STATE OF MICHIGAN

COURT OF APPEALS

IN RE PETITION OF WASHTENAW COUNTY TREASURER FOR FORECLOSURE.

WASHTENAW COUNTY TREASURER,

Petitioner-Appellee,

v

DAVID R. FISHER, JANICE H. FISHER, BART FISHER,

Respondents-Appellants.

UNPUBLISHED
January 30, 2014

No. 309090
Washtenaw Circuit Court
LC No. 11-000594-CZ

Before: SAWYER, P.J., and BECKERING and SHAPIRO, JJ.

PER CURIAM.

This case arises from a foreclosure pursuant to the General Property Tax Act (GPTA), MCL 211.1 *et seq*. Respondents, David Fisher, Janice Fisher, and Bart Fisher, appeal as of right from the judgment of foreclosure entered by the circuit court in favor of petitioner, Washtenaw County Treasurer ("the treasurer"). We affirm.

I. BASIC FACTS AND PROCEDURAL HISTORY

The property at issue is parcel no. 09-09-33-213-019 at 1006 Woodlawn Avenue in Ann Arbor. It is a rental property owned by Janice. David is Janice's husband, and Bart is their son.

In January 2010, the Michigan Tax Tribunal (MTT) issued a corrected final opinion and judgment regarding the property.[1] In its opinion and judgment, the MTT adjusted the property's true-cash and taxable values for tax years 2007-2009 from values previously determined by the

[1] The opinion and judgment also addressed a second parcel: parcel no. 09-09-33-213-020 at 1008 Woodlawn in Ann Arbor. This parcel is not at issue in this case because it is not included in the petition for foreclosure.

Board of Review. The MTT also ordered that "the officer charged with maintaining the assessment rolls for the tax year at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally provided in this Corrected Final Opinion and Judgment . . . ." The MTT further ordered that

> the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Corrected Final Opinion and Judgment within 28 days of the entry of this Corrected Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of taxes, fees, penalties, and interest being refunded.

The MTT's order also provided for various interest rates for sums either unlawfully paid or underpaid as determined by the MTT. Ultimately, the MTT's decision resulted in a tax reduction for the 2007 tax year and a tax increase for the 2008 tax year.

The treasurer filed a petition for foreclosure in the circuit court on June 2, 2011. The petition alleged that the property was forfeited to the treasurer on March 1, 2011, and not redeemed to the treasurer; thus, the property was subject to foreclosure for "unpaid delinquent taxes, interest, penalties, and fees . . . ." An attachment listed the tax due as $14,626.71, the interest and fees due as $5,712.22, and the total due as $20,338.93 for tax years "2009 2008." Respondents, proceeding *in propria persona*, answered the petition and filed various motions in the circuit court. Respondents contested the amount of taxes due and requested that the circuit court order the treasurer to perform an accounting, which respondents claimed the MTT's opinion and judgment of January 2010 required.

After a show cause hearing on February 1, 2012, the circuit court conducted a foreclosure hearing on February 17, 2012. After the parties made their arguments, the court opined as follows:

> I had spent some time looking at the . . . MTT opinion because I don't think that it . . . requires what Mr. Fisher is asserting. In other words, I don't believe that the order required, would require, an accounting or probably more properly in this case a refund with an oral explanation as a condition to taxes becoming delinquent.
>
> It's clear from the opinion that they were ordering what amounted to a refund. . . . I don't believe it's equitable to assess interest prior to the time that that refund was actually made by the . . . Treasurer. I believe the refund was actually made on November the fourth of 2009.
>
> So, I'm going to grant the petition . . . as to this parcel on the condition that the -- and before we leave here that the interest be recalculated based on what I've said.

Subsequently, the circuit court issued a judgment of foreclosure in favor of the treasurer against the property for payment of "all forfeited delinquent taxes, interest, penalties, and fees." An

attachment stated that the amount due as of February 17, 2012, for the 2008 and 2009 delinquent tax years was $19,570.22. The judgment provided that "[a] hearing on the Petition and any objections was held in accordance with MCL 211.78k" and that all interested parties were provided notice and an opportunity to be heard.

