STATE OF MICHIGAN

COURT OF APPEALS

WALGREEN COMPANY, Petitioner-Appellant, v MACOMB TOWNSHIP, Respondent-Appellee.	FOR PUBLICATION July 31, 2008 9:10 a.m. No. 276829 Tax Tribunal LC No. 00-299458 Advance Sheets Version

Before: Owens, P.J., and O'Connell and Davis, JJ.

DAVIS, J.

Petitioner appeals as of right from a Tax Tribunal decision dismissing its appeals of respondent's property tax assessments for tax years 2003, 2004, 2005, and 2006. We affirm.

Petitioner is the lessee of real property in Macomb Township pursuant to a long-term lease that requires it to pay the property taxes for the property. The lease provides that petitioner is entitled to contest the validity of any tax; the property owner must cooperate in any contested proceeding and execute any necessary documents. In March 2002, respondent's board of review adopted a rule under which "[a] person who is filing a petition to appear before the Board of Review, on behalf of a property owner, must furnish written authorization from the property owner appointing them as the agent/representative." On March 1, 2003, petitioner timely filed with respondent's board of review a written appeal and objection to respondent's 2003 tax assessment. Petitioner attached a letter that identified petitioner as the taxpayer and that authorized its designated representative to appear before the board. However, petitioner did not provide any documentation showing that it had an ownership interest in the property or that the property owner had authorized petitioner to appear before the board. The board of review dismissed the appeal for lack of standing: respondent's assessment roll showed that M. Tartaglia, L.L.C., was the property owner, so without proper authorization,[1] only M. Tartaglia, L.L.C., could challenge the tax assessment for the property.

[1] The dissent correctly notes that the board of review adopted a more specific policy explicitly requiring a "Letter of Authorization" a few days *after* petitioner filed its appeal. We also recognize that the board of review apparently deemed this policy relevant to its rejection of
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Petitioner appealed the adverse ruling to the Tax Tribunal. There, petitioner filed a motion for summary disposition pursuant to MCR 2.116(C)(10), arguing that the board of review improperly found that it lacked standing. Specifically, petitioner argued that it had an ownership interest in the property and was a party in interest because it was responsible for paying the property taxes. The hearing referee requested additional information and delayed a decision on that motion several times. In the interim, petitioner was permitted to amend its petition to include challenges to the 2004, 2005, and 2006 tax assessments as well. In December 2006, the hearing referee issued a ruling that petitioner lacked standing to challenge the property tax assessments for each of the tax years. Accordingly, it denied petitioner's motion for summary disposition and granted judgment in favor of respondent pursuant to MCR 2.116(I)(2). This appeal followed.

Our review of a Tax Tribunal decision is very limited. In the absence of fraud, we are limited to deciding whether the tribunal committed an error of law or adopted a wrong legal principle. *Liberty Hill Housing Corp v Livonia*, 480 Mich 44, 49; 746 NW2d 282 (2008). Factual findings made by the tribunal will not be disturbed as long as they are supported by competent, material, and substantial evidence on the whole record. *Id.* We review de novo the proper interpretation of statutes and rulings on summary-disposition motions. *Coblentz v Novi*, 475 Mich 558, 567; 719 NW2d 73 (2006). The purpose of statutory interpretation is to discover and give effect to the Legislature's intentions, and unambiguous statutory language should be enforced as written. *Gladych v New Family Homes, Inc*, 468 Mich 594, 597; 664 NW2d 705 (2003). A motion for summary disposition under MCR 2.116(C)(10) should be granted if there is no genuine issue of material fact when the evidence and all reasonable inferences therefrom are viewed in the light most favorable to the nonmoving party; in that circumstance, the moving party is entitled to judgment as a matter of law. *Coblentz*, *supra* at 567-568. Under MCR 2.116(I)(2), the court may enter a judgment in favor of the opposing party if it appears that the opposing party is entitled to judgment.

The parties have stipulated the facts. At issue is whether the Tax Tribunal correctly determined that, on the basis of those facts, petitioner lacked standing to challenge the tax assessments. The concept of standing in the context of a legal proceeding means that a party must have suffered an actual, particularized impairment of a *legally protected* interest, that the opposing party can in some way be shown to be responsible for that impairment, and that a favorable decision by a court could likely redress that impairment. See See *Lee v Macomb Co Bd of Comm'rs*, 464 Mich 726, 739; 629 NW2d 900 (2001).

