquires jurisdiction, unless the matter is properly removed or dismissed, that court is charged with the duty to render a final decision on the merits of the case, resolving the dispute, with the entry of an enforceable judgment.").

Plymouth next argues that the trial court erred by concluding that the Treasurer's attempts to notify Detroit of the foreclosure proceedings were insufficient to comport with the constitutional demands of procedural due process. We disagree.

This Court reviews de novo both a trial court's decision on a motion for summary disposition and its constitutional determination of whether due process was afforded to a party. *Elba Twp v Gratiot Co Drain Comm'r*, 493 Mich 265, 277; 831 NW2d 204 (2013). "Questions of statutory interpretation are also reviewed de novo." *Id.* at 278.

"[A] party's knowledge of a tax delinquency does not equate to notice of a foreclosure proceeding." *Ligon v City of Detroit*, 276 Mich App 120, 126; 739 NW2d 900 (2007). Pursuant to the Due Process Clauses of the Michigan and United States Constitutions, "[p]roceedings that seek to take property from its owner must comport with due process." *Sidun v Wayne Co Treasurer*, 481 Mich 503, 509; 751 NW2d 453 (2008). "The notice provisions of the GPTA seek to fulfill [the] obligation" of affording due process to property owners before depriving them of their property. *Id.* at 512. "When there are multiple owners of a piece of property, due process entitles each owner to notice of foreclosure proceedings." *Id.*

In pertinent part, MCL 211.78i(1) provides:

> Not later than May 1 immediately succeeding the forfeiture of property . . . the foreclosing governmental unit shall initiate a search of records identified in subsection (6) [tax records and land title records] to identify the owners of a property interest in the property who are entitled to notice under this section. . . .

After identifying such parties, the foreclosing governmental unit "must send notice by certified mail to those owners at 'the address reasonably calculated to apprise those owners' of the foreclosure proceedings. MCL 211.78i(2)." *Sidun*, 481 Mich at 512-513. If the foreclosing governmental unit "is unable to ascertain the address reasonably calculated to apprise the owners . . . entitled to notice under this section," notice by publication can be substituted, consisting of a notice "published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located, if there is one." MCL 211.78i(5).

Plymouth argues that the Treasurer complied with the provisions of MCL 211.78i by sending notice to Detroit, via certified mail, at an address reasonably calculated to apprise Detroit of the foreclosure proceedings, thereby satisfying MCL 211.78i(2). Plymouth's argument ignores the fact that Detroit is not an individual whose address might fluctuate. It is one of our nation's largest metropolitan cities, with readily discernible addresses for its various departments that are a matter of public record. Indeed, in announcing presumptively reasonable steps to ascertain a property owner's address, MCL 211.78i(2) contemplates this inherent difference between individuals and other entities, listing different "reasonable steps" based on the identity of the property owner:

> (a) For an individual, a search of the records of the probate court for the county in which the property is located.

(b) For an individual, a search of the qualified voter file established under section 509o of the Michigan election law, 1954 PA 116, MCL 168.509o, which is authorized by this subdivision.

(c) For a partnership, a search of partnership records filed with the county clerk.

(d) For a business entity other than a partnership, a search of business entity records filed with the department of labor and economic growth. [MCL 211.78i(2).]

Although the above provision does not specify what steps should be taken to ascertain the address of a municipality entitled to notice, MCR 2.105(G)(2) provides that, in a civil matter, a city may be served by service "made on 'the mayor, the city clerk, or the city attorney of a city.' " *McLean v Dearborn*, 302 Mich App 68, 78; 836 NW2d 916 (2013).

