UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2608

September Term, 2015

SUPERVISOR OF ASSESSMENTS OF MONTGOMERY COUNTY, ET AL.

v.

HELEN M. POLINGER

Eyler, Deborah S.,
Reed,
Beachley,

JJ.

Opinion by Reed, J.

Filed: June 8, 2017

This case centers around a golf course agreement between Ms. Helen M. Polinger and the State Department of Assessments and Taxation ("SDAT"). The agreement, the likes of which are statutorily prescribed in Maryland, Md. Code Ann., Tax-Prop. ("TP") §§ 8-212 through 8-219, allowed Ms. Polinger to enjoy a reduced tax rate on her property, a 170-acre golf course near Olney, Maryland known as Trotter's Glen, so long as she continued to use her property as a public golf course.[1] However, when Ms. Polinger sold her property to a developer prior to the agreement's end date, SDAT charged her a "recapture" tax pursuant to TP § 8-216. This tax was calculated based on the difference between what she would have paid if her property had been taxed according to its fair market value and what she actually paid, over the preceding ten years. *See Id.* at § 8-216(c)(2).

Ms. Polinger appealed the recapture tax to the Supervisor of SDAT, arguing that she never received proper notice that her property's fair market value increased during the course of the agreement. According to her, the recapture tax should have been calculated based on the fair market value at the dawn of the agreement. The Supervisor denied her appeal, but the Maryland Tax Court reversed, finding that the two December 2007 letters that were meant to notify Ms. Polinger that the fair market value of her property had increased were deficient. Upon judicial review, the Circuit Court for Montgomery County affirmed the Tax Court.

[1] Property owners must meet additional conditions precedent in order to be eligible for a reduced tax rate under a golf course agreement. These conditions are discussed in detail later in this opinion.

The Supervisor and Montgomery County, Maryland (the "County") filed a joint notice of appeal to this Court. Between their separate briefs, they present three questions for our review, which we reduce to one and rephrase:[2]

> 1. Did the Tax Court err where it granted Ms. Polinger's motion for summary judgment on the grounds that the 2008 increase in the fair market value of the golf course property was ineffective for purposes of the recapture tax because the December 28, 2007, letters did not satisfy the notice requirement under the Tax Property Article?

For the following reasons, we answer this question in the negative. Therefore, we shall affirm the judgment of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Maryland law allows golf course owners to enter into "golf course agreements" with the State. Pursuant to these agreements, in exchange for the owner maintaining her property

[2] The Supervisor presents the following question:

> 1. Did the Maryland Tax Court err in failing to address a basic jurisdictional issue concerning unappealed seven-year-old market assessment notices used to calculate Ms. Polinger's deferred tax liability and in failing to hold that it had no jurisdiction over the issues appealed?

On the other hand, the County asks:

> 1. Do the requirements of TP § 8-401, which apply to a property assessment that is used to generate a tax bill, apply to a market value assessment under TP § 8-213, which is used to recapture deferred taxes only if the owner ceases the underlying golf course use?
>
> 2. Did the December 28, 2007, Notice of Market Value satisfy the requirements of TP §§ 8-213 and 8-401?

as a public golf course,[3] TP §§ 8-212(a), 8-213(b), that does not "allow[ ] or practice[ ] discrimination based on race, color, creed, sex, or national origin," *id.* at § 8-214(a), the State agrees to tax the property based on its value as a golf course ("use assessment") rather than its fair market value ("market value assessment"). *Id.* at § 8-213(c). This usually allows the owner to enjoy a lower tax rate, as the use assessment amounts to an open space easement of $1,000 per acre under TP § 8-219. The benefits for the State are the preservation of open spaces and promotion of public recreation.