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petitioner's appeal. However, contrary to the suggestion of the dissent, we do not find the later policy of significance here, and we express no view thereon. Again, petitioner did not provide *any* sort of "written authorization from the property owner appointing it as the agent/representative" for the purpose of appearing before the board of review, and that was the basis for the board's rejection. Petitioner did not even tender to the board a copy of the lease as evidence of such authorization, which counsel for respondent conceded at oral argument would have sufficed.

The General Property Tax Act (GPTA), MCL 211.1 *et seq.*, governs proceedings before local boards of review. MCL 211.30 sets forth procedures to be followed when protesting tax assessments before the board of review. MCL 211.30(4) provides, in relevant part:

> At the request of a person whose property is assessed on the assessment roll or of his or her agent, and if sufficient cause is shown, the board of review shall correct the assessed value or tentative taxable value of the property in a manner that will make the valuation of the property relatively just and proper under this act.

Subsection 3 provides that "[p]ersons or their agents who have appeared to file a protest before the board of review at a scheduled meeting or at a scheduled appointment shall be afforded an opportunity to be heard by the board of review." Subsection 4 further provides that "nonresident taxpayers" may support any such protest by submitting a letter. Subsection 7 permits governing bodies to authorize "resident taxpayers" to submit protests by letter and without personally appearing. Thus, when read as a whole, MCL 211.30 affords "taxpayers" the opportunity to be heard on tax protests, but *only* "a person whose property is assessed on the assessment roll or his or her agent" may actually *make* such a property tax protest before the board of review.

MCL 211.24(1)(a) provides in part that each March, the local assessor shall make and complete an assessment roll and include

> [t]he name and address of every person liable to be taxed in the local tax collecting unit with a full description of all the real property liable to be taxed. If the name of the owner or occupant of any tract or parcel of real property is known, the assessor shall enter the name and address of the owner or occupant opposite to the description of the property. If unknown, the real property described upon the roll shall be assessed as "owner unknown."

MCL 211.24(1)(g) recognizes that property may be assessed in the name of someone other than the owner. That statute provides that "[p]roperty assessed to a person other than the owner shall be assessed separately from the owner's property and shall show in what capacity it is assessed to that person, whether as agent, guardian, or otherwise." The assessor is required to send notices of the taxes to "each owner or person or persons listed on the assessment roll of the property." MCL 211.24c(1). Similarly, MCL 211.24c(4) provides that "[t]he assessment notice shall be addressed to the owner according to the records of the assessor."

Therefore, it is apparent that respondent's obligation to send the required notices extends to those names that appear on the assessment roll, whether they are the owner or an owner's agent. MCL 211.30(4) is consistent with the notice requirements and confers on any person whose name appears on the assessment roll, including an owner's agent, standing to challenge a tax assessment. In this case, however, petitioner never demonstrated that it took the necessary steps to have its name placed on the assessment roll or to obtain the owner's written authorization to appear before the board of review on behalf of the listed owner. Indeed, the evidence affirmatively shows that petitioner *was not* ever placed on the assessment roll for the parcel at issue in this case; rather, only M. Tartaglia, L.L.C., appeared on the assessment roll.

We disagree with the dissent's conclusion that the plain language of MCL 211.30(4) gives petitioner the right to protest the assessed value of this property. Because petitioner is *not* a "person whose property is assessed on the assessment roll," and because petitioner did not provide the board of review with any indication that it was the agent of a "person whose property is assessed on the assessment roll," the statute does *not* give petitioner any rights. Accordingly, petitioner failed to establish its standing to protest the 2003 tax assessment.

Petitioner next argues that MCL 205.735(3) permits "parties in interest" to petition the Tax Tribunal regarding unlawful assessments, and that statute should be reconciled with MCL 211.30 such that long-term lessees may appeal an assessment. Given the plain language of the statute, we disagree. MCL 205.735(3) is part of the Tax Tribunal Act, MCL 205.701 *et seq*., and it governs the Tax Tribunal's jurisdiction to consider a petitioner's appeal from an adverse decision of a board of review. It is not applicable to initial challenges to tax assessments before boards of review. Similarly, petitioner argues that it is "the real party in interest" under MCR 2.201(B) as "a party having an interest that will assure sincere and vigorous advocacy." *City of Kalamazoo v Richland Twp*, 221 Mich App 531, 534; 562 NW2d 237 (1997). However, although petitioner was liable to the property owner for the property taxes under the terms of its lease, the property owner ultimately remained liable to the township for the payment of taxes. Therefore, the owner was the real party in interest for purposes of challenging the property tax assessment. Most significantly, and as explained previously, the board of review's rules *would* have allowed petitioner to challenge the tax assessment if petitioner had submitted written authorization from the assessed owner.[2]

