

Secs. 41.28 to 41.40. [Reserved for expansion].*Subchapter C**Taxpayer Protest***Sec. 41.41. Right of Protest.**

(a) A property owner is entitled to protest before the appraisal review board the following actions:

(1) determination of the appraised value of the owner's property or, in the case of land appraised as provided by Subchapter C, D, E, or H, Chapter 23, determination of its appraised or market value;

(2) unequal appraisal of the owner's property;

(3) inclusion of the owner's property on the appraisal records;

(4) denial to the property owner in whole or in part of a partial exemption;

(5) determination that the owner's land does not qualify for appraisal as provided by Subchapter C, D, E, or H, Chapter 23;

(6) identification of the taxing units in which the owner's property is taxable in the case of the appraisal district's appraisal roll;

(7) determination that the property owner is the owner of property;

(8) a determination that a change in use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred; or

(9) any other action of the chief appraiser, appraisal district, or appraisal review board that applies to and adversely affects the property owner.

(b) Each year the chief appraiser for each appraisal district shall publicize in a manner reasonably designed to notify all residents of the district:

(1) the provisions of this section; and

(2) the method by which a property owner may protest an action before the appraisal review board.

(c) **[As added by Acts 2019, 86th Leg., ch. 1034 (H.B. 492), Proposed Amendment by Acts 2019, 86th Leg., H.J.R. 34, Contingent on Voter Approval]** Notwithstanding Subsection (a), a property owner is entitled to protest before the appraisal review board only the following actions of the chief appraiser in relation to an exemption under Section 11.35:

(1) the modification or denial of an application for an exemption under that section; or

(2) the determination of the appropriate damage assessment rating for an item of qualified property under that section.

(c) **[As added by Acts 2019, 86th Leg., ch. 1284 (H.B. 1313); Effective January 1, 2020]** An appraisal district or the appraisal review board for an appraisal district may not require a property owner to pay a fee in connection with a protest filed by the owner with the board.

HISTORY: Enacted by Acts 1979, 66th Leg., ch. 841 (S.B. 621), § 1, effective January 1, 1982; am. Acts 1981, 67th Leg., 1st C.S., ch. 13 (H.B. 30), § 137, effective August 14, 1981; am. Acts 1985, 69th Leg., ch. 823 (S.B. 908), § 3, effective January 1, 1986; am. Acts 1989, 71st Leg., ch. 796 (H.B. 432), § 34, effective September 1, 1989; am. Acts 1997, 75th Leg., ch. 113 (S.B. 93), § 1, effective January 1, 1998; am. Acts 1999, 76th Leg., ch. 631 (S.B. 977), § 11, effective September 1, 1999; am. Acts 2019, 86th Leg., ch. 1034 (H.B. 492), § 7; am. Acts 2019, 86th Leg., ch. 1284 (H.B. 1313), § 3, effective January 1, 2020.

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ADMINISTRATIVE LAW

Judicial Review

Reviewability

Exhaustion of Remedies. — Trial court's judgment dismissing the company's suit for want of jurisdiction was affirmed where (1) the company presented no evidence of the date that the 1999 tax appraisal records were approved as required by Tex. Tax Code Ann. § 41.12(a)(4); (2) even if Tex. Tax Code Ann. § 11.439 was procedural and controlled pending litigation, the company failed to establish its entitlement to relief; and (3) under Tex. Tax Code Ann. §§ 41.41(a)(9), 41.44, 41.45, 42.01(1)(A), 42.21(a), 42.09, the company did not exhaust its administrative remedies and was not entitled to judicial review; the company did not assert that the cover letter attached to its late application for a freeport exemption under Tex. Tax Code Ann. § 11.43(d), (e) was a request for extension of time and that the letter stated good cause for the tardy filing. *Quorum Int'l v. Tarrant Appraisal Dist.*, 114 S.W.3d 568, 2003 Tex. App. LEXIS 5465 (Tex. App. Fort Worth June 26, 2003, no pet.).

CIVIL PROCEDURE

Justiciability

Standing

General Overview. — In response to a plea to the jurisdiction by a county appraisal district, a trial court did not err in dismissing without prejudice a suit brought by a property seller and its buyer for judicial review of resolution of an ad valorem tax-valuation protest for the 2005 tax year where neither the seller nor the buyer had standing in the district court because: (1) the seller did not own the property on January 1, 2005, and thus had no legal right to appeal under Tex. Tax Code Ann. § 42.01(1)(A), and its lack of standing as owner thus precluded its "party" status under Tex. Tax Code Ann. § 42.21(a); (2) the buyer had neither a legal right to enforce, nor any real controversy for the trial court to determine, as the buyer did not pursue its Tex. Tax Code Ann. ch. 41 right to protest the valuation before the district's appraisal review board, and thus the board never determined a protest by the buyer as the property owner pursuant to Tex. Tax Code Ann. § 42.01(a); and (3) no proper party having appealed to the district court within the 45-day time limit of Tex. Tax Code Ann. § 42.21(a), it never acquired subject-matter jurisdiction, and the board's valuation became final when those 45 days expired. *Koll Bren Fund VI, LP v. Harris County Appraisal Dist.*, No. 01-07-00321-CV, 2008 Tex. App. LEXIS 1521 (Tex. App. Houston 1st Dist. Feb. 28, 2008).