Golf course agreements must be for at least 10 consecutive years, *id.* at § 8-213(d)(1), and may only be extended in increments of 5 years. *Id.* at § 8-213(d)(2). If the golf course "has a greater market value than its value when used as a . . . golf course, the land shall also be assessed on the basis of the greater value." *Id.* at § 8-213(c)(2). However, the market value assessment only becomes relevant if, before the end of the agreement, the subject property "(i) is conveyed to a new owner [who does not accept the obligations of the agreement under TP § 8-217]; (ii) ceases to be used as a country club or golf course; or (iii) fails to meet the qualifications for a country club or golf course[.]" *Id.* at § 8-216(a)(1). In any of those events, a recapture tax becomes due for the amount of the difference, if any, between the taxes that would have been owed based on the market value assessment and those actually paid. *Id.* at § 8-216(a). "The period for which the [recapture] tax is due may not exceed 10 years." *Id.* at § 8-216(b)(2).

[3] More specifically, the statute requires that the property be "located on at least 50 acres of land on which is maintained a regular or championship golf course of at least 9 holes." TP § 8-212(a).

Ms. Polinger entered into a 10-year golf course agreement with SDAT on July 30, 2002. In the seventh year of the agreement, SDAT sent Ms. Polinger two letters, both dated December 28, 2007 (the "2007 letters") relating to the market value assessment of her property. The body of the first letter reads as follows:

> In accordance with Tax-Property Article 8-213 of the Annotated Code of Maryland, for courses in an Agreement, our office is required to notify you of both the market value and use value that is being placed on your golf course or country club. This does not indicate any change in the current status of the agreement. The market value shown below would have been placed on this facility if a valid country club or golf course agreement had not been signed with our office. The use value will be reflected in assessment notice(s) that will be sent to you separately, in the normal reassessment process.
>
> We are notifying you of this value because any termination of your agreement would result in the imposition of penalties based on the difference between the market value and the use value. No other action is required on your part. However, you may appeal this market value estimate. In order to enter an appeal in this regard, please send a letter to the Supervisor of Assessments, within 45 days of this notice.
>
> The market value is estimated for the entire golf course or country club, inclusive of all individual parcels that are subject to the agreement. The value, as of January 1, 2008 is estimated to be as follows:
>
> | Account Number | Market Value |
> |---|---|
> | 16-08-00716591 | $11,000,000 |
>
> If you have any questions concerning this matter, please feel free to contact me at 240-314-4530. Thank you very much for your attention in this matter.

(Emphasis in original). The body of the second letter is identical to the first, with the exception of the following account number[4] and market value estimate:

Account Number	Market Value
16-08-00716603	$4,950,000

Ms. Polinger did not appeal either estimate to the Supervisor within the time prescribed by the 2007 letters.

On October 10, 2012, Ms. Polinger entered into a 5-year extension of the agreement. Then, on September 5, 2014, she sold the golf course to Toll MD XI Limited Partnership, a private developer, for $13,384,000. Because the developer did not assume the agreement, SDAT charged Ms. Polinger a recapture tax in the amount of the tax preference she received over the preceding ten years. SDAT calculated this recapture tax using the increased market value assessments it sent to Ms. Polinger in December 2007.

Ms. Polinger appealed the computation of the recapture tax to the Supervisor on December 5, 2014, arguing that the 2007 letters did not provide proper notice under TP § 8-401 that the market value assessment of her property was being increased. The Supervisor denied her appeal, and the case proceeded to the Maryland Tax Court. The parties filed cross motions for summary judgment, agreeing that if the 2007 letters constituted proper notice, the amount of the recapture tax would be $884,779.83. The Tax Court reversed the decision of the Supervisor, entering summary judgment in favor of Ms. Polinger and finding that the 2007 letters did not provide the notice required by § 8-401.

[4] Trotter's Glen was comprised of four separate property tax accounts, all covered by the golf course agreement.

After being affirmed by the Circuit Court for Montgomery County, the decision of the Tax Court was appealed to this Court by the Supervisor and the County, jointly.[5]

DISCUSSION

I. Recapture Tax Refund

A. Parties' Contentions

The appellants, the Supervisor and the County, advance separate arguments on appeal. The Supervisor's sole assertion is that "the Tax Court erred in failing to address a threshold jurisdictional issue regarding [the] finality of [seven-year-old] assessments." The Supervisor contends that because Ms. Polinger's challenge was "not made within 45 days of December 28, 2007, as required by [the 2007 letters] and § 14-502(a) of the Tax-Property Article," the Tax Court lacked jurisdiction over her appeal. The Supervisor argues that the Tax Court failed to "present a clear statement of the rationale for its decision," as it was required to do, regarding the issue of finality, which the Supervisor raised in his motion for summary judgment.