Petitioner also argues that the Tax Tribunal erred in relying in part on the definition of "taxpayer" in MCL 211.44(10)(c), even though that definition is expressly limited to that statute. Even if the definition in MCL 211.44(10)(c) is not applicable, however, the hearing referee correctly concluded that petitioner lacked standing pursuant to MCL 211.30.

Petitioner alternatively argues that MCL 211.27a(6)(g) establishes its standing as a tenant under a long-term lease that exceeds 35 years. That statute provides that a "transfer of ownership" for purposes of taxing property includes a conveyance by lease if the duration of the lease is more than 35 years. Here, however, petitioner did not present evidence showing that it complied with the notice requirements in MCL 211.27a(10) to provide respondent with notice of the property transfer, and petitioner was not listed on the assessment roll. Accordingly, even if petitioner's lease agreement qualifies as a "transfer of ownership" under MCL 211.27a(6)(g), it does did not establish petitioner's standing pursuant to MCL 211.30.

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[2] The dissent raises the specter that the assessed property owner might, for some reason, refuse to provide that written authorization to a lessee who is responsible for the payment of taxes under the terms of the lease. However, we believe, as did counsel for respondent at oral argument, that submission of the lease itself would constitute "written authorization." We reiterate that we have no occasion here to consider the later, more specific, policy, and we decline in any event to engage in speculation over a situation that the instant case does not factually support.

We do not suggest, as the dissent implies we do, that a long-term lessee like petitioner has *no* interest in the property it leases. But, even if the terms of the lease obligate it to pay the taxes, that does not mean that petitioner has a "legally protected interest" under the GPTA. See *Lee*, *supra* at 739. Petitioner was not "a person whose property is assessed on the assessment roll" or the agent of that person. Rather, the assessment roll showed that another individual was responsible for the taxes. The lease might make petitioner the agent of the person whose property is assessed, but no evidence thereof was submitted to the board of review. Petitioner, as the party seeking the benefit of standing, had the burden of showing standing. *Nat'l Wildlife Federation v Cleveland Cliffs Iron Co*, 471 Mich 608, 630-631; 684 NW2d 800 (2004). For all of these reasons, we conclude that the Tax Tribunal did not err in dismissing petitioner's appeal on the basis that it lacked standing to challenge the 2003 tax assessment before the board of review.

Petitioner also argues that the Tax Tribunal erred in dismissing its additional claims for the 2004, 2005, and 2006 tax years. We disagree. Although MCL 205.737(4) permitted petitioner to join its claims for those tax years with its appeal involving the 2003 tax year, petitioner was still required to establishing its standing to challenge the tax assessments for those years before the board of review. Because petitioner failed to establish its standing to challenge the 2004, 2005, and 2006, tax assessments for the same reasons previously discussed relative to the 2003 tax year, those claims were also properly dismissed.

Finally, we find no merit to petitioner's argument that even if the Tax Tribunal did not err in denying its motion for summary disposition, it improperly granted judgment in favor of respondent under MCR 2.116(I)(2). The evidence demonstrates that there was no genuine issue of material fact that petitioner did not have its name placed on the assessment roll, obtain the property owner's written authorization to appear before the board of review on the owner's behalf, or even tender a copy of its lease to the board for the same purpose. Accordingly, the tribunal appropriately determined that petitioner lacked standing to protest the property tax assessments and, accordingly, that respondent was entitled to judgment as a matter of law.[3]

Affirmed.

Owens, P.J., concurred.

/s/ Alton T. Davis
/s/ Donald S. Owens

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[3] In its statement of questions presented in its brief on appeal, petitioner lists as Issue V that the Tax Tribunal's "second order constitutes fraud, error of law, the adoption of wrong principles, and/or relies on factual findings not supported by the record." Petitioner does not present any supporting argument for this issue in its brief. Therefore, the issue is abandoned. *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 422; 576 NW2d 667 (1998).