

Opinion issued September 20, 2018



In The
Court of Appeals
For The
First District of Texas

NO. 01-17-00934-CV

HOUSTON COPPERWOOD APTS., L.P., Appellant
V.
HARRIS COUNTY APPRAISAL DISTRICT, Appellee

On Appeal from the 80th District Court
Harris County, Texas
Trial Court Case No. 2016-77217

MEMORANDUM OPINION

This is an appeal from an order granting a plea to the jurisdiction in a suit challenging a property tax appraisal. Harris County Appraisal District appraised real property owned by Houston Copperwood Apts., L.P. HCAD sent notice of the appraisal to Copperwood's designated tax agent, Property Tax Advocates, Inc.

(PTA). PTA received the notice, and Copperwood filed a protest with the Harris County Appraisal Review Board (ARB). ARB sent notice of its final order to PTA, and PTA received the notice on Copperwood's behalf. Copperwood filed a petition for review with the district court more than 60 days after PTA received notice of the order. *See* TEX. TAX CODE § 42.21(a) (to appeal order of appraisal review board, property owner "must file a petition for review with the district court within 60 days" of receiving notice of order).

HCAD filed a plea to the jurisdiction, which the trial court granted on the ground that Copperwood failed to file its petition within the 60-day filing period. On appeal, Copperwood argues that the filing period was never triggered because ARB failed to send notice to the address listed on the form by which Copperwood initially designated PTA as its agent instead of PTA's updated address.

Because section 1.07(b) of the Tax Code contemplates notice to tax agents at the address designated in the most recent record, and Copperwood's agent received notice at that address, yet Copperwood failed to file its petition for review within 60 days of that notice, we affirm.

Background

Copperwood owns an apartment complex in Harris County. In 2007, Copperwood appointed PTA as its agent for property tax matters related to the apartment complex by filing an appointment-of-agent form with HCAD. On the

form, Copperwood directed that PTA receive all communications from the chief appraiser and all orders from ARB. Copperwood listed PTA's mailing address as 1333 Corporate Drive, Suite 245, Irving, Texas 75038-2520.

In 2010, HCAD's agent coordinator, Jamie Huble-Hudson, received a letter from PTA's administrative assistant, Melissa Cryer. The letter was on PTA letterhead and listed PTA's address as 1303 West Walnut Lane, Suite 260, Irving, Texas 75038. In the letter, Cryer wrote:

I am enclosing Appointment of Agent forms to register [PTA] as the authorized representative for the properties identified by the account numbers shown on the attached forms.

The appointment of agent forms referenced by Cryer in her letter are not part of the record. There is no evidence that the properties listed on the referenced appointment of agent forms included Copperwood's apartment complex.

As HCAD's agent coordinator, Huble-Hudson is "responsible for maintaining and updating the contact information for tax agents." After receiving Cryer's letter, Huble-Hudson updated HCAD's records to reflect the Walnut Lane address as the PTA address to send notices from HCAD and ARB, including notices relating to Copperwood's apartment complex.

In early 2016, HCAD appraised the value of Copperwood's apartment complex for the 2016 tax year. That April, HCAD sent notice of the appraised value to PTA's Walnut Lane address. PTA received the notice on Copperwood's

behalf and filed an online protest with ARB. ARB held a hearing on the protest. Copperwood attended the hearing.

On August 22, 2016, ARB sent notice of its final order to PTA's Walnut Lane address. Two days later, PTA received the notice on Copperwood's behalf. More than 60 days later, on November 7, Copperwood petitioned for review of ARB's order. Copperwood alleged excessive appraisal and unequal appraisal. It made no allegations concerning the date on which it received notice of ARB's order. Nor did it otherwise address the timing of its petition.

HCAD filed a plea to the jurisdiction, arguing that Copperwood failed to file its petition within the 60-day filing period. Copperwood responded that the 60-day filing period was never triggered because ARB failed to provide proper notice of its final order. Although ARB sent—and PTA received—notice at the Walnut Hill address for both HCAD's initial appraisal and ARB's final order, Copperwood argued that ARB was required to send notice to PTA's Corporate Drive address because that was the address listed on the appointment-of-agent form by which Copperwood initially designated PTA as its agent. The trial court granted HCAD's plea. Copperwood appeals.

Plea to the Jurisdiction

In its sole issue, Copperwood argues that the trial court erred in granting HCAD's plea to the jurisdiction because Copperwood "was not sent proper, timely notice of the [ARB] order determining its protest over valuation."

A. Standard of review and applicable law

The existence of subject-matter jurisdiction is a question of law that can be challenged by a plea to the jurisdiction. *Klumb v. Houston Mun. Emps. Pension Sys.*, 458 S.W.3d 1, 8 (Tex. 2015). We review a trial court's ruling on a plea to the jurisdiction de novo. *Id.*

Under the Tax Code, a property owner is "entitled to protest" the appraised value of its property before its local appraisal review board. TEX. TAX CODE § 41.41(a)(1). The property owner also is "entitled to appeal" the board's decision. *Id.* § 42.01(a)(1)(A). To appeal the board's decision, the property owner must "file a petition for review with the district court within 60 days" of receiving notice of the board's "final order." *Id.* § 42.21(a).

The 60-day filing deadline is "jurisdictional." *Appraisal Review Bd. v. Int'l Church of Foursquare Gospel*, 719 S.W.2d 160 (Tex. 1986) (per curiam). If the property owner fails to timely file the petition, the trial court lacks jurisdiction to hear the appeal. *See* TEX. TAX CODE § 42.21(a) ("Failure to timely file a petition bars any appeal . . ."); *Harris Cty. Appraisal Dist. v. Drever Partners, Inc.*, 938

S.W.2d 196, 197 (Tex. App.—Houston [14th Dist.] 1997, no writ) (“Failure to timely file such a petition will deprive the district court of jurisdiction.”).

However, the 60-day filing period “only begins to run when proper notice is delivered to the appropriate party.” *Drever Partners*, 938 S.W.2d at 197 (discussing earlier version of statute). When, as here, the property owner has designated a tax agent to receive notices, the tax agent is the “appropriate party” to whom notices should be sent. *See id.* at 198–99 (holding that delivery of notice of order did not trigger filing period when notice was delivered to property owner rather than property owner’s agent to whom property owner had “specifically requested” all notices be directed). Thus, if the property owner designates a tax agent to receive notices, but the appraisal review board fails to send notice of its final order to the agent’s address, the 60-day filing period fails to trigger. *See id.*

The notices must be sent to “the agent’s address according to the most recent record in the possession of the official or agency.” TEX. TAX CODE § 1.07(b); *see Aldine Indep. Sch. Dist. v. Ogg*, 122 S.W.3d 257, 266 (Tex. App.—Houston [1st Dist.] 2003, no pet.) (“Subsection 1.07(b) requires a taxing authority to address the tax notice to the property owner, or his agent, at the address according to the most recent record in the possession of the property taxing authority.”). The statute does not require any particular form for changing an agent’s address.

B. Analysis

It is undisputed that ARB sent notice of its final order to the “appropriate party,” Copperwood’s agent, PTA. *Drever Partners*, 938 S.W.2d at 197. It is undisputed that PTA received the notice on Copperwood’s behalf at the same address PTA had provided HCAD in PTA’s most recent filing. And it is undisputed that Copperwood filed a petition for review, but not within 60 days. TEX. TAX CODE § 42.21(a).

Despite these undisputed facts, Copperwood argues that the trial court erred in granting HCAD’s plea because ARB failed to send notice of its final order to the right address. Copperwood contends that the “most recent record” of PTA’s address is the 2007 appointment-of-agent form by which Copperwood initially designated PTA as its tax agent, not the 2010 letter from PTA to HCAD. Copperwood argues that the 2010 letter is not HCAD’s “most recent record” of PTA’s address because “there is no evidence that the letter related to [Copperwood] or its properties.” But whether the letter specifically related to Copperwood’s apartment complex is irrelevant; nothing in the statute requires the “most recent record” to specifically discuss the property that the agent represents. Copperwood’s contention places form over substance. It would require the taxing authority to ignore letters with address changes and discourage the taxing authority

from updating its records, thereby increasing the risk of the taxing authority sending notices to the wrong address.

Noting that businesses may have more than one address, Copperwood contends that there is no evidence that PTA's Corporate Drive address is no longer valid. Copperwood further contends that there is no evidence that it requested that HCAD change the address on its "account" from PTA's Corporate Drive address to PTA's Walnut Lane address. But the Walnut Lane address is where HCAD sent notice of its initial appraisal, and Copperwood responded to that notice without requesting that future notices be sent to the original Corporate Drive address. Even if PTA still uses the Corporate Drive address, that address is not the address reflected in HCAD's most recent record. And even if Copperwood never requested that HCAD change PTA's address, PTA itself sent HCAD a letter reflecting a different address. ARB was required by statute to send notice to that address.

We hold that ARB properly sent notice of its final order to PTA's Walnut Lane address because that was the most recent address in HCAD's records. Copperwood received ARB's final order when notice was delivered to PTA's Walnut Lane address on August 24, 2016, which triggered the 60-day filing period. But Copperwood did not file its petition until after the filing period expired. Because Copperwood failed to timely file its petition, the trial court lacked

jurisdiction to hear the appeal and properly granted HCAD's plea to the jurisdiction.¹ We overrule Copperwood's sole issue.

Conclusion

We affirm the trial court's order.

Harvey Brown
Justice

Panel consists of Chief Justice Radack and Justices Brown and Caughey.

¹ Copperwood contends that, by failing to follow the statutory process established by the Tax Code, ARB and HCAD failed to afford Copperwood due process. We have held that HCAD adhered to statutory requirements, and we note that Copperwood in fact received notice. Therefore, we reject Copperwood's due-process argument.