The County, on the other hand, advances three arguments unrelated to the Tax Court's jurisdiction. First, the County asserts that the notice requirements of TP § 8-401 do not apply to market value assessments under TP § 8-213 because the latter are not used to generate a tax bill. According to the County, "[n]othing in [TP § 8-213] (or the Golf Course Agreement) requires SDAT to send a notice of [the market] value assessment in

[5] The order of the Circuit Court for Montgomery County affirming the decision of the Tax Court was entered on the docket on January 6, 2016. The Supervisor and the County's joint notice of appeal was filed on February 3, 2016. Thus, this appeal was timely. *See* Md. Rule 8-202(a).

accordance with the provisions of § 8-401(a) of the Tax-Property Article." Second, the County contends that "[t]he Tax Court's application of TP § 8-401 in this case is contrary to the golf course recapture tax established in TP §§8-212 to 8-219 and the Golf Course Agreement." It argues that the sending of two notices meeting the requirements of § 8-401 would only confuse the taxpayer, and that the Tax Court's interpretation of the applicable statutes defeats the Legislature's intent and "ignores the valid contract between the parties." Finally, the County asserts that the 2007 letters substantially complied with the requirements of TP § 8-401, assuming, *arguendo*, that it applies. The County contends that the letters "contained more than sufficient information to notify Ms. Polinger of the greater value and instructed Ms. Polinger on how to appeal the value, which Ms. Polinger failed to do." In support of its substantial compliance argument, the County cites *La Belle v. State Tax Comm'n*, 217 Md. 443 (1958), which we shall address below.

Ms. Polinger responds first by addressing the Supervisor's finality argument. Ms. Polinger asserts that in his "cart before the horse argument, the [Supervisor] forgets that to foreclose a right of appeal, there must be a *valid* notice." (Emphasis in original). In other words, because the 2007 letters failed to meet the mandatory requirements of TP § 8-401, those letters could not start the clock ticking on the time for filing an appeal.

Next, Ms. Polinger contends that "[a]ccording to the plain meaning of § 8-401, each time there is 'any change' in any 'existing real property value,' the SDAT is required to issue a written notice." Because § 8-401 is the only provision within the Tax-Property Article governing notice of a change in real property value, Ms. Polinger argues it must

apply to changes in the market value assessment under § 8-213. Moreover, responding to the County's assertion that TP § 8-401 only applies to assessments used to generate a tax bill, Ms. Polinger asserts that market value assessments under § 8-213 fall within that category because they are used to calculate SDAT's recapture tax in the event a golf course agreement is broken.

Regarding the nature of the agreement as a contract between herself and the State, Ms. Polinger contends that while its purpose is to "[defer] the collection of taxes based on the property's full market value until the property is sold and no longer used as a golf course, that deferral is not carte blanche to increase the property value without first giving the taxpayer a valid notice of the change." According to Ms. Polinger, because neither the agreement nor SDAT's own regulations contain an alternative notice provision, the 2007 letters remain subject to § 8-401.

Furthermore, in response to the County's contention that the sending of two Section 8-401 notices would confuse the taxpayer, Ms. Polinger argues that "there is nothing preventing the SDAT from issuing notices that [both] provide the information required by § 8-401 and [clearly] explain the relationship of the two values." Ms. Polinger asserts that the Tax Court was correct where it found that the 2007 letters were themselves confusing because the they stated that "[t]he market value is estimated for the *entire golf course* . . . , *inclusive of all individual parcels* that are subject to the agreement," despite the fact that each letter was only relevant to *one* individual parcel. (Emphasis added).

Finally, Ms. Polinger responds to the County's substantial compliance argument by contending that even under that lesser standard, the 2007 letters failed to comply with § 8-401 because they omitted four out of the five elements required by § 8-401(c).