Buyer had standing as the new owner under Tex. Tax Code Ann. § 41.412 to protest a reappraisal of a refinery unit as excessive and unequal; the seller could not assert that claim, however, because it did not have standing under Tex. Tax Code Ann. § 41.41 to file a protest for the same property in the same tax year. *MHC (USA) Leasing & Fin. Corp. v. Galveston Cent. Appraisal Dist.*, 249 S.W.3d 68, 2007 Tex. App. LEXIS 7669 (Tex. App. Houston 1st Dist. Sept. 20, 2007), reh'g denied, No. 01-06-00529-CV, 2007 Tex. App. LEXIS 10146 (Tex. App. Houston 1st Dist. Nov. 6, 2007).

PLEADING & PRACTICE

Defenses, Demurrers & Objections

Affirmative Defenses

Duress. — Because taxpayers could have administratively

challenged the disputed amount of taxes they paid, they could not claim duress based on the consequences resulting from their failure to make that challenge, nor could they pursue as plaintiffs an affirmative claim for refund of taxes paid under duress. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

PLEADINGS

Amended Pleadings

General Overview. — Where on appeal of a corporate taxpayer's challenge to Tex. Tax Code Ann. § 23.56(3) the statute was held unconstitutional in a separate case, the taxpayer was required by Tex. Tax Code Ann. § 42.21 to exhaust its administrative remedies for each year at issue on appeal, and the trial court on remand had jurisdiction to consider only those years in which the taxpayer applied for open-space land designation pursuant to Tex. Tax Code Ann. § 23.54 and protested the denial of that application pursuant to Tex. Tax Code Ann. § 41.41. *Henderson County Appraisal Dist. v. HL Farm Corp.*, 956 S.W.2d 672, 1997 Tex. App. LEXIS 5563 (Tex. App. Eastland Oct. 23, 1997, no pet.).

SUMMARY JUDGMENT

Burdens of Production & Proof

Movants. — Taxpayer's failure to comply with the administrative review procedures of the Texas Property Tax Code deprived a trial court of jurisdiction over the taxpayer's claims against a county appraisal district and a county review board because the claims fell within the administrative body's exclusive jurisdiction under Tex. Tax Code Ann. § 42.09(a); none of the exceptions that the taxpayer asserted on appeal to the exhaustion-of-remedies doctrine applied to except it from pursuing its administrative remedies because: (1) the taxpayer did not avail itself of either of the remedies under Tex. Tax Code Ann. § 25.25, and Tex. Tax Code Ann. § 41.41; and (2) the district and the board acted within their statutory authority under Tex. Tax Code Ann. § 25.23(a)(1) when they assessed the taxpayer's additional tax reflecting allegedly omitted property, and the taxpayer did not protest the failure of the board to give it proper notice under Tex. Tax Code Ann. § 41.41; and (3) the constitutional-claims exception did not excuse the taxpayer from exhausting its administrative remedies before seeking judicial review, as the taxpayer received the process that it was due when it was afforded an opportunity to protest defective notice and to be heard on the merits of its tax dispute during the administrative process but failed to avail itself of the administrative remedies. *Harris County Appraisal Dist. v. Blue Flash Express, L.L.C.*, No. 01-06-00783-CV, 2007 Tex. App. LEXIS 3707 (Tex. App. Houston 1st Dist. May 10, 2007).

JUDGMENTS

Preclusion & Effect of Judgments

Estoppel

Judicial Estoppel. — Judicial estoppel did not preclude property owners from asserting on appeal in the district court that the tax appraisal value of the property should be less than the value they asserted at the appraisal review board, because judicial estoppel only applied in subsequent actions, and the appeal constituted the same proceeding. *Curry v. Harris County Appraisal Dist.*, 434 S.W.3d 815, 2014 Tex. App. LEXIS 6151 (Tex. App. Houston 14th Dist. June 5, 2014, no pet.).

