

STATE OF MICHIGAN  
COURT OF APPEALS

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MATTHEW CHOSID and KATHERINE  
CHOSID,

UNPUBLISHED  
May 31, 2011

Petitioners-Appellants,

v

CITY OF ANN ARBOR,

No. 292721  
Michigan Tax Tribunal  
LC No. 00-354227

Respondent-Appellee.

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Before: MARKEY, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Petitioners appeal as of right an order entered by the Michigan Tax Tribunal (MTT) wherein the MTT granted respondent's motion to dismiss and denied petitioners' motion to amend their petition challenging the 2008 taxable value assessment of their home. We affirm.

The taxable value of petitioners' home was assessed at \$134,900 for the 2008 tax year. Petitioners appealed the assessment to the Ann Arbor Board of Review, and filed a petition with the MTT wherein they claimed that the taxable value should have been assessed at \$117,243. While the petition was pending, the July Board of Review lowered the taxable value in accord with petitioners' request. Thereafter, respondent moved the MTT to dismiss the petition. Petitioners, however, moved to amend their petition to challenge the 2008 true cash value assessment of the property. The MTT granted respondent's motion to dismiss and denied petitioners' motion to amend their petition for lack of subject matter jurisdiction. On appeal, petitioners contend that the MTT erred when it denied their motion to amend.

We apply a multifaceted standard of review for Tax Tribunal cases; "[w]here fraud is not claimed, this Court reviews the tribunal's decision for misapplication of the law or adoption of a wrong principle." *Wexford Med Group v Cadillac*, 474 Mich 192, 201; 713 NW2d 734 (2006). We review a tribunal's decision to deny a party leave to amend a petition for an abuse of discretion. *Ford Motor Co v City of Woodhaven*, 475 Mich 425, 447; 716 NW2d 247 (2006). We review issues involving the MTT's jurisdiction de novo. *WA Foote Mem Hosp v Dep't of Pub Health*, 210 Mich App 516, 522; 534 NW2d 206 (1995).

Pursuant to MCL 205.731, the MTT has exclusive and original jurisdiction of disputes related to property tax assessments. In order to invoke the MTT's jurisdiction, a party in interest must first protest the assessment before the appropriate board of review. MCL 205.735(2). The

party must then file a written petition with the MTT on or before June 30 of the tax year involved. MCL 205.735(3). “An untimely filing under MCL 205.735(2) deprives the Tax Tribunal of jurisdiction to consider the petition other than to dismiss it.” *Leahy v Orion Twp*, 269 Mich App 527, 532; 711 NW2d 438 (2006). “Moreover, the Tax Tribunal is at liberty to raise and decide the question of its own jurisdiction on its own motion and at any time.” *Id.*

In this case, petitioners contend that the MTT had jurisdiction to hear their appeal of the true cash value assessment because they first timely protested the taxable value assessment with the July Board of Review. We disagree. A true cash value assessment and a taxable value assessment are two separate and unique assessments. As the MTT explained in its opinion, taxable value “is determined through the use of a statutory mathematical calculation,” whereas true cash value involves the consideration of market prices. See MCL 211.27a; MCL 211.27(1); *Huron Ridge, LP v Ypsilanti Twp*, 275 Mich App 23, 28; 737 NW2d 187 (2007). Petitioners were required to timely protest both the taxable value assessment and the true cash value assessment to the Board of Review in order to vest the MTT with jurisdiction to review the assessments. MCL 205.735(2); *Leahy*, 269 Mich App at 532. Even if the MTT had granted petitioners’ motion to amend their petition, it would not have vested the MTT with jurisdiction because the amendment would not have changed the fact that the Board of Review did not first consider the true cash value assessment. Therefore, the MTT did not err in denying petitioners’ motion to amend. See *Ford Motor Co*, 475 Mich at 447 (a motion to amend should not be granted where the amendment would be futile).

Next, petitioners contend that there was no evidence to support the MTT’s conclusion that they failed to appeal the true cash value assessment to the Board of Review. We will find the tribunal’s factual findings conclusive if they are supported by competent, material, and substantial evidence on the whole record. *Wexford Medical Group*, 474 Mich at 201. Here, petitioners submitted a “Taxable Value Only Petition” to the MTT wherein they asserted that the taxable value of their property was in contention, and the petition stated that they appealed the taxable value to the Board of Review. Petitioners never claimed that they appealed the true cash value assessment to the board. Therefore, the MTT’s finding was supported by competent, material, and substantial evidence. *Id.*

Next, petitioners raise procedural issues, including that it was an abuse of discretion and error of law to prohibit the amendment when the answer had been filed for only five days and no discovery or other deadlines or actions on the case had been taken. As discussed above, we concluded that the MTT did not err in denying the motion to amend and petitioners’ arguments to the contrary lack merit.

Affirmed. No costs are assessed in this case, a public question being involved. MCR 7.219.

/s/ Jane E. Markey  
/s/ Kurtis T. Wilder  
/s/ Cynthia Diane Stephens