

**BOARD OF TAX APPEALS
STATE OF LOUISIANA
LOCAL TAX DIVISION**

JHD, LLC

v.

B.T.A. Docket No. L02753

**LOUIS FITZMORRIS, in his Official Capacity as
Assessor for St. Tammany Parish**

JUDGMENT ON EXCEPTIONS WITH WRITTEN REASONS

This matter came before the Board for hearing on the Exceptions of No Cause of Action and Lack of Subject Matter Jurisdiction filed by Louis Fitzmorris, in his Official Capacity as Assessor for St. Tammany Parish (“Assessor”) on September 29, 2026, by Zoom. Presiding at the hearing was Local Tax Judge Francis J. “Jay” Lobrano. Appearing before the Board were: Scott Spivey, attorney for JHD, LLC (“Taxpayer”) and Erica Hyla, attorney for the Assessor.¹ At the conclusion of the hearing, the Board took the matter under advisement. In accordance with the attached Written Reasons, the Board now issues the following Judgment.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Assessor’s Exception of Lack of Subject Matter Jurisdiction be and is hereby OVERRULED.

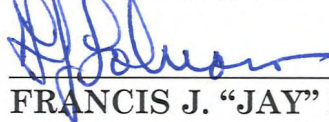
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Assessor’s Exception of NO CAUSE OF ACTION be and is hereby SUSTAINED as to the Taxpayer’s prayers for nullification or reversion of the Assessment.

¹ Present but not making an appearance was Drew Hoffman, attorney for the Louisiana Tax Commission (“LTC”). The LTC is not a party to this case. However, La. R.S. 47:1998(I) provides, “[t]he Louisiana Tax Commission shall receive a copy of every filing in a suit under this Section, and may intervene in accordance with the applicable provisions of the Code of Civil Procedure.”

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Assessor's Exception of NO CAUSE OF ACTION be and is hereby OVERRULED as to Taxpayer's prayer for a declaration that their appeal period never commenced and that they be permitted to pursue full administrative and merits review of the 2025 assessment with the Parish Board of Review.

Signed at Belle Chasse, Louisiana, this 6th day of October, 2026.

FOR THE BOARD



FRANCIS J. "JAY" LOBRANO
LOCAL TAX JUDGE
LOUISIANA BOARD OF TAX APPEALS

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WRITTEN REASONS FOR JUDGMENT ON EXCEPTIONS

This matter came before the Board for hearing on the Exceptions of No Cause of Action and Lack of Subject Matter Jurisdiction filed by Louis Fitzmorris, in his Official Capacity as Assessor for St. Tammany Parish (“Assessor”) on September 29, 2026, by Zoom. Presiding at the hearing was Local Tax Judge Francis J. “Jay” Lobrano. Appearing before the Board were: Scott Spivey, attorney for JHD, LLC (“Taxpayer”) and Erica Hyla, attorney for the Assessor.¹ At the conclusion of the hearing, the Board took the matter under advisement. The Board now issues the following Written Reasons for ruling.

Background

The Taxpayer filed their Petition with the Board on May 11, 2026. In their Petition, the Taxpayer disputes an assessment of *ad valorem* property tax on property located at 120 Taos Street, in Slidell, Louisiana (“Property”). The Assessment in dispute bears Number 82016 (“Assessment 82016”). The Tax Year in dispute is 2025. For 2025, the Assessor assessed the value of the Property at \$409,503.00. This

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valuation was an increase of \$41,875.00, or 11.39%, from the value assessed by the Assessor for 2024, \$367,628.00. The Taxpayer alleges that no written notice of the increase was mailed or delivered to them. The Taxpayer further claims to have had no actual or constructive knowledge during the window of time in which they could have protested to the Parish Board of Review and only learned of the increase after the protest period had elapsed.

The Assessor filed Exceptions of No Cause of Action and Lack of Subject Matter Jurisdiction. Therein, the Assessor argues that the Taxpayer has not alleged any facts that would constitute a violation of notice requirements under the law. The Assessor timely listed Assessment 82016 for public exposure. The Assessor did not increase the valuation of the Property after exposure. Assessment 82016 was not issued for a quadrennial re-assessment year. Assessment 82016 did not increase the valuation of the property by 15% or more in a single year. Furthermore, the Taxpayer did not file a protest with the Parish Board of Review and the Taxpayer is not appealing a decision of the LTC.