REMEDIES

Costs & Attorney Fees

Attorney Expenses & Fees

Statutory Awards. — Taxpayers whose travel trailers and recreational vehicles were not improvements or real property but were tangible personal property exempt from taxation under Tex. Tax Code Ann. § 11.14, and who successfully protested the denial of the exemption under Tex. Tax Code Ann. § 41.41(4), were entitled to mandatory attorney's fees under Tex. Tax Code Ann. § 42.29. *Rourk v. Cameron Appraisal Dist.*, No. 13-11-00751-CV, 2013 Tex. App. LEXIS 8947 (Tex. App. Corpus Christi July 18, 2013), op. withdrawn, sub. op., reh'g denied, 443 S.W.3d 217, 2013 Tex. App. LEXIS 10348 (Tex. App. Corpus Christi Aug. 15, 2013).

Trial court erred in finding that taxpayers were not entitled to attorney's fees, because the taxpayers had successfully protested the denial of a partial exemption under Tex. Tax Code Ann. 41.41(4) and were therefore entitled to mandatory attorney's fees under Tex. Tax Code Ann. 42.29. *Boll v. Cameron Appraisal Dist.*, No. 13-11-00750-CV, 2013 Tex. App. LEXIS 8946 (Tex. App. Corpus Christi July 18, 2013), op. withdrawn, sub. op., reh'g denied, 445 S.W.3d 397, 2013 Tex. App. LEXIS 10345 (Tex. App. Corpus Christi Aug. 15, 2013).

Tex. Tax Code Ann. § 42.29 authorized attorney's fees for only two distinct types of protest: excessive value and unequal appraisal; therefore, because a protest to an appraisal district's ability to tax oil located in an interstate pipeline did not fall under Tex. Tax Code Ann. §§ 42.25, 42.26, several oil companies were not able to recover such fees. In addition, the appraisal district did not waive a complaint to an award of attorney's fees because repeated objections were made. *Midland Cent. Appraisal Dist. v. BP Am. Prod. Co.*, 282 S.W.3d 215, 172 Oil & Gas Rep. 428, 2009 Tex. App. LEXIS 2048 (Tex. App. Eastland Mar. 26, 2009), cert. denied, 563 U.S. 936, 131 S. Ct. 2097, 179 L. Ed. 2d 891, 2011 U.S. LEXIS 3129 (U.S. 2011).

APPEALS

Appellate Jurisdiction

Final Judgment Rule. — Where taxpayer was entitled to protest the appraised value of property before the county appraisal review board under Tex. Tax Code Ann. § 41.41, and taxpayer did not file the notice of protest within thirty days after receiving the notice of the change in appraisal as required by Tex. Tax Code Ann. § 41.44(a), those remedies were exclusive, and failure to pursue them precluded judicial review of the appraisal under Tex. Tax Code Ann. § 42.09. *Escamilla v. City of Laredo*, 9 S.W.3d 416, 1999 Tex. App. LEXIS 9255 (Tex. App. San Antonio Dec. 15, 1999, no pet.).

REVIEWABILITY

Preservation for Review. — Where a taxpayer did not protest the determination of the appraised value of the property or any other action of an appraisal review board, the taxpayer was not entitled, pursuant to Tex. Tax Code Ann. §§ 41.41 and 42.09, to do so in litigation brought by a county and a city to collect delinquent taxes, and thus, the only issue before the court was whether the trial court abused its discretion in ordering that the taxpayer's tort claims against the city be tried in a previously filed lawsuit; because the taxpayer's claims were already asserted in the previously filed lawsuit, and they did not involve the same proof as the city's claim for delinquent taxes, the taxpayer's tort claims were properly dismissed. *Qualls v. Angelina County*, 98 S.W.3d 369, 2003 Tex. App. LEXIS 973 (Tex. App. Beaumont Jan. 30, 2003, no pet.).

CONSTITUTIONAL LAW

Bill of Rights

Fundamental Rights

Procedural Due Process

Scope of Protection. — Taxpayers were not deprived of due process due to lack of notice where the record showed that they received actual notice at least one year before trial and that they failed to administratively protest the failure to give notice through the administrative procedures in the Texas Tax Code. The taxpayers had a right to and could have challenged their non-ownership of the property they paid taxes on under the administrative provisions of the Tax Code. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

Appraisal district's inaction on an untimely application for an open-space agricultural appraisal did not violate an energy company's due process rights; the energy company should have notified the appraisal district that it was no longer using the land at issue for a public purpose beginning in 1999. It could have filed at that time for the open-space agricultural appraisal, and then used the procedures set forth for protests. *City of San Antonio v. Bastrop Cent. Appraisal Dist.*, 275 S.W.3d 919, 2009 Tex. App. LEXIS 309 (Tex. App. Austin Jan. 16, 2009, no pet.).

GOVERNMENTS

Courts

Judicial Precedents. — Texas Supreme Court decision holding Tex. Tax. Code Ann. § 23.56(3), which denied open-space designation to foreign entities, unconstitutional, was to be applied retroactively; therefore, a corporate taxpayer that had been in litigation challenging the statute was allowed a recovery for the years in which it had exhausted its administrative remedies under Tex. Tax. Code Ann. §§ 23.54 and 41.41. *Henderson County Appraisal Dist. v. HL Farm Corp.*, 956 S.W.2d 672, 1997 Tex. App. LEXIS 5563 (Tex. App. Eastland Oct. 23, 1997, no pet.).