B. Standard of Review

"Though denominated a 'court,' the Tax Court is an administrative agency and, as such, 'is subject to the same standards of judicial review as other administrative agencies.'" *Lane v. Supervisor of Assessments of Montgomery Cty.*, 447 Md. 454, 464 (2016) (quoting *Frey v. Comptroller of Treasury*, 422 Md. 111, 136 (2011)). "When reviewing the decision of [an administrative agency], . . . we evaluate directly the agency decision, and, in so doing, we apply the same standards of review as the circuit court and intermediate appellate court." *Maryland-Nat'l Capital Park & Planning Comm'n v. Greater Baden-Aquasco Citizens Ass'n*, 412 Md. 73, 84 (2009) (quoting *Trinity Assembly of God of Baltimore City, Inc. v. People's Counsel for Baltimore Cty.*, 407 Md. 53, 77 (2008)).

As the Court of Appeals explained in a case involving review of a decision of the Tax Court,

> a court's task on review is *not* to "substitute its judgment for the expertise of those persons who constitute the administrative agency," *United Parcel v. People's Counsel,* . . . 336 Md. [569,] . . . 576–577, 650 A.2d [226,] . . . 230 [(1990)], quoting *Bulluck v. Pelham Wood Apts.,* . . . 283 Md. [505,] . . . 513, 390 A.2d [1119,] . . . 1124 [(1978)]. Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by

> reviewing courts. *Lussier v. Md. Racing Commission,* 343 Md. 681, 696–697, 684 A.2d 804, 811–812 (1996), and cases there cited; *McCullough v. Wittner,* 314 Md. 602, 612, 552 A.2d 881, 886 (1989) ("The interpretation of a statute by those officials charged with administering the statute is . . . entitled to weight."). Furthermore, the expertise of the agency in its own field should be respected. *Fogle v. H & G Restaurant,* 337 Md. 441, 455, 654 A.2d 449, 456 (1995); *Christ v. Department of Natural Resources,* 335 Md. 427, 445, 644 A.2d 34, 42 (1994) (legislative delegations of authority to administrative agencies will often include the authority to make "significant discretionary policy determinations"); *Bd. of Ed. for Dorchester Co. v. Hubbard,* 305 Md. 774, 792, 506 A.2d 625, 634 (1986) ("application of the State Board of Education's expertise would clearly be desirable before a court attempts to resolve the" legal issues).

Maryland Aviation Administration v. Noland, 386 Md. 556, 571–72, 873 A.2d 1145, 1154–55 (2005), quoting *Board of Physician Quality Assurance v. Banks,* 354 Md. 59, 68–69, 729 A.2d 376, 381 (1999) (alteration in original) (alterations added) (footnote omitted).

Recognizing that the agency's decision is "prima facie correct and presumed valid," "we must review the agency's decision in the light most favorable to it." *Comptroller of the Treasury v. Citicorp Int'l. Commc'ns,* 389 Md. 156, 163, 884 A.2d 112, 116 (2005) (quoting *Ramsay, Scarlett & Co. v. Comptroller,* 302 Md. 825, 834–35, 490 A.2d 1296, 1301 (1985)); Md. Code (1998, 2004 Repl. Vol.) § 13–411 of the Tax–General Article ("[a]n assessment of tax . . . is prima facie correct").

Unless the Tax Court's decision was erroneous as a matter of law, or its conclusion was not supported by substantial evidence, we must affirm that decision. *See Citicorp,* 389 Md. at 164, 884 A.2d at 117; *CBS v. Comptroller,* 319 Md. 687, 697–98, 575 A.2d 324, 329 (1990) (internal quotations and citations omitted).

Comptroller of Treasury v. Blanton, 390 Md. 528, 533-35 (2006).

Finally, "although we may 'give weight to an agency's experience in interpretation of a statute that it administers, . . . it is always within our prerogative to determine whether an agency's conclusions of law are correct.'" *Diffendal v. Dep't of Nat. Res.*, 222 Md. App. 387, 405, *cert. denied sub nom. Tunis & Diffendal v. Dep't of Nat. Res. & Marsh*, 443 Md. 737 (2015) (quoting *Schwartz v. Md. Dep't of Natural Res.,* 385 Md. 534, 554 (2005)). Our "review is limited to the conclusions of law actually made by the agency, and we will affirm the agency's decision only if it is sustainable on the grounds given." *Ak's Daks Commc'ns, Inc. v. Maryland Sec. Div.*, 138 Md. App. 314, 326 (2001).

