COA Opinion: Tax Tribunal lacks jurisdiction to reach back and correct the taxable value of a property for a year not under appeal

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In *MJC/Lotus Group v Township of Brownstown*, No. 295732, the Michigan Court of Appeals held that the Tax Tribunal lacks jurisdiction to indirectly review a property's taxable value for a year that is not under appeal, in spite of the fact that the value is used as a basis to calculate the property's taxable value in a year properly under appeal.

This consolidated action arose after the Michigan Supreme Court's 2008 ruling in *Toll Northville Ltd v Twp of Northville*, which declared MCL 211.34d(1)(b)(viii) unconstitutional. This statute had allowed value added from the installation of public services, such as water and sewer services, to be included as a taxable addition to property. After the Michigan Supreme Court declared this statute unconstitutional, the petitioners in this consolidated action each challenged the taxable value of their properties, which were determined under the statutory formula based on the taxable value of the year immediately prior to it. These prior year taxable values had unconstitutionally accounted for public service improvements.

The Court of Appeals held that the Tax Tribunal lacked subject matter jurisdiction to review the accuracy of the taxable value of a property that is not directly under appeal. Under MCL 205.735(3), a petitioner must file "a written petition on or before June 30 of the tax year involved" in order to invoke the jurisdiction of the Tax Tribunal. The Court of Appeals reasoned that the accuracy of the prior year's taxable value became "unchallengeable" once the window for filing a petition to challenge the value lapsed. The Court of Appeals rejected the argument that the statute setting forth the mathematical formula for calculating a property's taxable value conferred jurisdiction on the Tribunal to review the prior year's taxable value. Accordingly, the Tax Tribunal could not "reach back" and correct constitutional errors in years not under appeal.

Additionally, the Court of Appeals rejected the argument that the unconstitutional public service improvements should have been deducted as losses for the taxable value of the property for the year properly under appeal. No loss occurred in this action because the public service improvements were neither removed nor destroyed.