While MCR 2.105(G)(2) may not be controlling over the instant inquiry, it is certainly instructive about what reasonable steps the Treasurer might have taken to locate an address calculated to apprise Detroit of the foreclosure proceedings. The Treasurer is located within the same county as Detroit, which is that county's largest city. With a modicum of effort—particularly in this digital era where information is so freely available—the Treasurer could have ascertained the address for Detroit's mayor, its city clerk, its city council, its legal department, or its planning and development department. Indeed, the address of the attorney who drafted Detroit's quit claim deed, by which it severed the Demco parcel from the parent parcel, was a matter of public record because, as is legally required for recordation of a deed, MCL 565.201a, the drafting attorney's address appeared on the recorded quit claim deed. Nevertheless, the Treasurer either failed to discover the above addresses or failed to send notice of the foreclosure to those addresses. Instead, it sent the foreclosure notice to the city's planning and development department at an address where that department was not located, further failing to specify a room or suite number for that department within the massive office building to which the Treasurer mistakenly sent the notice. Thus, the Treasurer failed to abide by the GPTA notice provisions in MCL 211.78i; it did not take steps to ascertain an address reasonably calculated to apprise Detroit of the pending foreclosure proceedings.

However, because the GPTA's notice provisions generally "provide more notice than is required to satisfy due process," strict compliance with those provisions is unnecessary to provide adequate notice to satisfy due process. *Perfecting Church*, 478 Mich at 10 n 19. Thus, the fact that the Treasurer failed to comply with the GPTA's notice provisions is not necessarily fatal to Plymouth's argument. If the Treasurer's actions nevertheless provided Detroit with adequate notice to satisfy due process, technical violations of the GPTA's notice provisions are immaterial. See *id.*

"[D]ue process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v Brewer*, 408 US 471, 481; 92 S Ct 2593; 33 L Ed 2d 484 (1972).

> A fundamental requirement of due process in such proceedings is "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v Central Hanover Bank & Trust Co*, 339 US 306, 314; 70 S Ct 652, 94 L Ed 865 (1950). Interested parties are "entitled to have the [government] employ such means 'as one desirous of actually informing [them] might reasonably adopt' to notify [them] of the pendency of the proceedings." *Dow v Michigan*, 396 Mich 192; 240 NW2d 450 (1976), quoting *Mullane*, [339 US at 315]. That is, the means employed to notify interested parties must be more than a mere gesture; they must be means that one who actually desires to inform the interested parties might reasonably employ to accomplish actual notice. *Mullane*, [339 US at 315]. However, "[d]ue process does not require that a property owner receive actual notice before the government may take his property." *Jones*[*v Flowers*, 547 US 220, 226; 126 S Ct 1708; 164 L Ed 2d 415 (2006)]. [*Sidun*, 481 Mich at 509 (alterations to citations added, other alterations in original).]

Therefore, the reasonableness of the steps taken to notify a property owner of foreclosure varies "depending on what information the government had" at the time it sought to notify the property owner. *Sidun*, 481 Mich at 510 (discussing *Mullane*, 339 US at 309-310). When providing notice by mail, "[t]he government must consider unique information about an intended recipient regardless of whether a statutory scheme is reasonably calculated to provide notice in the ordinary case." *Jones*, 547 US at 230. Moreover, when the government learns that notice sent by mail was unsuccessful, it must take whatever additional steps to notify the property owner are reasonable and practicable under the circumstances. *Id.* at 234. "What steps are reasonable in response to new information depends upon what the new information reveals." *Id.*

When deciding what process is due under a given set of facts, our Courts generally apply the three-prong balancing test described by the United States Supreme Court in *Mathews v Eldridge*, 424 US 319; 96 S Ct 893; 47 L Ed 2d 18 (1976). See, e.g., *Bonner v City of Brighton*, 495 Mich 209, 235; 848 NW2d 380 (2014).

> [I]dentification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. [*Mathews*, 424 US at 335.]

Several circumstances in the instant matter are markedly different from those likely found in the average tax foreclosure. First, the subject property is a large parcel of vacant land that is valued, for tax purposes, at well over $16 million. Thus, Detroit's proprietary interest is highly significant under the first prong of *Mathews*.