C. Analysis

The issue in this appeal is whether the Tax Court erred in its interpretation of TP §§ 8-213 and 8-401 where, by memorandum and order dated July 16, 2015, it found as follows:

> . . . [T]he 2007 notice letters fail to provide the mandatory information as set forth under § 8-401 of the Tax-Property Article of the Md. Code Annotated. The notice letters fail to inform the taxpayer of the following information:
>
> 1) the amount of the current value of the property prior to the proposed value as of the [sic] January 1, 2008;
>
> 2) the amount of the proposed value that will be the basis for the assessment in each year of the 3 year cycle;
>
> 3) the appeal process and the property owner's bill of rights; and

> 4) a statement that valuation records are available as provided by § 14-201 of the Tax-Property Article
>
> Most importantly, the State Department of Assessment and Taxation (SDAT) failed to notify the taxpayer of any change in the proposed market value of the property. The fact that SDAT properly provided the requisite notice for the use value of the golf course property does not obviate the notice requirements with respect to a change in the market value.
>
> Finally, the Court finds that the 2007 notice letters improperly refer to different market values "for the entire golf course or country club inclusive of all individual parcels that are subject to the golf course agreement." This language creates confusion as to the market value of the golf course properties which consist of four (4) tax accounts.
>
> The Court concludes that there is an irrebutable presumption that the existing market value as of 2007 must be used to calculate the recapture tax from 2008 to 2015.

We hold that the Tax Court did not err in its conclusions of law, and shall explain.

In analyzing whether the notice requirements of TP § 8-401 apply to market value assessments under § 8-213, we follow "[t]he cardinal rule of statutory interpretation[, which] is to ascertain and effectuate the real and actual intent of the Legislature." *State v. Weems*, 429 Md. 329, 337 (2012) (quoting *Gardner v. State*, 420 Md. 1, 8 (2011)). Moreover,

> A court's primary goal in interpreting statutory language is to discern the legislative purpose, the ends to be accomplished, or the evils to be remedied by the statutory provision under scrutiny.
>
> To ascertain the intent of the General Assembly, we begin with the normal, plain meaning of the statute. If the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to the legislative intent ends

> ordinarily and we apply the statute as written without resort to other rules of construction.
>
> * * *
>
> We, however, do not read statutory language in a vacuum, nor do we confine strictly our interpretation of a statute's plain language to the isolated section alone. Rather, the plain language must be viewed within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature in enacting the statute.

Weems, 429 Md. at 337 (quoting *Gardner*, 420 Md. at 8-9).

When it comes to tax statutes in particular, "Maryland courts often have been strict constructionists, relying heavily on the plain meaning of the words. They have also tended to favor the interpretation proffered by the taxpayer when the meaning of the statute is in doubt." *Montgomery Cty. v. Fulks*, 65 Md. App. 227, 233 (1985). Therefore,

> we may not extend [tax statute] provisions by implication beyond the clear import of the language employed; and even where there is doubt as to the scope of the statute, although we find none here, it should be construed most strongly in favor of the citizen and against the state.

Id. at 234 (quoting *Scoville Serv., Inc. v. Comptroller of Treasury*, 269 Md. 390, 396 (1973)).

With these rules of statutory interpretation in mind, we now turn to the provisions of the Tax-Property Article at issue in this case:

> **§ 8-213. Agreements with country clubs and golf courses**
>
> (a) In this section, "agreement" means an agreement made under subsection (b) of this section.

(b) The Department may make agreements with country clubs and golf courses that specify the manner of assessing the land of a country club or golf course. All agreements shall contain uniform provisions.

(c)(1) Except as provided in paragraph (2) of this subsection, the land of a country club or golf course that is actively used as a country club or golf course that meets the requirements of § 8-212 of this subtitle shall be valued at rates equivalent to land assessed under § 8-219 of this subtitle.

