

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

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WINDEMERE PLACE ASSOCIATION,  
BRIGIDA BIANCO, NOELLA BANKE, ELAINE  
BLATT, CARL CROSKEY, LEONA CROSKEY,  
WILLIAM SCOLLARD, RALPH CROSS,  
ALFRED ENTENMAN, MAE ENTENMAN,  
HELEN J. GOFRANK, DONALD HILES,  
ROSEMARY HILES, DONALD HOWARD,  
SAMIRA HOWARD, NEEME JARVI, LILIA  
JARVI, LEO KISTNER, ANN KISTNER,  
LORING KNOBLAUCH, CAROL  
KNOBLAUCH, WILLIAM LOWERY,  
CYNTHIA LOWERY, ROBERT MAROWSKIE,  
CORLISS MAROWSKIE, CAROLYN MERMER,  
GEORGE MIKHAIL, ELIZABETH MIKHAIL,  
CURT NEUMAN, SUZANNE NEUMAN, KARL  
NORTHDURFT, ANNABELLE NORTHDURFT,  
RICHARD RUSSELL, PAULINE RUSSELL,  
THOMAS RUSSELL, RUTH RUSSELL,  
KUNIKO WASHIO, GEORGE SHORT, MARY  
ANN SHORT, MARGE SLEZAK, WILLIAM  
STEELE, MARY STEELE, ROBERT STIELER,  
JACQUELYN STIELER, ROBERT THORESON,  
HELEN THORESON, GINO TOZZI, DIANE  
TOZZI, EUGENE VYLETEL, CAROLYN  
VYLETEL, FRANK ZINN, and RUTH ZINN,

Plaintiffs-Appellants,

v

CITY OF GROSSE POINTE FARMS,

Defendant-Appellee.

UNPUBLISHED  
January 17, 2006

No. 255923  
Wayne Circuit Court  
LC No. 03-329716-CK

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Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Plaintiffs appeal as of right from a circuit court order granting defendant's motion for summary disposition on the grounds that the Tax Tribunal had exclusive subject-matter jurisdiction over plaintiffs' claims. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review de novo a trial court's decision on a summary disposition motion. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). Likewise, "[w]hether a trial court has subject-matter jurisdiction over a claim is a question of law that we review de novo." *Ryan v Ryan*, 260 Mich App 315, 331; 677 NW2d 899 (2004). "A court's subject-matter jurisdiction is determined only by reference to the allegations listed in the complaint. If it is apparent from the allegations that the matter alleged is within the class of cases with regard to which the court has the power to act, then subject-matter jurisdiction exists." *Neal v Oakwood Hosp Corp*, 226 Mich App 701, 707-708; 575 NW2d 68 (1997) (citations omitted). However, "[t]his Court is not bound by a party's choice of labels for his or her action because this would put form over substance." *Kostyu v Dep't of Treasury*, 170 Mich App 123, 130; 427 NW2d 566 (1988). Accordingly, if a court correctly finds that a plaintiff's claims fit squarely within the ambit of the Tax Tribunal's exclusive jurisdiction, the court should dismiss them. *Id.*

The Tax Tribunal has exclusive and original jurisdiction over 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 property tax laws.
- (b) A proceeding for refund or redetermination of a tax under the property tax laws. [MCL 205.731.]

Therefore, the circuit court's jurisdiction in taxation matters is limited. It may consider a constitutional challenge to a tax statute, *Eyde v Lansing Twp*, 420 Mich 287, 292; 363 NW2d 277 (1984), hear an equitable challenge to the improper disposition of a collected tax, *Romulus City Treasurer v Wayne Co Drain Comm'r*, 413 Mich 728, 746-747; 322 NW2d 152 (1982), or may grant equitable relief to enforce the Tax Tribunal's decisions, *Johnston v Livonia*, 177 Mich App 200, 204-205; 441 NW2d 41 (1989). Challenges to the validity of a tax assessment or the basis for and amount of taxes or assessments, however, are solely within the jurisdiction of the Tax Tribunal. *Highland-Howell Development Co, LLC v Marion Twp*, 469 Mich 673, 676 n 4; 677 NW2d 810 (2004). "The right to sue any agency for refund of any taxes other than by proceedings before the tribunal is abolished." MCL 205.774.

Plaintiffs have alleged common law breach of express and implied contract arising out of an agreement with the City which required plaintiff association to construct and maintain a separate sewer system. While the Tax Tribunal does not have jurisdiction over common law tort or contract claims, *Highland-Howell*, *supra* at 678, plaintiffs do not contend that the City breached the agreement, and they do not seek damages relating to the costs associated with the separate sewer system. Rather, plaintiffs seek to challenge the validity of a special tax assessment for a City sewer project as applied to their property. The only relief sought relates to the taxes paid and to be paid. Because plaintiffs seek only to recover assessments previously paid and to have the assessments against their property invalidated, their claims are within the

exclusive jurisdiction of the Tax Tribunal. MCL 205.731. Therefore, the trial court properly dismissed the complaint for lack of jurisdiction.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Michael R. Smolenski  
/s/ Michael J. Talbot