STATE & TERRITORIAL GOVERNMENTS

Finance. — Appellant tax collector was not in a position to challenge the decision of appellee board concerning taxing units because Tex. Tax Code § 41.41 did not give appellant authorization to challenge appellee's decision. *Carr v. Bell Sav. & Loan Ass'n*, 786 S.W.2d 761, 1990 Tex. App. LEXIS 162 (Tex. App. Texarkana Jan. 23, 1990, writ denied).

TAX LAW

State & Local Taxes

Administration & Proceedings

General Overview. — Court correctly rendered summary judgment in favor of the county, because the taxpayer's motion to correct the appraisal rolls was untimely, when a Tex. Tax Code Ann. § 25.25(c)(3) motion was not the appropriate vehicle to pursue challenges to the inclusion of property not located in Texas and of intangible property as personal property on the appraisal records, and the appropriate vehicle was a Tex. Tax Code Ann. ch. 41 protest, which the taxpayer admittedly did not pursue. *Bauer-Pileco, Inc. v. Harris County Appraisal Dist.*, 443 S.W.3d 304, 2014 Tex. App. LEXIS 8637 (Tex. App. Houston 1st Dist. Aug. 7, 2014, no pet.).

Since the basis of taxpayer's complaint in the trial court was not a ground of protest contained under Tex. Tax Code Ann. § 41.41 seeking to recover a refund of penalties, fees, and interest allegedly imposed on its property without proper notice and in violation of due process of law, the exclusivity provision of Tex. Tax Code Ann. § 42.09 was not applicable and did not preclude the trial court from exercising subject matter jurisdiction over the taxpayer's lawsuit. *Dallas Cent. Appraisal Dist. v. 1420 Viceroy Ltd.*, 180 S.W.3d 267, 2005 Tex. App. LEXIS 9699 (Tex. App. Dallas Nov. 18, 2005, no pet.).

Assuming without deciding that taxing authorities sent the taxpayers defective notice, Tex. Tax Code Ann. §§ 41.41(a)(1), (3), (9), 41.411(a) provided the taxpayers with administrative procedures to allow them to protest; because the taxpayers were presented with an opportunity to be heard but did not avail themselves of these remedies, deprivations of property that stemmed from the addition of omitted property were not unconstitutional. *MAG-T, L.P. v. Travis Cent. Appraisal Dist.*, 161 S.W.3d 617, 2005 Tex. App. LEXIS 859 (Tex. App. Austin Feb. 3, 2005, no pet.).

Because the questions the taxpayers raised had already been dedicated to taxing authorities to decide pursuant to Tex. Tax Code Ann. §§ 22.23(c), 41.41(a)(1), (3), (9), 41.411(a), the taxpayers could not collaterally attack the decisions of the authorities on the grounds that they were excused from exhausting administrative remedies because the matters were pure questions of law. *MAG-T, L.P. v. Travis Cent. Appraisal Dist.*, 161 S.W.3d 617, 2005 Tex. App. LEXIS 859 (Tex. App. Austin Feb. 3, 2005, no pet.).

Although the housing development corporation was entitled to protest the county taxing authority's denial of the housing development authority's request for a tax exemption for a particular tax year, and also had the right after filing a notice of protest to appear and present evidence or argument to the appraisal review board before filing an adverse decision of the appraisal review board to the trial court, exact compliance with those procedures was mandatory before it could maintain a challenge in the trial court; the failure to file its notice of protest within 30 days after receiving notice of the county taxing authority's decision regarding the adverse decision meant the trial court lacked jurisdiction to grant summary judgment to the county taxing authority regarding its denial of the tax exemption request, and the appellate court only had the authority to set aside the judgment

and dismiss the housing development corporation's appeal of that denial. *Found. of Hope, Inc. v. San Patricio County Appraisal Dist.*, No. 13-02-083-CV, 2003 Tex. App. LEXIS 7922 (Tex. App. Corpus Christi Sept. 11, 2003).

Property owner is entitled to protest before the appraisal review board any action by the chief appraiser, appraisal district, or appraisal review board that applies to and adversely affects the property owner under Tex. Tax Code Ann. § 41.41(a)(9), and after filing the required notice of protest, the property owner is entitled to an opportunity to appear and present evidence or argument to the appraisal review board pursuant to Tex. Tax Code Ann. § 41.44 and Tex. Tax Code Ann. § 41.45; if the property owner is aggrieved by the determination of the appraisal review board following the protest hearing, the property owner is then entitled to appeal the decision to the district court under Tex. Tax Code Ann. § 42.01(1)(A) and Tex. Tax Code Ann. § 42.21(a). *Quorum Int'l v. Tarrant Appraisal Dist.*, 114 S.W.3d 568, 2003 Tex. App. LEXIS 5465 (Tex. App. Fort Worth June 26, 2003, no pet.).