II. ANALYSIS

At the outset, we conclude that respondents have abandoned, in one way or another, every claim of error that they raise on appeal. Although respondents represent themselves in this matter, "[a]ppearance in pro per does not excuse all application of court rules . . . ." *Bachor v Detroit*, 49 Mich App 507, 512; 212 NW2d 302 (1973). An appellant must properly brief an issue raised in the statement of questions presented with argument and citation to authority. *Yee v Shiawassee Co Bd of Comm'rs*, 251 Mich App 379, 403; 651 NW2d 756 (2002). A party may not simply announce a position, give an issue cursory treatment without citation to supporting legal authority, and leave it to this Court to rationalize the claim. *In re Application of Indiana Michigan Power Co*, 275 Mich App 369, 376; 738 NW2d 289 (2007). Furthermore, an issue is abandoned if it is not raised in the statement of the questions presented. *Ypsilanti Fire Marshal v Kircher*, 273 Mich App 496, 543; 730 NW2d 481 (2007). And an issue is not properly raised for appeal if it is first raised in a reply brief. *Blazer Foods, Inc v Restaurant Props, Inc*, 259 Mich App 241, 252; 673 NW2d 805 (2003).

In this case, respondents raise the following allegations in their questions presented: (1) the treasurer ignored the MTT's final order and judgment by refusing to provide an accounting of the MTT's redetermined taxes; (2) the circuit court erred by allowing the treasurer to proceed to foreclosure without providing an accounting of the MTT's redetermined taxes; (3) the treasurer refused to refund overpaid taxes as ordered by the MTT; (4) the treasurer caused "an artificial date of delinquency" by refusing to refund or account for overpaid taxes as ordered by the MTT; (5) the treasurer changed the interest rate from 3.31% per annum to 18% per annum by refusing to refund or account for overpaid taxes ordered by the MTT; and (6) the treasurer improperly assumed "the role of the Charged Officer ("the City of Ann Arbor")" and proceeded to foreclose. However, in the two-paragraph argument section of their brief, respondents essentially make two arguments: (1) the treasurer "failed and refused to comply with the [MTT's] decision and prepare and provide an accounting as ordered by the Tax Tribunal" and (2) respondents were denied due process.

The issues raised in respondents' questions presented regarding refusing to refund overpaid taxes ordered by the MTT, an artificial date of delinquency, the interest rate, and assuming the role of the "Charged Officer" have been abandoned because respondents have not appropriately briefed the issues on appeal. See *Yee*, 251 Mich App at 403. With respect to the alleged failure to provide an accounting of the MTT's redetermined taxes, the issue is abandoned because respondents' argument affords the issue cursory treatment without citation to authority. See *In re Application of Indiana Michigan Power Co*, 275 Mich App at 376. Regarding

respondents' unpreserved[2] due-process claim, the issue is abandoned because it is not raised in respondents' statement of the questions presented. See *Kircher*, 273 Mich App at 543. Moreover, although respondents cite to one case for their due-process argument, they give the issue cursory treatment. See *In re Application of Indiana Michigan Power Co*, 275 Mich App at 376. Finally, respondents' reply brief appears to allege a violation of the Freedom of Information Act (FOIA), MCL 15.231, claiming that the treasurer ignored over 20 of respondents' FOIA requests. This issue is abandoned and not properly before this Court for a variety of reasons: it is not raised in respondents' questions presented, it is raised for the first time in respondents' reply brief, it is afforded cursory treatment, and respondents do not explain the nature of the FOIA requests and their relevancy to this case. See *id.*; *Kircher*, 273 Mich App at 543; *Blazer Foods*, 259 Mich App at 252.

Notwithstanding the abandonment of these issues, we have reviewed respondents' central claims on appeal and conclude that they lack merit.