Discussion

Exception of Lack of Subject Matter Jurisdiction

La. C.C.P. art. 927 provides for the peremptory exception of lack of subject matter jurisdiction.² Jurisdiction is the legal power and authority of a court to hear and determine an action of the parties and to grant the relief to which they are entitled. La. C.C.P. art. 1. Jurisdiction over the subject matter is the legal power and authority of a court to hear and determine a particular class of actions or proceedings, based upon the object of the demand, the amount in dispute, or the value of the right asserted. La. C.C.P. art. 2. Subject matter jurisdiction is created by the constitution or by legislative enactment; the parties cannot confer or waive it. *See* La. C.C.P. art.

² Prior to the effective date of 2023 Act 5, the exception of lack of subject matter jurisdiction was listed under dilatory exceptions provided for in La. C.C.P. art. 925.

3; *Christian Schools, Inc. v. Louisiana High School Athletic Association*, 2020-0762 (La. App. 1 Cir. 5/18/22), 342 So.3d 1068, 1072, *writ denied*, 2022-01015 (La. 10/12/22), 348 So.3d 78. Evidence may be introduced in support of or opposition to the peremptory exception of lack of subject matter jurisdiction, when the grounds thereof do not appear on the face of the Petition. *See* La. C.C.P. art. 931; *Morales v. Wilder*, 2023-0067, p. 4 (La. App. 1 Cir. 9/15/23), 375 So.3d 1019, 1023, *writ denied*, 2023-01383 (La. 12/19/23), 375 So.3d 409.

The Board's jurisdiction is set forth in La. R.S. 47:1407, which provides:

A. The jurisdiction of the board shall extend to the following:

(1) All matters relating to appeals for the redetermination of assessments, the determination of overpayments, payment under protest petitions, or other matters within its jurisdiction, as provided in R.S. 47:1431 through 1438 or other applicable law.

(2) All matters relating to the waiver of penalties, as provided in R.S. 47:1451.

(3)(a) All matters related to state or local taxes or fees.

(b) All other jurisdiction otherwise provided by law, including jurisdiction concerning ad valorem taxes pursuant to Subtitle III of this Title, rules to cease business, ordinary collection suits, summary tax proceedings, rules to seek uniformity of interpretation of common sales and use tax law or local sales and use tax law, as provided in R.S. 47:337.101(A)(2), and petitions concerning the validity of a collector's rules, regulations, or private letter rulings, as provided in R.S. 47:337.102.

(4) All matters relating to claims against the state, as provided in R.S. 47:1481 through 1486.

(5) Incidental demands authorized by law in any action pending before the board in the same manner as in a district court pursuant to Code of Civil Procedure Article 1031.

(6) All matters relating to appeals of administrative hearings, assessments, and refund denials by the Louisiana Sales and Use Tax Commission for Remote Sellers.

(7) A petition for declaratory judgment or other action relating to any state or local tax or fee, concerning taxing districts and related proceeds, or relating to contracts related to tax matters; and including disputes related to the constitutionality of a law or ordinance or validity of a regulation concerning any related matter or concerning any state or local tax or fee.

B. The board shall not have jurisdiction to hear class action lawsuits brought against the secretary of the Department of Revenue by or on behalf of taxpayers or any other interested party arising from or related to the administration of tax laws and all related matters.

As stated in La. R.S. 47:1407(A), the Board has general jurisdiction over “[a]ll matters related to state or local taxes or fees . . . including jurisdiction concerning ad valorem taxes pursuant to Subtitle III,” of Title 47 (provisions relating to ad valorem taxes), and a “petition for declaratory judgment or other action relating to any state or local tax or fee.” In addition, La. R.S. 47:2134(D)(1) provides that the “right to sue for recovery of statutory impositions paid under protest as provided in this Section shall afford a legal remedy and right of action in the **Board of Tax Appeals** or any state or federal court having jurisdiction of the parties and subject matter for a full and complete adjudication of all questions arising in connection with a correctness challenge or the enforcement of the rights respecting the legality of any statutory impositions accrued or accruing or the method of enforcement thereof.” [emphasis added].

The Board finds that it has jurisdiction over the subject matter of Taxpayer’s Petition seeking declaratory relief. La. R.S. 47:1407(A)(3)(b) extends to the Board jurisdiction over ad valorem taxes pursuant to Subtitle III of Title 47. La. R.S. 47:1407(A)(7) further extends to the Board jurisdiction over a petition for declaratory judgment relating to any state or local tax or fee. Finally, La. R.S. 47:2134(D)(1) grants to a taxpayer the right to sue in the Board of Tax Appeal for a full and complete adjudication of all questions arising in connection with the “**enforcement of the rights respecting the legality of any statutory impositions accrued or accruing or the method of enforcement thereof**” [emphasis added] for statutory impositions paid under protest.

In this particular instance, the Taxpayer alleges that it did not receive written notice of an increase of an assessment shown on the “list” as required by La. R.S.

47:1992(A)(1)(b)(ii)³. The Board finds that the Taxpayer's Petition alleging that it did not receive the statutorily mandated notice under La. R.S. 47:1992(A)(1) constitutes a request for an adjudication of a question arising in connection with the enforcement of the rights respecting the legality of any statutory impositions accrued or accruing or the method of enforcement thereof as set forth in La. R.S. 47:2134(D)(1), and therefore the Board has subject matter jurisdiction over the subject matter of the claims made in the Petition. For the foregoing reasons, the Assessor's Exception of Lack of Subject Matter Jurisdiction is denied.

Exception of No Cause of Action

The function of an exception of no cause of action is to test the legal sufficiency of the Petition by determining whether the law affords a remedy on the facts alleged in the pleading. *Darville v. Texaco, Inc.*, 447 So. 2d 473 (La. 1984). No evidence may be introduced to support or controvert the objection that the petition fails to state a cause of action. La. C.C.P. art. 931. Therefore, the Board reviews the Petition and accepts well pleaded allegations of fact as true, and the issue at the trial of the exception is whether, on the face of the Petition, the Taxpayer is legally entitled to the relief sought. *Hero Lands Co. v. Texaco, Inc.*, 310 So. 2d 93 (La. 1975); *Kuebler v. Martin*, 578 So. 2d 113 (La. 1991). A cause of action, as used in the context of the peremptory exception, means the operative facts which give rise to the plaintiff's right to judicially assert the action against the defendant. *Everything on Wheels Subaru, Inc. v. Subaru S., Inc.*, 616 So. 2d 1234, 1238 (La. 1993). Finally, under La. C.C.P. art. 927(A)(5), a court is permitted to sustain an exception of no cause of action as to some, but not all, of the claims against a party.

The Taxpayer's Petition alleges facts and asserts a claim based on Taxpayer's allegation that the Assessor failed to provide timely notice to the Taxpayer of an

³ The "list" referred to in La. R.S. 47:1992(A)(1)(b)(ii) is the list identified and required by La. R.S. 47:1987(A).

increase in the assessed value of the Property within certain time limits imposed by statute. Taxpayer's Petition specifically cited La. R.S. 47:1992(A)(1) as authority for its claim that the Assessor was required to give notice to the Taxpayer of an increase in the assessed value of the Property. That statute's use of the term "shall" implies that the imposition of the notice requirement is mandatory. Likewise, the Board has considered the corresponding regulation promulgated by the LTC. LAC 61:V.3101(A)(1) states:

If and when the taxable assessment of a taxpayer's property for a tax year increases by 15 percent or more from its assessment in the previous tax year, the assessor, prior to opening the assessment lists for public inspection, shall provide notice to a taxpayer of the assessment for current tax year and previous tax year by using Form TC-2, notice of increase in property value (*see* R.S. 47:1987).

Noticeably absent from either the statute, the regulation, or any other under provision or regulation under Subtitle III of Title 47, are any consequences or the "penalty" resulting from the Assessor's failure to comply with the notice requirements of La. R.S. 47:1992(A)(1)(b)(ii). As there is no statutory or regulatory directive as to the consequences of the Assessor's failure to provide notice, we note that in other circumstances the Courts have addressed and provided guidance as to whether an aggrieved party who has failed to receive statutory notice of an item or if certain agency or governmental action has not occurred within a mandated time frame has a remedy where the statute is silent as to the remedy.

In *State v. Owens*, 561 So. 2d 842 (La. App. 2 Cir. 1990), the issue before the Court was whether a bondsman and his surety were entitled to have a judgment of forfeiture set aside due to the failure of the clerk of court to send a notice of the forfeiture to the surety on the bond in conformity with La. R.S. 15:85(A)(1).⁴ Although the issue in that case was whether the surety was entitled to nullification of the forfeiture judgment on the basis of a defect in the notice, the Court's reasoning and

⁴ In this case, the clerk sent notice, but the bondsman and surety argued that it did not include the proper information required by statute.

analysis are applicable to the issue in this case. The Court, in upholding the judgment of forfeiture, first noted that while the language of the statute used the term “shall” in describing the obligation to the clerk to send notice, which is normally indicative of mandatory compliance, the absence of the express consequences of the failure to issue notice resulted in the notice requirement being directory rather than mandatory. However, the court went on to rule that if an aggrieved party can establish that the party suffered prejudice as a result of the failure of notice, the notice would be considered mandatory and, in the case of either defective notice or the failure to send notice altogether, the aggrieved party would have a cause of action and corresponding remedy. *See also Marks v. New Orleans Police Department*, 2006-0575 (La. 11/29/06), 943 So. 2d 1028 (60-day deadline mandated by statute within which to conduct an investigation was directory rather than mandatory in the absence of a penalty unless the aggrieved party can prove prejudice as a result of the failure to comply with the statute).

We now turn to the specific facts of this case and the issue presented: whether the Taxpayer has stated one or more causes of action in the Petition. The Taxpayer has alleged that the Assessor did not provide notice to the Taxpayer of an increase in the Taxpayer’s assessment. And although the statutes are silent as to the consequences or the “penalty” for failure to timely provide notice, the Taxpayer prays that the Board declare the Assessment increase null, void, and unenforceable for failure of statutory notice, order the Assessment reverted to the last properly noticed assessment, or alternatively, declare that the appeal period never commenced and permit the Taxpayer to pursue administrative review.

The Board agrees with the Assessor in part, and finds that Taxpayer’s first prayer for nullification and reversion of the Assessment does not state a cause of action. As in *Marks v. New Orleans Police Dep’t*, *supra*, there is no specific provision in either of the statutes or anywhere else in Title III that provides for reversing the

Assessor's 2025 assessed value of the Property in its entirety and the Board will thus not judicially supply such a remedy where none has been established by the legislature. However, the Board finds that the Taxpayer has stated a cause of action in praying for a declaration that the appeal period never commenced and to permit the Taxpayer to pursue administrative review. Assuming the Taxpayer can establish it was prejudiced by the lack of notice, the Taxpayer is not asking the Board to fashion a new remedy unrecognized by the legislature, but merely to find that the time limitations imposed on the Taxpayer within which to challenge the correctness of an assessment have been suspended by the Assessor's alleged failure to provide the statutorily mandated notice of valuation increases under La. R.S. 47:1992(A)(1)(b)(ii).

The substance of the Assessor's position is that the Taxpayer has attempted to initiate a correctness challenge without following the strict procedural requirements of La. R.S. 47:1998(A)(1)(a) by initiating the challenge with the Assessor during the open roll period, followed by (if applicable) any subsequent appeals to the Board of Review and the LTC. It is the Assessor's position that neither the Courts nor the Board have original jurisdiction over a correctness challenge, and that such claims must first be brought via parish-level protest and then appealed to the LTC. As such, the Assessor argues that the Taxpayer has no cause of action.

However, to adopt the Assessor's position would in effect render the notice requirements of La. R.S. 47:1992(A)(1)(b)(ii) meaningless and without effect. It is a standard tenet of the law of statutory construction that it is presumed that the Legislature did not insert idle, meaningless or superfluous language in the statute or that it intended for any part or provision of the statute to be meaningless, redundant or useless. *McLane Southern, Inc. v. Bridges*, 2011-1141 (La. 1/24/12), 84 So. 3d 479. And while the jurisprudence holds that such notice requirements are directory in nature in the absence of an express penalty for noncompliance, the jurisprudence also recognizes that an aggrieved party may have a remedy if that party can establish

prejudice resulting from not receiving required notice or some other action not taking place within statutory time limitations.

Simply put, the Assessor is arguing the notice requirements found in La. R.S. 47:1992(A)(1)(b)(ii) are to be completely ignored. The Board finds that the legislature did not intend the notice requirement to be without any legal effect, even in the absence of a specific remedy for failure of the Assessor to comply, and thus the Taxpayer has stated a cause of action.

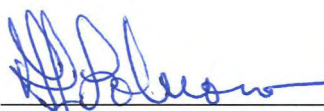
Conclusion

For the above reasons, the Board's Judgment has overruled the Assessor's Exception of Lack of Subject Matter Jurisdiction and overruled the Assessor's Exception of No Cause of Action in part and sustained the Exception in part. The Board reminds the parties that this Judgment merely recognizes that this Board has the jurisdiction to hear this matter and that the Taxpayer has stated a cause of action in part.

Ultimately, the Taxpayer will need to establish and prove the essential elements of its claims, including, but not necessarily limited to, competent summary judgment evidence or evidence introduced at trial of the lack of notice(s), the value of the Property as submitted by the Assessor to the LTC in the list referred to in La. R.S. 47:1992(A)(1)(b)(ii), and the actual prejudice suffered by Taxpayer resulting from the Assessor's lack of notice (if proven).

Belle Chasse, Louisiana, this 6th day of October, 2026.

FOR THE BOARD



**FRANCIS J. "JAY" LOBRANO
LOCAL TAX JUDGE
LOUISIANA BOARD OF TAX APPEALS**