By failing to timely file a protest as required by Tex. Tax Code Ann. § 41.41, an aviation company waived its right to allocation of the market value of its aircraft under Tex. Tax Code Ann. § 21.03 to reflect its use in Texas during a period from which the appraisal district appraised the aircraft for tax purposes. *Kellair Aviation Co. v. Travis Cent. Appraisal Dist.*, 99 S.W.3d 704, 2003 Tex. App. LEXIS 1085 (Tex. App. Austin Feb. 6, 2003, no pet.).

A taxpayer that appealed the appraisal of his real estate by the county review board under Tex. Tax Code Ann. § 25.25, a provision that permitted only correction motions, was foreclosed from also pursuing arbitration under Tex. Tax Code Ann. § 41.41, which authorized arbitration as an avenue of appeal; the provisions were mutually exclusive and distinct, and the unambiguous language of § 42.01 foreclosed arbitration under Chapter 42 as an avenue of appeal from the corrective measure listed in § 25.25. *Harris County Appraisal Dist. v. World Houston*, 905 S.W.2d 594, 1995 Tex. App. LEXIS 2128 (Tex. App. Houston 14th Dist. Aug. 24, 1995, no writ).

Because Tex. Tax Code Ann. §§ 23.54 and 25.19 were not contradictory and were to be given equal effect, the taxpayer's remedy for an erroneous appraisal was pursuant to Tex. Tax Code Ann. § 41.41, at which administrative hearing the taxpayer could address improper notice concerns. *Harris County Appraisal Dist. v. Dincans*, 882 S.W.2d 75, 1994 Tex. App. LEXIS 1881 (Tex. App. Houston 14th Dist. July 28, 1994, writ denied).

A bank's claim for refund of tax, on the basis that it had been erroneously assessed against the bank for its stock rather than against the holders of the stock, was dismissed because the bank filed its protest under Tex. Tax Code Ann. § 31.11, which applied to erroneous payments, rather than under Tex. Tax Code Ann. § 41.41(a)(1), which applied to determinations of ownership; thus, the bank had not exhausted its administrative remedies. *First Bank of Deer Park v. Harris County*, No. 01-88-00501-CV, 1989 Tex. App. LEXIS 1930 (Tex. App. Houston 1st Dist. July 27, 1989), op. withdrawn, sub. op., No. 01-88-00501-CV, 1990 Tex. App. LEXIS 492 (Tex. App. Houston 1st Dist. Mar. 8, 1990).

ASSESSMENTS. — Buyer had standing as the new owner under Tex. Tax Code Ann. § 41.412 to protest a reappraisal of a refinery unit as excessive and unequal; the seller could not assert that claim, however, because it did not have standing under Tex. Tax Code Ann. § 41.41 to file a protest for the same property in the same tax year. *MHCB (USA) Leasing & Fin. Corp. v. Galveston Cent. Appraisal Dist.*, 249 S.W.3d 68, 2007 Tex. App. LEXIS 7669 (Tex. App. Houston 1st Dist. Sept. 20, 2007), reh'g denied, No. 01-06-00529-CV, 2007 Tex. App. LEXIS 10146 (Tex. App. Houston 1st Dist. Nov. 6, 2007).

JUDICIAL REVIEW. — Owner was not "adversely affected" by an act of the county appraisal district or the Review Board in this case, and it was undisputed that the Review Board appraised the value of the owner's travel trailer property at zero; the owner, therefore, could not have been "adversely affected" by this action because she did not pay any taxes on her travel trailer in 2011, Tex. Tax Code Ann. § 41.41. *Groves v. Cameron Appraisal Dist.*, No. 13-12-00149-CV, 2012 Tex. App. LEXIS 7461 (Tex. App. Corpus Christi Aug. 31, 2012).

Dry dock owner had actual notice of the tax assessment against it, and the owner did not file a timely protest under Tex. Tax Code Ann. §§ 41.41—47, 41.411; because the owner failed to exhaust its administrative remedies concerning its claim of improper notice, the trial court was without jurisdiction to entertain those claims. *Thames Shipyard & Repair Co. v. Galveston Cent. Appraisal Dist.*, No. 14-10-01142-CV, 2011 Tex. App. LEXIS 8463 (Tex. App. Houston 14th Dist. Oct. 25, 2011).