Any remedies available for a violation of the GPTA are contingent on whether respondents were afforded due process. *Sidun v Wayne Co Treasurer*, 481 Mich 503, 510 & n 4; 751 NW2d 453 (2008); see also MCL 211.78(2); MCL 211.78i(10). "[D]ue process requires the government to provide 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." *In re Treasurer of Wayne Co for Foreclosure*, 478 Mich 1, 9; 732 NW2d 458 (2007) (quotation omitted). Our Supreme Court has opined that "the [GPTA] requires notices that are consistent with minimum due process standards." *Id.* at 8.

A review of the record establishes that respondents were afforded due process. Specifically, the treasurer filed the petition for foreclosure on June 2, 2011, for the property forfeited to the treasurer on March 1, 2011, and not redeemed to the treasurer. See, generally, MCL 211.78h(1). A personal visit was made on October 6, 2011, in accordance with the GPTA. See, generally, MCL 211.78i(3). "A copy of the Show Cause Hearing, the Information Sheet, and the FIA sheet were place[d] in a conspicuous manner on the property and a photograph of the property was taken." See, generally, *id.* Additionally, notice of the show cause and foreclosure hearings was afforded to Janice through certified mail and publication, consistent with the notice requirements of the GPTA. See, generally, MCL 211.78i(2), (5), (7), (8). The show cause hearing was held on February 1, 2012, which Bart attended on Janice's behalf. See, generally, MCL 211.78j(1)-(2). The foreclosure hearing was held on February 17, 2012; respondents attended the hearing and presented arguments. See, generally, MCL 211.78h(5); MCL 211.78k(2). Furthermore, respondents submitted written objections as permitted by MCL 211.78k(3) and filed various motions with the circuit court. Accordingly, respondents were clearly afforded sufficient notice and an opportunity to be heard to satisfy due-process standards. See, generally, *In re Treasurer of Wayne Co for Foreclosure*, 478 Mich at 9.

[2] "Generally, an issue is not properly preserved if it is not raised before, addressed, or decided by the circuit court . . . ." *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005).

We reject respondents' argument that MTT's final opinion and judgment of January 2010 required the treasurer to provide them an accounting before foreclosing in this case. The opinion and judgment did not require this. Indeed, the opinion and judgment does not even mention an accounting. Nevertheless, when the treasurer filed the "tax history" for the property in the circuit court, the tax history included the MTT's recalculated taxable values for the 2008 and 2009. Moreover, even assuming that the MTT's judgment requires an accounting if a refund is warranted, this case does not involve a refund but, rather, tax delinquencies for the property for both the 2008 and 2009 tax years.[3] Respondents' own calculations submitted to the circuit court reflect that the tax obligation for the property was not fulfilled for the 2008 and 2009 tax years.

Finally, we reject any contention that the treasurer was not the appropriate governmental unit to collect delinquent taxes and foreclose on the property. Generally, the GPTA provides that "the township treasurer or other collector shall proceed to collect the taxes." MCL 211.44(1). However, this section also explains that delinquent taxes are returned to the county treasurer for collection. *Id.* Further, the GPTA provides that property that is delinquent for taxes is forfeited to the county treasurer, MCL 211.78g, and that the "treasurer of a county" is a "foreclosing governmental unit" for "purposes of the collection of taxes returned as delinquent," MCL 211.78(7).

Affirmed.

/s/ David H. Sawyer
/s/ Jane M. Beckering
/s/ Douglas B. Shapiro

[3] The record illustrates that respondents were provided two refunds: (1) $632.04 for the subject property for the 2007 tax year and, according to respondents, (2) $1,791.15 for parcel no. 09-09-33-213-020 at 1008 Woodlawn. However, an accounting would not be necessary in this case even if the two refunds required the treasurer to perform an accounting. The petition for foreclosure in this case concerns parcel no. 09-09-33-213-019 at 1006 Woodlawn Avenue and deficiencies for the 2008 and 2009 tax years. Neither the 2007 tax year nor the parcel at 1008 Woodlawn is at issue in this case.