Secondly, the owner of the subject property is the largest city not only in Wayne County but in the state of Michigan. Accordingly, under *Mathews*, there is governmental interest on both sides of this matter, not just in favor of the Treasurer's actions. Moreover, notice by posting was unlikely to notify Detroit, as it might an individual property owner, particularly when the notice was posted on a vacant property in a different municipality. Similarly, the publication of a foreclosure notice in the Detroit Free Press was unlikely to actually notify Detroit of the pending proceedings. Notably, despite the fact that it was published the year *after* the parent parcel was divided into two separate parcels—each with its own tax identification number—the foreclosure notice listed only the parent parcel's tax identification number and a perplexing property address of "00000 Five Mile." Consequently, even if Detroit's employees were aware of the notice, it would not have reasonably drawn their attention to the *subject property*, which had a different tax identification number than that listed in the published foreclosure notice.

Third, as discussed further *infra*, such municipally owned property, while not automatically exempt from *taxation* under the GPTA, is exempt from forfeiture and foreclosure for unpaid taxes. MCL 211.78g(1). As a result, the Treasurer's failure to notify Detroit created a very high risk that the property would be erroneously forfeited, which it later was. Had Detroit been notified of the proceedings, it could have objected to the foreclosure on grounds that the property was not subject to forfeiture, thereby avoiding the erroneous deprivation of the subject property altogether. Likewise, the governmental interests at stake in this case are best served by avoiding such erroneous deprivations of governmental property. Because of the erroneous deprivation, the parties are embroiled in costly, time-consuming litigation, during which the subject property cannot be developed or used for a public purpose by Detroit or Plymouth. All of these undesirable results, and the accompanying expenditure of public resources, could have been avoided if Detroit had been afforded an opportunity to appear and object in the initial foreclosure proceedings.

Ultimately, viewed through the paradigmatic lens of the *Mathews* test, the Treasurer's attempts to notify Detroit of the foreclosure were insufficient to satisfy due process. Despite the relative ease with which it could have provided Detroit with notice of the foreclosure proceedings on Detroit's multi-million dollar property, the Treasurer failed to do so. Instead, it blindly attempted to follow the notice procedures delineated by the GPTA, with which it also failed to comply. As a large, bureaucratic entity, the Treasurer's actions may be understandable and, in many cases, the same actions might have provided the property owner with adequate notice to satisfy due process. But such actions were inadequate to comport with due process under the unique circumstances at bar here.

Next, Plymouth contends that, by promulgating bulletins that list the reasons for which a parcel must be withheld from tax forfeiture under MCL 211.78g(1), the Michigan State Tax Commission (STC) is engaged in quasi-judicial statutory interpretation, further arguing that this Court should correct the STC's erroneous interpretation of the GPTA. We disagree.

The proper interpretation of a statute or administrative rule is a question of law reviewed de novo. *City of Romulus v Mich Dep't of Environmental Quality*, 260 Mich App 54, 64; 678 NW2d 444 (2003). Constitutional questions are also reviewed de novo. *Perfecting Church*, 478 Mich at 6.

"[T]he Michigan Constitution specifically recognizes administrative agencies," further providing "for judicial review of administrative decisions[.]" *In re Complaint of Rovas*, 482 Mich 90, 99; 754 NW2d 259 (2008). A reviewing court must remain cognizant that administrative agencies engage in several constitutionally distinct functions, each of which is subject to its own standard of review. *Id.* at 108-109.

"Simply put, legislative power is the power to make laws." *Id.* at 98. "While administrative agencies have what have been described as 'quasi-legislative' powers, such as rulemaking authority, these agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature." *Id.* Thus, for an administrative agency to properly exercise rulemaking power, the Legislature must have "properly delegated authority to the agency to promulgate the rule at issue." *Id.* at 101. The constitutionality of the Legislature's delegation of rulemaking authority to an administrative agency is a question of law this Court reviews de novo. *Id*. "If the Legislature has properly delegated the rulemaking authority, then the only question . . . is whether the agency has exceeded its authority granted by the statute." *Id.* (quotation marks and citation omitted).