Trial court erred by denying the taxing units' plea to the jurisdiction because the taxpayers were "property owners" under Tex. Tax Code Ann. § 41.41(a)(7), as they were listed as the owner in the tax appraisal rolls, entitled to administrative challenge, and because the taxpayers failed to timely exercise their administrative challenge under Tex. Tax Code Ann. § 42.09(a), the trial court did not have jurisdiction over their case seeking a refund. The exception of § 42.09(b) did not apply because when the taxing units nonsuited their claims for delinquent taxes, the taxpayers' affirmative defense became moot. *Houston Indep. Sch. Dist. v. Morris*, 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011), reh'g denied, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 10297 (Tex. App. Houston 1st Dist. July 13, 2011), rev'd, 388 S.W.3d 310, 2012 Tex. LEXIS 898 (Tex. 2012).

Because taxpayers could have administratively challenged the disputed amount of taxes they paid, they could not claim duress based on the consequences resulting from their failure to make that challenge, nor could they pursue as plaintiffs an affirmative claim for refund of taxes paid under duress. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

Because the ground for taxpayers' protest was provided for in Tex. Tax Code Ann. § 41.41, the Texas Tax Code exclusively controlled the disposition of the case. Because the taxpayers' affirmative claims for refund on the grounds of non-ownership was controlled by the Tax Code, and because those claims failed to meet the requirements of the code, a district court lacked jurisdiction over the taxpayers' claims. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

At least as it is used in Tex. Tax Code Ann. § 41.41(a)(7), the term "property owner" includes one listed as the owner in the tax appraisal rolls who is challenging the determination that he is the owner of property. Accordingly, taxpayers—regardless of whether they were in fact the true owners of the property at issue—were entitled to protest an appraisal review board's determination that they were the owners of the property, and because the taxpayers failed to timely exercise their administrative challenge under Tex. Tax Code Ann. § 42.09(a), a district court did not obtain jurisdiction over their case by an appeal under that portion of the statute. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

Assignee of a limited partnership interest was not a property owner entitled to appeal a protest ruling under Tex. Tax Code Ann. §§ 1.111, 41.41(a)(9), 42.01(1)(A), 42.21, 42.23, 42.015 because the assignee was not an owner of the partnership's property under Tex. Bus. Orgs. Code Ann. §§ 152.101, 152.056, 153.003. *Bexar Appraisal Dist. v. Am. Opportunity for Housing-Perrin Oaks, L.L.C.*, No. 04-10-00278-CV, 2010 Tex. App. LEXIS 9648 (Tex. App. San Antonio Dec. 8, 2010).

Plea to the jurisdiction in favor of the county appraisal district was proper, because the company lacked standing to protest the ad valorem property-tax protest for tax year 2007 before the district or appeal its determination of the protest since the company did not own the property as of January 1, 2007, the group did not exercise any right to protest and the district did not determine any protest by these parties, and there was no evidence the group held themselves out as the company or requested that the district refer to them by that name in the appraisal records. *DI Louetta Vill. Square LP v. Harris County Appraisal*

Dist., No. 14-08-00549-CV, 2009 Tex. App. LEXIS 9685 (Tex. App. Houston 14th Dist. Dec. 22, 2009).

Where the evidence showed that another entity owned property and a trustee was not liable for taxes on this property, he had no standing to bring an action challenging the denial of an exemption under Tex. Tax Code Ann. § 11.20. Therefore, a dismissal for lack of subject matter jurisdiction was warranted. *Bernard Dolenz Life Estate v. Dallas Cent. Appraisal Dist. & Appraisal Review Bd.*, 293 S.W.3d 920, 2009 Tex. App. LEXIS 6313 (Tex. App. Dallas Aug. 13, 2009, no pet.).

District court had jurisdiction over a taxpayer's action challenging the denial of its tax protest because the taxpayer had exhausted its administrative remedies as required by Tex. Tax Code Ann. § 42.09, as it filed its protest in accordance with the Tax Code by protesting that the county was not the taxable situs for its airplane, sending the county's appraisal district a letter, disputing the appraised value of the airplane, attended the appraisal review board, and received an order from the board denying its protest. The county appraisal review board considered the substantive matters ultimately appealed to the district court. *Starflight 50, L.L.C. v. Harris County Appraisal Dist.*, 287 S.W.3d 741, 2009 Tex. App. LEXIS 2097 (Tex. App. Houston 1st Dist. Mar. 26, 2009, no pet.).

Where a church failed to pursue the administrative procedures that were its exclusive means of relief pursuant to Tex. Tax Code Ann. §§ 41.41(a)(3), (9), (b)(3), 41.47, and 42.09(a), its argument that it could not submit jurisdiction to any other by paying taxes or filling out demanded government forms could not be considered at trial and could not be considered on appeal because that basis for protest could have been presented to the appropriate appraisal review board. Because the tax-protest procedure set forth in the Texas Tax Code was the exclusive means to assert the argument, it was not a legally-cognizable defense in a tax collection proceeding. *Grace Mem'l Baptist Church v. Harris County*, No. 14-07-00447-CV, 2008 Tex. App. LEXIS 7070 (Tex. App. Houston 14th Dist. Aug. 28, 2008).

Where a church failed to pursue the administrative procedures that were its exclusive means of relief pursuant to Tex. Tax Code Ann. §§ 41.41(a)(3), (9), (b)(3), 41.47, and 42.09(a), its argument that it was immune from taxation could not be considered at trial and could not be considered on appeal. Because the tax-protest procedure set forth in the Texas Tax Code was the exclusive means to assert the argument, it was not a legally-cognizable defense in a tax collection proceeding. *Grace Mem'l Baptist Church v. Harris County*, No. 14-07-00447-CV, 2008 Tex. App. LEXIS 7070 (Tex. App. Houston 14th Dist. Aug. 28, 2008).

In a tax dispute that arose after a county appraisal district denied a property owner a foreign-trade zone (FTZ) exemption from county ad valorem taxes for inventory located in the owner's foreign-trade subzone, the district, the appraisal review board, and the trial court had jurisdiction to review the owner's protest where the owner properly pursued its tax protest action under the prescribed procedures of the Texas Property Tax Code because the owner had claimed entitlement to the FTZ exemption pursuant to Tex. Tax Code Ann. § 11.12 and would have been precluded from claiming the FTZ exemption had it not timely followed the exclusive procedures set out in the Tax Code; the district had miscast the case as a contract dispute improperly brought under the Tax Code, and filing a common law contract action against the county to review an agreement between the county and the owner and determine the obligations under that agreement would have neither brought relief to the owner nor settled the present dispute, as the county had no authority to grant the owner the requested FTZ exemption, even if it agreed that the owner was entitled to the exemption based on the agreement. *Harris County Appraisal Dist. v. Shell Oil Co.*, No. 14-07-00106-CV, 2008 Tex. App. LEXIS 3671 (Tex. App. Houston 14th Dist. May 22, 2008).

In response to a plea to the jurisdiction by a county appraisal district, a trial court did not err in dismissing without prejudice a suit brought by a property seller and its buyer for judicial review of resolution of an ad valorem tax-valuation protest for the 2005 tax year where neither the seller nor the buyer had standing in the district court because: (1) the seller did not own the property on January 1, 2005, and thus had no legal right to appeal under Tex. Tax Code Ann. § 42.01(1)(A), and its lack of standing as owner thus precluded its "party" status under Tex. Tax Code Ann.

§ 42.21(a); (2) the buyer had neither a legal right to enforce, nor any real controversy for the trial court to determine, as the buyer did not pursue its Tex. Tax Code Ann. ch. 41 right to protest the valuation before the district's appraisal review board, and thus the board never determined a protest by the buyer as the property owner pursuant to Tex. Tax Code Ann. § 42.01(a); and (3) no proper party having appealed to the district court within the 45-day time limit of Tex. Tax Code Ann. § 42.21(a), it never acquired subject-matter jurisdiction, and the board's valuation became final when those 45 days expired. *Koll Bren Fund VI, LP v. Harris County Appraisal Dist.*, No. 01-07-00321-CV, 2008 Tex. App. LEXIS 1521 (Tex. App. Houston 1st Dist. Feb. 28, 2008).

Owners' claims in an ad valorem property tax case that their property was unequally and excessively appraised lacked merit because an agreement related to a matter specified under Tex. Tax Code Ann. § 1.111(e) was reached between the owners, through their agent, and the county appraisal district, and even though the owners contended that the lack of an agreement was evidenced by the fact that the parties did not act upon the agreement or announce the agreement to the court, Tex. Tax Code Ann. § 1.111(e) does not require such actions. *Sondock v. Harris County Appraisal Dist.*, 231 S.W.3d 65, 2007 Tex. App. LEXIS 4361 (Tex. App. Houston 14th Dist. May 31, 2007, no pet.).

Taxpayer's failure to comply with the administrative review procedures of the Texas Property Tax Code deprived a trial court of jurisdiction over the taxpayer's claims against a county appraisal district and a county review board because the claims fell within the administrative body's exclusive jurisdiction under Tex. Tax Code Ann. § 42.09(a); none of the exceptions that the taxpayer asserted on appeal to the exhaustion-of-remedies doctrine applied to except it from pursuing its administrative remedies because: (1) the taxpayer did not avail itself of either of the remedies under Tex. Tax Code Ann. § 25.25, and Tex. Tax Code Ann. § 41.41; and (2) the district and the board acted within their statutory authority under Tex. Tax Code Ann. § 25.23(a)(1) when they assessed the taxpayer's additional tax reflecting allegedly omitted property, and the taxpayer did not protest the failure of the board to give it proper notice under Tex. Tax Code Ann. § 41.411; and (3) the constitutional-claims exception did not excuse the taxpayer from exhausting its administrative remedies before seeking judicial review, as the taxpayer received the process that it was due when it was afforded an opportunity to protest defective notice and to be heard on the merits of its tax dispute during the administrative process but failed to avail itself of the administrative remedies. *Harris County Appraisal Dist. v. Blue Flash Express, L.L.C.*, No. 01-06-00783-CV, 2007 Tex. App. LEXIS 3707 (Tex. App. Houston 1st Dist. May 10, 2007).

