STATE OF MINNESOTA

IN SUPREME COURT

A19-0886

Tax Court

Avis Budget Car Rental LLC,

Relator,

vs.

County of Hennepin,

Respondent.

Lillehaug, J.
Concurring in part, dissenting in part, Chutich, Anderson, Thissen, JJ.

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Office of Appellate Courts

Gary A. Van Cleve, Timothy A. Rye, Larkin Hoffman Daly & Lindgren Ltd., Minneapolis, Minnesota, for relator.

Michael O. Freeman, Hennepin County Attorney, Sara L. Bruggeman, Assistant County Attorney, Minneapolis, Minnesota, for respondent.

S Y L L A B U S

1. Concession fees paid for the use of airport property are subject to the mandatory-disclosure requirements of Minn. Stat. § 278.05, subd. 6 (2018).

2. Minnesota Statutes § 278.05, subd. 6(a), requires that the mandatory disclosures be made by the petitioner, not by a third party.

Affirmed.

O P I N I O N

LILLEHAUG, Justice.

In this appeal from the Minnesota Tax Court, we consider whether the tax court erred in dismissing Avis Budget Car Rental's property tax petition for failure to disclose certain concession fee information as required by Minn. Stat. § 278.05, subd. 6 (2018). We conclude that it did not, and thus affirm.

FACTS

The facts of this case are largely undisputed.[1] Avis Budget Car Rental LLC (Avis) leases space within the Minneapolis-Saint Paul International Airport, which is owned and operated by the Metropolitan Airports Commission (MAC). The economic arrangements between MAC and Avis are governed by what the parties titled a "General Terms and Conditions Lease Agreement" (Lease Agreement) and by Supplemental Lease Agreements.[2] Pursuant to the Lease Agreement, and for each contract year, the companies make payments to MAC as either "concession fees" or as a "minimum annual guarantee," whichever is greater. The concession fee equals 10 percent of the car-rental companies' gross revenues from business authorized by the Lease Agreement. The minimum annual

[1] We consolidated this case for purposes of oral argument with the separate appeal filed by another car-rental property tax petitioner, Enterprise Leasing Co. of Minnesota. Our opinion in that appeal, which reaches the same conclusions based on largely the same facts, is filed today as well, *see Enterprise Leasing Co. of Minn. v. Cty. of Hennepin*, No. A19-0889, ___ N.W.2d __ (Minn. Jan. 15, 2020).

[2] Avis is subject to two Supplemental Lease Agreements specific to Terminal 1 and Terminal 2, respectively.

guarantee is the greater of 85 percent of the previous year's concession fee or the first-year bid amount, which was $4,624,512 for Avis. Pursuant to the Supplemental Lease Agreements, Avis pays rent for the use of identified space on the leased property.

MAC itself is exempt from property taxation under Minn. Stat. § 360.035 (2018). But lessees of property at the Airport are assessed property tax "in the same amount and to the same extent as though the lessee or user was the owner of such property." Minn. Stat. § 272.01, subd. 2(a) (2018); *see also Nw. Airlines, Inc. v. Cty. of Hennepin*, 632 N.W.2d 216, 220–21 (Minn. 2001) (concluding that tax provisions "shift the real property tax liability to relator as a personal property tax in an amount MAC would have had to pay had MAC not been an exempt property owner"). In other words, the lessee—Avis—steps into the owner's—MAC's—shoes for tax purposes.

Hennepin County assessed the value of Avis's property as of January 2, 2016, for taxes payable in 2017. Avis filed a petition challenging that valuation. Because the property is income-producing, Avis is subject to the property tax mandatory-disclosure provision, Minn. Stat. § 278.05, subd. 6, which requires that petitioners disclose certain income information by August 1 of the taxes-payable year.