Administrative agencies also exercise what is sometimes referred to as "quasi-judicial" power to hear and decide certain contested cases, but "such power is limited and is not an exercise of constitutional 'judicial power.' " *Id.* at 98-99. In such instances, an administrative agency may interpret statutory provisions. *Id.* An administrative agency's statutory interpretation is reviewed under the standard first enunciated in *Boyer-Campbell Co v Fry*, 271 Mich 282; 260 NW 165 (1935):

> [T]he construction given to a statute by those charged with the duty of executing it is always entitled to the most respectful consideration and ought not to be overruled without cogent reasons. However, these are not binding on the courts, and [w]hile not controlling, the practical construction given to doubtful or obscure laws in their administration by public officers and departments with a duty to perform under them is taken note of by the courts as an aiding element to be given weight in construing such laws and is sometimes deferred to when not in conflict with the indicated spirit and purpose of the legislature. [*Rovas*, 482 Mich at 101, 108 (second alteration in original), quoting *Boyer-Campbell*, 271 Mich at 296-297 (quotation marks and citations omitted).]

"Respectful consideration" of an agency's statutory interpretation is not akin to "deference," at least as that "term is commonly used in appellate decisions" today. *Rovas*, 482 Mich at 108. While an agency's interpretation can be a helpful aid in construing a statutory provision with a "doubtful or obscure" meaning, our courts are responsible for finally deciding whether an agency's interpretation is erroneous under traditional rules of statutory construction. *Id.* at 103, 108-109.

The administrative action at issue here is the promulgation of STC Bulletin 10 of 2010, which was the STC bulletin in effect at the time of the foreclosure proceedings on the subject property. In pertinent part, that bulletin states:

The purpose of this Bulletin is to comply with the requirements of MCL 211.78g(1) which indicates in part:

> A county treasurer shall withhold a parcel of property from forfeiture *for any reason determined by the state tax commission*. The procedure for withholding a parcel of property from forfeiture under this subsection *shall be determined by the state tax commission*.

The State Tax Commission has determined the following are reasons to withhold a property from forfeiture:

* * *

2. *A property owned by* the U.S. Government, the State of Michigan, a County, *a City, a Village or a Township shall be withheld from forfeiture*.

Plymouth does not argue that MCL 211.78g(1) is an unconstitutional delegation of rulemaking authority or that the STC was acting outside of the authority delegated to it. Hence, Plymouth has abandoned any such arguments, see *In re Mich Consol Gas Co's Compliance*, 294 Mich App 119; 818 NW2d 354 (2011) ("It is not sufficient for a party simply to announce a position or assert an error and then leave it up to the appellate court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position; failure to brief a question on appeal is tantamount to abandoning it."), and it would be inappropriate for this Court to nevertheless reach the constitutional issue, see *In re MS*, 291 Mich App 439, 442; 805 NW2d 460 (2011) ("[W]e will not address constitutional issues when, as here, we can resolve an appeal on alternative grounds."). Instead, Plymouth contends that the STC's determination that *all* municipally owned property should be exempt from forfeiture under MCL 211.78g(1) is a quasi-judicial determination based on an erroneous interpretation of the GPTA.

Plymouth's argument is unconvincing for three primary reasons. First, it conflates the meaning of "forfeiture" and "foreclosure" as those terms are used in the GPTA. "[F]orfeiture is not the same as foreclosure." *In re Petition of Wayne Co Treasurer for Foreclosure*, 286 Mich App 108, 112 n 2; 777 NW2d 507 (2009). After a property is forfeited to the Treasurer under MCL 211.78g(1), "a subsequent foreclosure judgment is necessary for the [T]reasurer to obtain possession." ***Id.***

