

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2008-054

NOVEMBER TERM, 2008

Laura Brueckner	}	APPEALED FROM:
	}	
	}	
v.	}	Lamoille Superior Court
	}	
	}	
Town of Morristown	}	DOCKET NO. 184-7-07 Lecv

Trial Judge: Brian J. Grearson

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

Taxpayer Laura Brueckner appeals from a superior court order dismissing her appeal from a decision of the Town of Morristown Board of Listers. Taxpayer contends the court erred in concluding that her failure to exhaust administrative remedies deprived the court of jurisdiction. We affirm.

The facts may be summarized as follows. Taxpayer owns an 11.1-acre parcel in the Town of Morristown. In July 2007, the Town appraised the property at a value of \$91,100. Taxpayer grieved the appraisal, and in response, the Board of Listers lowered the appraised value to \$42,200. Shortly thereafter, taxpayer filed a notice of appeal with the superior court, indicating that she was appealing the “unsigned reappraised value” assigned to her property. The Town, in response, moved to dismiss the appeal on the ground that taxpayer had failed to exhaust her administrative remedies under 32 V.S.A. § 4404(a), which provides that a person aggrieved by a decision of a board of listers may appeal in writing to the board of civil authority, and § 4461(a), which authorizes appeals from the board of civil authority to either the director of property valuation and review or to the superior court of the county in which the property is located. The court granted the motion in a brief entry order, ruling that taxpayer had failed to exhaust administrative remedies by first appealing to the board of civil authority, and dismissed taxpayer’s appeal. This pro se appeal followed.

Although taxpayer raises several issues relating to the merits of her claims concerning the constitutionality of the property tax system, it is the issue of exhaustion that is critical here, and her principal argument in this regard is that the exhaustion of administrative remedies is not required where, as we have held, the state appraiser lacks jurisdiction to consider broad constitutional challenges to the property tax statutes. Alexander v. Town of Barton, 152 Vt. 148, 151-55 (1989). The argument is unavailing. It is well settled that a taxpayer’s failure to exhaust

statutorily established administrative remedies deprives the superior court of jurisdiction. Stone v. Errecart, 165 Vt. 1, 6 (1996). Moreover, we have specifically held that exhaustion is required even if the administrative decision maker lacks the power to invalidate or refuse to enforce a tax statute on constitutional grounds. Id. at 5-6; accord Town of Bridgewater v. Dep't of Taxes, 173 Vt. 509, 511-12 (2001) (mem.). As we have explained, administrative processes serve vital functions apart from adjudicating a dispute, including the “development of the record” pursuant to more informal administrative proceedings and with the benefit of the agency’s expertise, and the opportunity for the agency “to plan for the fiscal consequences of invalidation.” Stone, 165 Vt. at 5 (quotation omitted). The trial court, therefore, correctly concluded that it lacked jurisdiction based on the failure to exhaust administrative remedies, and properly dismissed the appeal.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

John A. Dooley, Associate Justice

Marilyn S. Skoglund, Associate Justice