Hennepin County provided Avis with a compliance checklist, which Avis returned along with its disclosure. Avis represented in its disclosure that it had a lease agreement by which it was paying base rent of $30.46 per square foot on 459,453 square feet. In a Lease Abstract Report attached to a later affidavit, Avis represented that the $30.46 base

rent number had been calculated as the sum of three numbers: "Mag 1" (minimum annual guarantee); "Overflow Parking"; and "Rent Exp Facilities."[3]

Thus, Avis disclosed base rent calculations that were based, in part, on the minimum annual guarantee. It did not disclose that, pursuant to the Lease Agreement, the fee it was obliged to pay was the higher of the concession fee—a percentage of gross revenue—and the minimum annual guarantee. And it did not disclose whether the actual payments to MAC were based on the fee or the guarantee.

Independent of the petition process, Hennepin County received information from MAC regarding the sales revenue, percentage rent, minimum annual guarantees, and overall rent paid for 2014 and 2015 for MAC's car-rental lessees, including Avis. MAC provided this information as part of an informal disclosure that it makes to Hennepin County on an annual basis. In other words, MAC disclosed information that Avis did not. Avis acknowledges that it did not know about MAC's disclosure when it submitted its own disclosures.

Hennepin County moved to dismiss Avis's petition for failure to comply with the mandatory-disclosure requirements of section 278.05, subdivision 6(a). The tax court found that the concession fees were rent, and were therefore subject to mandatory disclosure. It also found that Avis, not MAC, was required to make the disclosure under subdivision 6(a), which it had not done. Based on these findings, the tax court concluded

[3] In the same affidavit, Avis represented that its disclosure had incorporated an incorrect amount for "Rent Exp Facilities." Avis had attributed $777,368 to "Rent Exp Facilities," but that was a typographical error, with one too many "7"s. The correct number was $77,368.

that Avis had failed to comply with the mandatory-disclosure requirements and that dismissal was required. This appeal followed.

ANALYSIS

"A review of any final order . . . may be had on the ground that the Tax Court was without jurisdiction, that the order of the Tax Court was not justified by the evidence or was not in conformity with law, or that the Tax Court committed any other error of law." Minn. Stat. § 271.10, subd. 1 (2018). The tax court's application of law is reviewed de novo, *Langer v. Comm'r of Revenue*, 773 N.W.2d 77, 80 (Minn. 2009), and the tax court's factual findings are reviewed for clear error, *Antonello v. Comm'r of Revenue*, 884 N.W.2d 640, 647 (Minn. 2016).

Avis contends that the tax court erred in dismissing its petition for two reasons. First, it asserts that disclosure of the concession fee information was not required by the mandatory-disclosure provision. Second, it argues that, even if disclosure of the concession fee was mandatory, the information furnished by MAC to Hennepin County satisfied that requirement. We discuss each issue in turn.

I.

The Legislature's charge to property assessors is "to consider and give due weight to every element and factor affecting the market value [of properties]." Minn. Stat. § 273.12 (2018). To aid the assessors, Minnesota law requires that tax petitioners contesting the valuation of income-producing properties disclose six categories of information, as itemized in Minn. Stat. § 278.05, subd. 6. Failure to comply with the disclosure requirements "shall result in the dismissal of the petition." Minn. Stat. § 278.05,

subd. 6(b). Relevant here, subdivision 6 requires disclosure of year-end financial statements, rent rolls and identification of lease agreements (including base rent and square footage leased), and anticipated income and expenses relative to the property. *Id.*

Avis argues that the information-disclosure requirements in subdivision 6 did not require that it disclose concession fees paid under the Lease Agreement. The company's theory is that such fees are not income attributable to the property. The fees are paid, Avis contends, not as rent for property, but solely for the right to conduct business at the Airport. That is why they are denominated as "concession fees," while payments made on a square foot basis (detailed in the Supplemental Lease Agreements) are called "rent."[4]