Secondly, Plymouth confuses exemption from *taxation*, under MCL 211.7m, with exemption from *forfeiture*, under MCL 211.78g(1). The two are not identical. While the former provision provides tax exemption to publicly owned property, so long as it is used for a public purpose, *City of Mt Pleasant v State Tax Comm*, 477 Mich 50, 56; 729 NW2d 833 (2007), the latter provision provides exemption from forfeiture "for any reason determined by the state tax commission," MCL 211.78g(1); *Detroit Bldg Auth v Wayne Co Treasurer*, 480 Mich 897 (2007). Forfeiture under MCL 211.78g(1) is for "unpaid delinquent taxes, interest, penalties, and fees." Thus, for a property to be subject to forfeiture under MCL 211.78g(1), that property must first be subject to taxation, i.e., *not exempt* under MCL 211.7m. Accordingly, while all tax-exempt

properties are necessarily exempt from forfeiture,[1] it does not follow that all properties subject to taxation under the GPTA are necessarily subject to forfeiture under MCL 211.78g(1). On the contrary, the relationship between whether a property is subject to taxation under the GPTA and whether it is subject to forfeiture is merely correlative, not causative. In other words, municipally owned property is exempt under MCL 211.78g(1) because of its municipal ownership, not its tax-exempt status under MCL 211.7m.

Finally, while it assumes that the list of reasons provided in STC Bulletin 10 of 2010 was based on a variety of statutory rationales, Plymouth has cited no evidence in support of that assertion. Indeed, even if Plymouth had done so, it would be improper for this Court to consider such evidence of the agency's intent. "Principles of statutory interpretation apply to the construction of administrative rules." *City of Romulus*, 260 Mich App at 65. Thus, to effectuate the intent of the drafting agency, this Court begins "by reviewing the language of the administrative rule," and, if the rule's "language is unambiguous on its face, the drafter is presumed to have intended the meaning plainly expressed and further judicial interpretation is not permitted." *Id.* "Only where the language under review is ambiguous may a court properly go beyond the words of the statute or administrative rule to ascertain the drafter's intent." *Id.* The plain language of STC Bulletin 10 of 2010 is unambiguous and explicitly provides its supporting rationale: "to comply with the requirements of MCL 211.78g(1)[.]" Consequently, further judicial interpretation is neither necessary nor appropriate.

Finally, Plymouth argues that the trial court erred by holding that all publicly owned property is exempt from forfeiture and foreclosure under the GPTA, regardless of whether such property is used for a public purpose. We disagree.

This Court reviews de novo legal questions, including the proper interpretation of a statute or administrative rule and questions of constitutional interpretation. *Perfecting Church*, 478 Mich at 6; *City of Romulus*, 260 Mich App at 64.

As the trial court recognized, Plymouth's argument is directly contravened by our Supreme Court's recent decisions in *Detroit Bldg Auth*, 480 Mich at 897, and *In re Wayne Co Treasurer*, 480 Mich 981 (2007) (*Watson II*), mod on reconsideration 480 Mich 1139 (2008). Although both were decided by published orders, not opinions, those orders are nevertheless "binding precedent" because each "constitutes a final disposition of an application [for leave to appeal] and contains a concise statement of the applicable facts and reasons for the decision." See *DeFrain v State Farm Mut Auto Ins Co*, 491 Mich 359, 369; 817 NW2d 504 (2012). In *Detroit Bldg Auth*, 480 Mich at 897, our Supreme Court cited MCL 211.78g(1) in support of its holding that "[t]he foreclosure sale of publicly owned property is prohibited," which is a holding that Court later reiterated—almost verbatim—in *Watson II*.

Since this Court is bound to follow established precedent, we decline Plymouth's invitation to announce a different construction of MCL 211.78g(1). Read in concert with MCL

[1] Except properties that accrue unpaid taxes, interest, penalties, and fees *before* gaining tax-exempt status.

211.78g(1) and STC Bulletin 10 of 2010, our Supreme Court's decisions in *Detroit Bldg Auth* and *Watson II* unambiguously support the proposition that *all* publicly owned property, including the municipally owned property at issue in this case, is exempt from forfeiture and subsequent foreclosure under the GPTA, regardless of whether such publicly owned property is exempt from taxation under the GPTA.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly