VERMONT SUPREME COURT
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Case No. 21-AP-270

Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

AUGUST TERM, 2022

Raymond C. Jette v. City of Rutland (Kamberleigh Johnston*)	}	APPEALED FROM:
	}	
	}	Property Valuation and Review
	}	CASE NOS. 2019-034 & 2019-035

In the above-entitled cause, the Clerk will enter:

Grievant Kamberleigh Johnston appeals pro se from the decision of the Division of Property Valuation and Review (PVR) dismissing his challenge to the way 49 and 52 Pine Street are listed in the City of Rutland's 2019 grand list. We affirm.

Grievant's mother owns several contiguous properties in the Pine Street neighborhood of Rutland that are listed as a single parcel in the City's grand list for taxation purposes. Grievant filed a grievance to the listers regarding the 2019 grand list, arguing that 49, 50, and 52 Pine Street should be listed as part of mother's parcel because they were under mother's control and were contiguous with her other properties. The listers denied the grievance, and grievant appealed to the Board of Civil Authority (BCA). The BCA found that 50 Pine Street was not contiguous with mother's parcel or owned by her. The BCA also noted in its decision that "even though it was not appealed, [grievant] felt 49, 50 & 52 Pine St. should be included as part of [mother's parcel] as they own 'leased' property, but [this could] not be substantiated."

Grievant appealed to the Director of PVR. The City moved to dismiss the appeal as defective, arguing that the appraisal for 50 Pine Street had not been appealed to the BCA and therefore was not heard by them. The City further argued that 49 and 52 Pine Street were owned by Raymond Jette, who had not appealed the appraisals for 2019 and had not authorized grievant to appeal for him.

A PVR hearing officer denied the City's motion. She reasoned that the grievance process begins with a challenge to the decision of the listers on any matter, which could include how property is listed in the grand list. She found that grievant's claim throughout the process had been that mother was the owner of 49 and 52 Pine Street for tax purposes pursuant to perpetual lease agreements (PLAs) grievant filed in 2018 in the City land records. She determined that grievant brought these claims to the listers, which effectively rejected them by not addressing them, and then to the BCA, which also rejected them. She noted that with certain exceptions, the law requires property leased in perpetuity to be listed to the lessee, and for purposes of listing property in the grand list, a parcel consists of all contiguous land in the same ownership. She

accordingly concluded that grievant had stated a claim for relief because he was arguing on behalf of his mother that the properties should be listed as part of her parcel on the 2019 grand list, based on the 2018 PLAs between her and Jette. She concluded that grievant therefore was entitled to a hearing because he had followed the appeals process. However, she noted that "whether he was authorized to do so, and whether his legal theory is correct, are substantive matters for the PVR hearing officer to decide."

An evidentiary hearing for each property was held before a different hearing officer in February 2021. Prior to the hearings, the City again moved to dismiss the appeals because grievant did not have authority from Jette to appeal the listers' acts with regard to the properties. In separate written decisions, the hearing officer found that Jette had purchased 49 and 52 Pine Street in June 2017. The hearing officer reasoned that only the owner of a property can appeal its valuation in the grand list, and Jette had not appealed the 2019 appraisal. He further found that grievant had no ownership interest in the subject properties on April 1, 2019, and therefore had no right to challenge the appraisals. The hearing officer did not decide whether the 2018 PLAs purporting to make grievant's mother a perpetual lessee were valid, concluding that even if they were and mother had a right to appeal, there was no evidence that mother had authorized grievant to take an appeal on her behalf. It therefore dismissed both appeals.

We conclude that the hearing officer properly dismissed these appeals because grievant has failed to show that he has standing to pursue them. Grievant claims that his mother is the effective owner of 49 and 52 Pine Street pursuant to 2018 PLAs that were filed in the City's land records. See 32 V.S.A. § 3610(e) ("[E]very perpetual lease, whether or not the subject land is exempt from taxation, shall be set in the grand list as real estate against the lessee."); Lesage v. Town of Colchester, 2013 VT 48, ¶ 27, 194 Vt. 377 (noting that 32 V.S.A. § 3610 "is aimed at making owners of perpetual leases of land the effective owners of the property for purposes of taxation"). Assuming for purposes of argument that the 2018 PLAs are valid and give mother a legal right to challenge the lister's acts concerning the subject properties—questions that we do not answer here—this right does not extend to grievant, a third party.

"Like the federal courts, we generally do not allow third-party standing." Baird v. City of Burlington, 2016 VT 6, ¶ 15, 201 Vt. 112. A plaintiff who has not experienced a particular injury that is attributable to the defendant has no standing to sue. U.S. Bank Nat'l Ass'n v. Kimball, 2011 VT 81, ¶ 12, 190 Vt. 210. It is undisputed that grievant is not the owner of the subject properties or the lessee listed on the 2018 PLAs. He has not been assessed or paid any taxes on the subject properties for tax year 2019. In other words, he has not shown that he personally has been injured by the City's alleged error in listing Jette as the owner of the properties in the grand list. He therefore lacks standing to challenge that action, and the PVR hearing officer properly dismissed his appeals.

Grievant appears to argue that he is acting as an authorized agent for his mother, the lessee under the 2018 PLAs. Grievant points to a statement by the PVR hearing officer in a 2017 decision that mother had made him her agent for that appeal and argues that this statement prevents any challenge to his standing. However, the PVR hearing officer correctly noted that there was no evidence in the record in this appeal that mother had authorized grievant to challenge the 2019 listings for 49 and 52 Pine Street on her behalf. Grievant's assertion that he was given such authority in the past is insufficient to show that he has it for purposes of this appeal, and the City was free to challenge his standing here. See Boivin v. Town of Addison, 2010 VT 67, ¶ 18, 188 Vt. 571 (rejecting claim that town was estopped from using different

appraisal report in instant litigation than it relied on in previous litigation because prior litigation involved different tax years and therefore different assessments).

Because we conclude that the PVR hearing officer correctly dismissed this appeal, we do not address grievant's other claims on appeal, including his claims that appeals must be held in order, that his mother is the effective owner of 49 and 52 Pine Street or Jette's agent for appeal purposes, that the City cannot challenge the validity of the PLAs, that the parcel law and 32 V.S.A. § 3610 are in conflict, or that the PVR hearing officer made various procedural and evidentiary errors.

Affirmed.

BY THE COURT:

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

Nancy J. Waples, Associate Justice