(2) If the land of a country club or golf course that meets the requirements of § 8-212 of this subtitle has a greater market value than its value when used as a country club or golf course, the land shall also be assessed on the basis of the greater value.

(3) Except as provided under § 8-216 of this subtitle, the property tax payable by a country club or golf course under this section is based on the assessment of the land under paragraph (1) of this subsection.

(4) If an assessment is made on the greater value under paragraph (2) of this subsection, the assessment records for the country club or golf course shall record the assessment under paragraphs (1) and (2) of this subsection.

(5) Any assessment of the land of a country club or golf course under this section is effective on the date of finality next following the date of an agreement.

(d)(1) An agreement shall be for at least 10 consecutive years or for a longer period as determined by the country club or golf course and the Department.

(2) An agreement may be extended, but only in increments of at least 5 years.

§ 8-401. Notice of changes

(a) When any change as provided in subsection (b) of this section occurs in the value or classification of any real property that a supervisor assesses, the supervisor shall notify the owner or other appropriate person by a written notice of the proposed change.

(b) A written notice is required for:

(1) an increase or decrease in an existing real property value;

(2) a change in the classification of the real property;

(3) establishment of an initial real property value;

(4) a decision on an assessment appeal or a petition to change an existing real property value or classification; and

(5) a revaluation or reclassification, if a valuation or classification has been appealed but not finally determined.

(c) The notice for subsection (b)(1) of this section shall include:

(1) the amount of the current value;

(2) the amount of the proposed value including a statement that the total amount of the proposed value is the value for purposes of appeal;

(3) the amount of the proposed value that will be the basis for the assessment in each year of the 3-year cycle;

(4) a statement:

(i) indicating the right to appeal; and

(ii) briefly describing the appeal process and the property owner's bill of rights; and

> (5) a statement that valuation records are available as provided by § 14-201 of this article.
>
> * * *
>
> (f) A failure to send a notice of any change in value or classification within 30 days after the date provided in subsection (e) of this section[6] creates an irrebutable presumption that in the instances specified in subsection (b)(1) through (4) of this section the prior value has not changed[.]

We begin with the County's argument that nothing in TP § 8-212, *et seq.* or the agreement itself "requires SDAT to send a notice of [an increased market] value assessment in accordance with the provisions of § 8-401(a)." This argument oversimplifies matters because, as we indicated *supra*, we do not read statutory language in a vacuum, but instead consider it "within the context of the statutory scheme to which it belongs, considering the purpose, aim, or policy of the Legislature." *Weems*, 429 Md. at 337 (citation omitted). The statutory scheme at the center of this appeal is Title 8 of the Tax-Property Article. It governs the valuation and assessment of property and contains four subtitles, two of which being Subtitle 2 ("Assessment Procedures") and Subtitle 4 ("Assessment Preparation and Modification"). For the following reasons, we agree with Ms. Polinger that the notice requirements of Subtitle 4 cannot be isolated from golf course agreements under Subtitle 2 without a clear statutory or contractual waiver.

TP § 8-401(a) clearly states that "[w]hen *any change* as provided in subsection (b) of this section occurs in the value or classification of any real property that a supervisor

[6] Subsection (e) provides: "The notice shall be served as provided by § 8-402 of this subtitle on or before January 1 or any other date specified in this article."

assesses, the supervisor shall notify the owner or other appropriate person by a written notice of the proposed change." (Emphasis added). This is the only notice requirement in the entire Tax-Property Article or golf course agreement governing changes in the value of real property. By its plain meaning, it applies to "any changes" in the value of real property. However, the County argues that SDAT was not required to give notice under TP § 8-401 because the market value assessment would never have been used to generate a tax bill had Ms. Polinger not conveyed the golf course to a developer who did not assume the agreement. We disagree. Although the market value assessment is not used to generate a tax bill so long as a golf course agreement is in effect, this case illustrates its importance to the taxpayer as the basis for calculating the recapture tax. Without notice of changes in the market value of their property, owners would not be able to make informed business decisions regarding the early termination of golf course agreements. They have a right to know the size of the recapture tax bill they would be faced with if they were to decide to sell to a buyer who would no longer maintain the property as a public golf course. We do not think that the sending of two 8-401 notices—one for the use assessment and one for the market value assessment—would necessarily be confusing to taxpayers because, as Ms. Polinger points out, SDAT could send two notices that both meet the requirements of § 8-401, while at the same time clearly explaining the difference between the two assessment values. For these reasons, we hold that the notice requirements of TP § 8-401 apply to changes in the market value assessment under § 8-213.