How a payment may be labeled is not irrelevant, but it is not dispositive. As we said recently, the question under the mandatory-disclosure rule is whether the property "generates income." *See Wal-Mart Real Estate Bus. Tr. v. Cty. of Anoka*, 931 N.W.2d 382, 388 (Minn. 2019). Thus, for example, in *Wal-Mart*, we decided that properties were generating disclosable income through what the property owner considered to be nationwide "licensing" agreements for "vestibule" businesses. *Id.*

Here, viewing the agreements between Avis and MAC in their entirety, these concession fees do not escape the mandatory-disclosure provision's sweep. The fees were rent or, at least, income that needed to be disclosed under the statute, whether in the

[4] Although Avis disclosed the minimum annual guarantee as part of base rent, at least indirectly, and although Avis must pay the greater of the concession fee or the guarantee, the company contends that the fee is not rent. Arguably, this contention is inconsistent with the company's own disclosure. But the analysis that follows is without regard to any such inconsistency.

required financial statements, as rent information, or as anticipated income. *See* Minn. Stat. § 278.05, subd. 6(a). This is so for two reasons.

First, the relevant agreements between MAC and Avis show that amounts paid as concession fees or as the minimum annual guarantee are income attributable to the property. The very name of the document that establishes the concession fee and the minimum annual guarantee shows the connection; it is entitled "General Terms and Conditions Lease Agreement." The title signifies that the entire arrangement is inextricably tied to the use of MAC's property.

The concession fee and the minimum annual guarantee are part of the consideration for the Lease Agreement, found in section 5, captioned "Rent and Fees." The section first directs the reader to the Supplemental Lease Agreements "for additional rights and obligations" (again, demonstrating the Lease Agreement's connection to the property), and then describes the concession fee as "[i]n addition to all other payments due under this Agreement." Tellingly, the concession fee payments "are for Concessionaire's *use of the facilities and access to the Airport market*." (Emphasis added). This reference to use and access demonstrates the indispensable and indivisible relationship between the fee (and the guarantee) and the Airport property.

Finally, the Lease Agreement is riddled with provisions governing Avis's use of the Airport property, including maintenance of the leased premises, prohibited use of the leased premises, environmental responsibility, and what happens when the premises are damaged or destroyed. The close connection between the Airport property and the Airport concession is driven home by the lessee's assumed obligation to "pay all taxes . . . that may

be levied or assessed . . . upon or against the Leased Premises . . . or on account of the business transacted on or from the Leased Premises."

Plainly, looking at the relevant agreements, the concession fees and minimum annual guarantees paid to MAC under the Lease Agreement are income attributable to the property.

Second, Avis's focus on the alleged lack of direct connection between the concession fees and the leased property ignores that property taxes in this state are imposed based on use, not possessory interest. Under Minn. Stat. § 272.01, subd. 2(a), Avis is taxed "for the privilege of so *using or possessing* such real or personal property, in the same amount and to the same extent as though the *lessee or user* was the owner of such property." (Emphasis added). Property taxable under section 272.01, subdivision 2 "shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value." Minn. Stat. § 273.11, subd. 1 (2018).

Under the Lease Agreement, the concession fees are explicitly paid for "*[u]se of the facilities* and access to the Airport market." (Emphasis added). That the fees are not calculated per square foot like the other rent amounts is legally irrelevant. The use of the facilities is also not, as Avis contends, unrelated to the leased airport property. To the contrary, under the Lease Agreement, the "gross revenue" on which the concession fee is based is "related to Concessionaire's rental auto business as authorized by this Agreement, any activities related directly to that business, and any other business of Concessionaire in the Rental Auto Areas or elsewhere at the Airport." Gross revenue generated off-property,

such as "[p]roceeds from the sale of vehicles that do not occur on MAC owned property," is excluded.

We therefore hold that, in the circumstances of this case, the concession fees were rent—or at least income—subject to the mandatory-disclosure provision. All such income was not disclosed by Avis by the deadline.

II.

Because we conclude that the existence and payment of concession fees must have been disclosed by August 1, 2017, to avoid dismissal, and Avis did not do so, we must now address whether the information was nevertheless disclosed for purposes of Minn. Stat. § 278.05, subd. 6(a), by MAC's informal disclosure to Hennepin County.[5] Whether a non-petitioner's disclosure can satisfy the mandatory-disclosure provision is a statutory interpretation question of first impression. "The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2018). If the intent is clear, we apply the statute according to its plain meaning. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).

The mandatory-disclosure provision provides in relevant part: "In cases where the *petitioner* contests the valuation of income-producing property, the following information *must be provided to the county assessor* no later than August 1 of the taxes payable year . . . ." Minn. Stat. § 278.05, subd. 6(a) (emphasis added). Avis argues that, because the sentence uses the passive voice, thus lacking an explicit reference to disclosure by the

[5] The County represented at oral argument that it receives this information from MAC annually, and did so for the tax year in question.

petitioner, the disclosure requirement is satisfied when the county assessor receives the information from someone else.

We do not read the statute so myopically. Instead, we read the statute, as we must, "in the context of surrounding sections." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 278 (2000). Here, read in context, it is clear that the petitioner is the one required to make the disclosure. Subdivision 6 in its entirety is about the relationship between the petitioner and the county assessor. Subdivision 6(a) is predicated on action by a petitioner; it is triggered only when such "petitioner contests the valuation of [] property." It follows that the second clause of subdivision 6(a) imposes the disclosure requirement on the petitioner referenced in the first clause.[6]

That the disclosure obligation is the petitioner's is emphasized in the immediately succeeding paragraphs, 6(b), 6(c), and 6(d). In subdivision 6(b), the Legislature commands that failure to provide subdivision 6(a)'s required information results in a petition's dismissal, unless the petitioner qualifies for one of two safe harbors: unavailability of information or that "*the petitioner* was not aware of or informed of the requirement to provide the information." (Emphasis added). In the latter case, "*the petitioner* has an additional 30 days to provide the information . . . otherwise the petition shall be dismissed." (Emphasis added).

[6] By this reading, we do not add any words to the statute. We interpret a single sentence that expressly identifies two parties: the petitioner and the county assessor. The first clause makes clear who must perform the duty required by the second clause.

Subdivision 6(c), too, makes clear who has the disclosure obligation: the petitioner. If a county assessor determines that leases are necessary for evaluation of a petition, the "assessor may require that *the petitioner* submit the leases" and "*[t]he petitioner* must provide the requested information . . . within 60 days." (Emphasis added).

The theme in subdivision 6, that it is the petitioner—not some third party—that is obliged to provide information to the assessor, is reemphasized in subdivision 6(d). The petitioner is entitled to the assessor's appraisal five days before the hearing, but only "[p]rovided that the information as contained in paragraph (a) is timely submitted to the county assessor." The petitioner is obligated, without condition, to timely furnish its appraisal to the auditor upon pain of dismissal.

Reading the statute as a whole, it is clear and unambiguous; the mandatory disclosures must be made by the petitioner.[7] Nowhere in the statute does the Legislature demonstrate an intent to allow a petitioner's obligation to be fulfilled (intentionally or inadvertently) by a third party.

The dissent considers dismissal to be too harsh a result, but it is the result required by the Legislature. Section 278.05, subdivision 6, contains clear, fixed deadlines for detailed disclosures by both petitioners and county assessors. *See Irongate Enters., Inc. v. Cty. of St. Louis*, 736 N.W.2d 326, 331 (Minn. 2007) (noting that the mandatory dismissal

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[7] This would include, of course, the petitioner's authorized representative. In this case, the disclosures were made by Avis's law firm. Avis does not contend that MAC was its authorized representative, and there is nothing in subdivision 6 of section 278.05, section 272.01, subdivision 2(a), or otherwise, that would signal an intent by the Legislature to make MAC an agent for the lessees and users of its property.

"remedy was enacted by the legislature, and any disagreement with the policy underlying that decision or the rule should be directed to the legislature"). And, in this case, the statute's remedy works no obvious injustice. Avis—a sophisticated corporation represented by experienced Minnesota tax counsel—chose not to disclose certain information required by law. The after-the-fact discovery that the assessor received some of that information from someone else does not excuse the choices made.

Therefore, because the mandatory disclosures must be made by the tax petitioner, and Avis did not make them, the tax court properly dismissed the petition under Minn. Stat. § 278.05, subd. 6.

CONCLUSION

For the foregoing reasons, we affirm the decision of the tax court.

Affirmed.

C O N C U R R E N C E & D I S S E N T

CHUTICH, Justice (concurring in part, dissenting in part).

I agree with the majority that the concession fees paid by Avis to the Metropolitan Airports Commission (the Commission) are subject to the mandatory-disclosure requirements of Minnesota Statues section 278.05, subdivision 6 (2018).

But because I believe a non-petitioner's disclosure—here, the Commission's—can satisfy the mandatory-disclosure provision of Minnesota Statutes section 278.05, subdivision 6, I respectfully dissent from the court's conclusion that the tax court properly dismissed the petitions of the car-rental agencies.

"When the words of a law in their application to an existing situation are clear and free from all ambiguity," Minn. Stat. § 645.16 (2018), our "role is to enforce the language of the statute and not explore the spirit or purpose of the law." *Christianson v. Henke*, 831 N.W.2d 532, 537 (Minn. 2013) (citation omitted) (internal quotations omitted). The threshold determination is "whether the statute's language, on its face, is ambiguous." *Id.* at 536. To determine whether a phrase is ambiguous, we consider whether it can be "subject to more than one reasonable interpretation." *Id.* at 537. In doing so, we construe the law to "give effect to all its provisions." Minn. Stat. § 645.16; *Allan v. R.D. Offut Co.*, 869 N.W.2d 31, 33 (Minn. 2015).

We presume that the "legislature intends the entire statute to be effective and certain," Minn. Stat. § 645.17(2) (2018), and when a statute is susceptible to more than one reasonable interpretation, we look "beyond the text to determine legislative intent." *Marks*

v. Comm'r of Revenue, 875 N.W.2d 321, 326 (Minn. 2016). "When the words of a law are not explicit," the factors and presumptions contained in Minnesota Statutes section 645.16 guide our interpretation of the law. Minn. Stat. § 645.16.

The majority concludes that the statute is clear and unambiguous. I disagree because more than one reasonable interpretation of the relevant statutory language exists.

The language of Minnesota Statutes section 278.05, subdivision 6(a), provides, "[i]n cases where the petitioner contests the valuation of income-producing property, the following information must be provided to the county assessor . . . ." One reasonable interpretation of this language is that adopted by the majority: the reference to "the petitioner" in the first clause can be read into the disclosure requirement imposed by the second clause. That is, as the majority explains, because "the petitioner" contests the valuation of the property, then the petitioner must disclose "the [] information" required by subdivision 6(a). The majority relies on specific references to "the petitioner," in paragraphs (b), (c), and (d) of subdivision 6, which specifically refer to that party's obligations, to conclude that the entirety of subdivision 6 supports an interpretation that imposes only on the petitioner the burden to provide the required information to the county assessor.

But the Legislature did not state in paragraph (a) that when a petitioner contests the valuation of income-producing property, the "information must be provided *by the petitioner* to the county assessor."[1] The majority's interpretation therefore requires reading

[1] Similarly, paragraphs (b)-(c) do not state that the disclosures required by paragraph (a) can only be made by the petitioner. Rather, these paragraphs identify remedies available

"the petitioner" into this clause. And, the majority's interpretation further restricts this phrase to "only the petitioner"—that is, the majority not only reads "the petitioner" into the second clause, it also assumes that the Legislature, without stating so in plain and unambiguous terms, intended to impose the disclosure obligation on the petitioner alone.

I believe that another reasonable interpretation exists. Plainly, and read literally, the statute does not state that the petitioner—and only the petitioner—must provide "the [] information." It simply acknowledges the *context* in which the disclosure requirement comes up: when a petitioner contests the valuation of income-producing property. Minn. Stat. § 278.05, subd. 6(a). In fact, the Legislature never explicitly uses the phrase "the petitioner" to identify who must provide the information required in paragraph (a), instead referring only passively to "the information" that must be provided. Neither did the Legislature state that information submitted by another party *cannot* be relied on to fulfill the disclosure requirement.

Consequently, another reasonable interpretation of paragraph (a) is that certain information must be disclosed, by someone, when a petitioner challenges the tax assessment. Under this reasonable interpretation, paragraphs (b) and (c) impose an obligation on the petitioner to respond accordingly when the County determines that the available information disclosed to date does not allow it to make useful determinations about the value of the property. Accordingly, the language of paragraph (a) is ambiguous.

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in the event that the disclosures required by paragraph (a)—identified once again without reference to an entity but as a passive reference to the event (the disclosure)—are not satisfied.

To resolve that ambiguity, we look "beyond the text to determine legislative intent," by considering the purpose of the law. *Marks*, 875 N.W.2d at 326. We can also consider the factors and presumptions in Minnesota Statutes sections 645.16–.17, which include the "occasion and necessity for the law," "the object to be attained," and "the consequences of a particular interpretation." Minn. Stat. § 645.16(1), (4), (6). For several reasons, the more reasonable interpretation that reconciles these considerations consistent with legislative intent is the following interpretation.

First, we have said that section 278.05 provides an "adequate, speedy, and simple remedy" for a taxpayer, while the disclosure requirement provides the taxing authority with "information that would be useful to the determination of value." *Kmart Corp. v. Cty. of Becker*, 639 N.W.2d 856, 859–60 (Minn. 2002). Reading section 278.05 to allow only the petitioner to disclose information to the County, as the majority does, turns a relatively straightforward discovery tool—even one that has a harsh dismissal penalty—into a weapon to be wielded only by the County, as and when it determines that it is ready to seek dismissal.[2]

To be sure, we have required "strict adherence" to the mandated disclosure, because we recognize that tax policy is the responsibility of the Legislature. *Wal-Mart Real Estate Bus. Tr. v. Cty. of Anoka*, 931 N.W.2d 382, 388–89 (Minn. 2019). But a difference exists

[2] Here, despite receiving information from the Commission as it does every year, despite Avis's timely disclosure of rental information, and despite Avis's request for the County to let it know "immediately of any deficiency" so that Avis could "amend [its] submittal, if necessary," the County did not move to dismiss until after it told the Tax Court that it did not intend to bring dispositive motions and that it intended to rely solely on its original valuation.

between strictly adhering to the required disclosure, and strictly adhering to form without consideration of legislative intent. The majority's reading of paragraph (a) elevates the County's interest in obtaining information useful for a value determination to be the only relevant criterion; the legislative interest in providing taxpayers with a speedy and simple remedy is apparently an afterthought, if thought of at all. Reading the statute to require timely disclosure of the information—rather than as a disclosure obligation borne only by the petitioner—better reflects legislative intent.

The Legislature was certainly aware that situations exist in which the tax petitioner stands in for some other party; in precisely this situation, the Legislature has treated the Commission and its lessees as one and the same. *See* Minn. Stat. § 272.01, subd. 2(a) (2018) (stating that property leased to a "business conducted for profit" is taxed "in the same amount and to the same extent as though the lessee or user was the owner" of the property). The majority's narrow reading, focusing only on *who* disclosed the information rather than *whether* the information was disclosed, allows the County to take a dismissal sledgehammer to the taxpayer's remedy. *Cf. Irongate Enters., Inc. v. Cty. of St. Louis*, 736 N.W.2d 326, 333–34 (Minn. 2007) (Anderson, Paul, J., dissenting) (expressing concern with an interpretation of section 278.05 that "turns ordinary discovery disputes into nearly sure-fire grounds for counties to obtain summary dismissal" of property tax petitions). Reading the Legislature's passive language in subdivision 6(a), to allow disclosure by parties other than the petitioner is not myopic; it is a more reasonable accommodation of the business relationships that may require consideration of tax liability in light of relevant information held in multiple hands.

Second, the majority's interpretation depends on reading words into the statute, which we do not have the authority to do. *See Marks*, 875 N.W.2d at 326 (rejecting an interpretation that depended on adding words to the statute, stating that "we do not have the authority to fill in those words"). Even if the Legislature's passive phrasing can be read to accommodate "the petitioner," nothing in the plain and unambiguous language of section 278.05 suggests that the Legislature authorized automatic dismissal without consideration of the merits simply because someone other than the petitioner disclosed the information to the County. To the contrary, the more reasonable conclusion is that the Legislature's passive framing was intended to be a reference to *what* had to be disclosed, rather than *who* had to disclose the information. *See, e.g.*, *Dean v. United States*, 556 U.S. 568, 572–73 (2009) (explaining that the use of a passive voice can signal "agnosticism" about who does the action because the passive form "focuses on an event that occurs without respect to a specific actor").

Third, even if the petitioner must disclose the information, the majority's interpretation goes too far in this case. The majority assumes that the Legislature's passive phrasing, which does not mention "the petitioner," imposes an all-or-nothing disclosure obligation on only one entity: either the petitioner and the petitioner alone discloses everything that the County deems useful to determining value, or the petitioner loses the right to challenge the government's tax assessment, regardless of whether the County has the information useful to determining value. I acknowledge that the petitioner that challenges a tax assessment for income-producing property is most likely in the best position to comply with the statute and has the strongest incentive to do so. *See Kmart*

Corp. v. Cty. of Becker, 639 N.W.2d 856, 862 (Minn. 2002) (Page, J., dissenting) (noting that the consequences of failing to comply with the statute "greatly diminish the possibility of intentional underreporting"). But unlike our decisions in other mandatory-disclosure cases, in which the taxpayer had the information but disputed its relevance and objected to disclosing it,[3] this case involves a quasi-governmental agency established by statute, Minn. Stat. § 473.603 (2018). The Commission, like the private entities in our other cases, is subject to the tax laws of this state, *see* Minn. Stat. § 272.01, subd. 2 (2018), but its tax liability has been shifted to its lessees, who pay the taxes as if they were the Commission. *See Nw. Airlines, Inc. v. Cty. of Hennepin*, 632 N.W.2d 216, 221 (Minn. 2001) ("In essence, . . . subdivision 2 shift[s] the real property tax liability to relator as a personal property tax in an amount [the Commission] would have had to pay had [the Commission] not been an exempt property owner.").

Avis therefore stands in the Commission's shoes as a taxpayer. Yet even though the Commission has regularly disclosed financial information to the County, the County contends that Avis *cannot* stand in the Commission's shoes for this disclosure requirement. Note that the County based its motion to dismiss on, primarily, a challenge to form: Avis's failure to disclose rent information with a "breakout of the amount of rent paid" to the Commission by "the Minimum Annual Guarantee, Percentage Rent, and Square Footage Rent," which were the "broad categories" in which the Commission provided rent

[3] *See, e.g.*, *78th Street OwnerCo, LLC v. Cty. of Hennepin*, 813 N.W.2d 409, 414–15 (Minn. 2012) (rejecting the taxpayer's argument that it need not disclose information that the taxpayer considers irrelevant).

information to the County. In other words, Avis disclosed rent information to the County, just not broken down into the categories that the County received in its annual disclosure from the Commission.[4]