The County, citing *La Belle v. State Tax Comm'n*, 217 Md. 443 (1958), argues that substantial compliance with § 8-401 is sufficient. We disagree. *La Belle* involved an interpretation of Article 81, Section 28 of the Maryland Code of 1951 (the predecessor to TP § 8-401). *Id.* at 449. At that time, the assessment statute contained neither the requirement that the current value be included in a notice of a proposed change (added in 1971, *see* 1971 Md. Laws, Ch. 528) nor the irrebutable presumption currently found in TP § 8-401(f) (added in 1978, *see* 1978 Md. Laws, Ch. 1014). Instead, the statute simply required that the State "notify the person against whom it is proposed to make . . . such assessment . . . by a written or printed notice, appointing a day for such person to make answer thereto or present such proof as he may desire in the premises." *La Belle*, 217 Md. at 449. Unlike the Tax Court in this case, the Court of Appeals in *La Belle* determined that "the notice . . . met all necessary legal requisites." *Id.* In other words, *La Belle* involved an assessment notice that met all the statutory requirements, not one that substantially complied with them. In the present case, the mandatory language of the notice statute ("The notice for subsection (b)(1)of this section *shall* include . . .") indicates that the lesser standard of substantial compliance is insufficient. TP § 8-401(c) (emphasis added).

Even assuming, *arguendo*, that substantial compliance was enough, the 2007 letters did not meet that lesser standard. As the Tax Court indicated in its memorandum and order, the 2007 letters failed to satisfy four out of the five requirements of § 8-401(c), namely:

> 1) the amount of the current value of the property prior to the proposed value as of the [sic] January 1, 2008;

2) the amount of the proposed value that will be the basis for the assessment in each year of the 3 year cycle;

3) the appeal process and the property owner's bill of rights; and

4) a statement that valuation records are available as provided by § 14-201 of the Tax Property Article.

Helen M. Polinger v. Supervisor of Assessments for Montgomery Cnty., No. 15-MI-MO-0263 (1-4), slip op. at 1 (Md. Tax Ct. July 16, 2015). The Tax Court also found that the letters were confusing because they "improperly refer[red] to different market values 'for the entire golf course or country club inclusive of all individual parcels that are subject [to] the golf course agreement.'" *Id.* at 2 (quoting the 2007 letters). Finally, the Tax Court determined that the 2007 letters "failed to notify the taxpayer of any change in the proposed market value of the property." Slip op. at 1. Because all of these findings are supported by the record, the 2007 letters did not even substantially comply with the requirements of TP § 8-401.

The County asserts that because the golf course agreement does not contain an express reference to "§ 8-401," the notice requirements of that provision have been contractually waived. Again, we disagree. Nowhere in the agreement or SDAT's own regulations can an alternative notice provision for market value assessments be found. Thus, the 2007 letters remain subject to § 8-401.

The last contention we shall address is the one advanced by the Supervisor that the Tax Court erred in not expressly addressing the finality of the 2007 letters. We hold that by determining that the insufficiency of the letters under TP § 8-401 created an irrebutable

presumption that the market value of the property did not change, the Tax Court necessarily found that it had jurisdiction over the case because the letters did not start the clock ticking under TP § 14-502(a)(1) (providing that "any taxpayer . . . may submit a written appeal to the supervisor as to a value or classification in a notice of assessment on or before 45 days from the date of the notice."). Indeed, in order to start the clock ticking on the 45 days for appealing an assessment, there must be a *valid* notice. Otherwise, the entire purpose of the notice provision would be frustrated. The Tax Court's July 16, 2016, memorandum opinion and order focused entirely on why the 2007 letters did not constitute valid assessment notices. Therefore, the court did not err where it did not specifically address the issue of finality.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.