Yet even with Avis's disclosure, the County apparently had the information that was useful to a value determination because the County told the Tax Court that it did "not intend to prepare a de novo appraisal," but would "defend its original valuation" of the property. Indeed, the County told the tax court that it had "sufficient information to determine the rents that are paid." The County acknowledged that Avis might "argue that the minimum annual guarantee and percentage rent should not be considered rental income," but that issue would "likely be resolved via contract interpretation instead of expert valuation." In short, "the primary issue in [the] case" was, according to the County, likely one "of contract interpretation" and the County did not intend "to introduce a new value" for the property at trial.[5]

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[4] Avis's disclosure also overstated actual rents paid, a mistake that Avis corrected as soon as the County called it to the company's attention in the motion to dismiss.

[5] At oral argument, the County asserted that it must be able to rely on the information produced by a tax petitioner because the "purpose of the information [disclosed] is to be used in valuation of property." Subdivision 6(a) does not impose a reliability standard on the tax petitioner's disclosure; rather, the Legislature has given the County additional tools by which it can request further disclosures from the petitioner or be relieved of its own disclosure obligation if the petitioner's disclosure is incomplete. *See* Minn. Stat. § 278.05, subd. 6(b)-(d). Of course, a petitioner providing incomplete or unreliable information would run a risk of dismissal, and an even greater risk of harsher penalties not imposed by this statute. In this case, however, the County told the Tax Court, even after it had moved to dismiss Avis's petition, that it did not need additional information because it did not intend to do a new valuation for the property.

The majority's interpretation elevates form over substance and allows the County to turn a blind eye to the information it already has in its possession in pursuit of a dismissal on a technicality. Surely this result cannot be the Legislature's intent: to sanction government gamesmanship.[6] In my view, an interpretation of the statute that recognizes what must be disclosed, rather than who must make the disclosure, better aligns with legislative intent because it considers the "occasion and necessity for the law," and "the object to be attained" by the statute. Minn. Stat. § 645.16.

This interpretation, it should be stressed, is not without risk to tax petitioners such as Avis. First, reading the statute to allow the Commission to submit information on behalf of its airport lessees does not let those entities off the hook if the Commission's disclosures are insufficient. Rather, as the statute requires, in cases in which the disclosures of the tax petitioner and the Commission, taken together, do not satisfy subdivision 6(a), the taxpayer runs the risk that the petition will be dismissed. Minn. Stat. § 278.05, subd. 6(b). Second, in this case the tax court could have avoided dismissal because Avis effectively, if not actually, adopted the Commission's disclosures as its own. Of course, the consequences may be much different if a third party made disclosures that were not adopted by the tax petitioner.

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[6] The majority concludes that Avis has no reason to complain because it was represented by experienced tax counsel and now must live with its choices. So, too, the County is represented by experienced tax counsel and decided, based on the disclosures that it had received, that it need not conduct a new appraisal. Under these circumstances, the statute is better read as a two-way street, rather than the one-way street that the majority paves.

Accordingly, I would conclude that the mandatory-disclosure obligation in section 278.05, subdivision 6, is subject to two reasonable readings when it comes to *who* must disclose the relevant information, and is therefore ambiguous. Because the Legislature has written the tax laws so that Avis stands in the Commission's shoes for tax purposes, reading the mandatory-disclosure statute to allow the Commission to submit information on behalf of Avis better reflects legislative intent. Here, given that the Commission submitted information that satisfied section 278.05, subdivision 6, I respectfully dissent from the court's holding that Avis failed to satisfy subdivision 6, and would therefore reverse the tax court's dismissal of the petition.

ANDERSON, Justice (concurring in part, dissenting in part).

I join in the concurrence and dissent of Justice Chutich.

THISSEN, Justice (concurring in part, dissenting in part).

I join in the concurrence and dissent of Justice Chutich.