When a property owner alleges that its property is exempt from taxation or has been overly appraised, the legislature intended for the appraisal review board to make the initial factual determination, and, consequently, a property owner must exhaust its administrative remedies before seeking judicial review of an exemption claim or property appraisal; the failure to do so is jurisdictional. *Midland Cent. Appraisal Dist. v. Plains Mktg., L.P.*, 202 S.W.3d 469, 169 Oil & Gas Rep. 220, 2006 Tex. App. LEXIS 8251 (Tex. App. Eastland Sept. 21, 2006, no pet.).

Taxpayer had exhausted its administrative remedies, and a trial court had subject-matter jurisdiction over the taxpayer's appeal of an assessment of taxes on crude oil inventory accounts, where the taxpayer's exemption claim was presented and rejected by the county appraisal review board; the claim was not only discussed at length but also debated and determined, and was, in fact, the only issue of significance discussed or decided by the board, and while the taxpayer could have done a much better job documenting the claim prior to the hearing, and its notices highlighted the risk of overdependence on forms, that did not alter the fact that the exemption claim was presented and determined. *Midland Cent. Appraisal Dist. v. Plains Mktg., L.P.*, 202 S.W.3d 469, 169 Oil & Gas Rep. 220, 2006 Tex. App. LEXIS 8251 (Tex. App. Eastland Sept. 21, 2006, no pet.).

TAXPAYER PROTESTS. — Taxpayers whose travel trailers and recreational vehicles were not improvements or real property but were tangible personal property exempt from taxation under Tex. Tax Code Ann. § 11.14, and who successfully protested the denial of the exemption under Tex. Tax. Code Ann. § 41.41(4),

were entitled to mandatory attorney's fees under Tex. Tax. Code Ann. § 42.29. *Rourk v. Cameron Appraisal Dist.*, No. 13-11-00751-CV, 2013 Tex. App. LEXIS 8947 (Tex. App. Corpus Christi July 18, 2013), op. withdrawn, sub. op., reh'g denied, 443 S.W.3d 217, 2013 Tex. App. LEXIS 10348 (Tex. App. Corpus Christi Aug. 15, 2013).

Trial court erred in finding that taxpayers were not entitled to attorney's fees, because the taxpayers had successfully protested the denial of a partial exemption under Tex. Tax Code Ann. 41.41(4) and were therefore entitled to mandatory attorney's fees under Tex. Tax Code Ann. 42.29. *Boll v. Cameron Appraisal Dist.*, No. 13-11-00750-CV, 2013 Tex. App. LEXIS 8946 (Tex. App. Corpus Christi July 18, 2013), op. withdrawn, sub. op., reh'g denied, 445 S.W.3d 397, 2013 Tex. App. LEXIS 10345 (Tex. App. Corpus Christi Aug. 15, 2013).

Taxpayer failed to exhaust its administrative remedies as to its complaint that its natural gas was exempt from taxation under the interstate commerce clause; thus, trial court lacked jurisdiction to address that complaint, Tex. Tax Code Ann. §§ 41.41, 41.47, and Tex. Tax Code Ann. § 25.25(c)(3) was not the appropriate vehicle for seeking the requested relief. *Harris County Appraisal Dist. v. ETC Mktg.*, 399 S.W.3d 364, 2013 Tex. App. LEXIS 4177 (Tex. App. Houston 14th Dist. Apr. 2, 2013, no pet.).

Trial court lacked jurisdiction to impose sanctions against an appraisal district pursuant its order relating to a taxpayer's pollution-control exemption in one tax year because the sanctions were for later years as to which the taxpayer failed to utilize the exclusive remedies in the tax code for protesting the assessments. *Travis Cent. Appraisal Dist. v. Wells Fargo Bank Minn., N.A.*, 382 S.W.3d 636, 2012 Tex. App. LEXIS 8636 (Tex. App. Austin Oct. 12, 2012, no pet.).

By not protesting, for purposes of Tex. Tax Code Ann. §§ 41.41, 41.44, 42.01, the taxpayer's defenses were limited to showing it did not own the property in question or that the property was not in the taxing district's boundaries, and having failed to file and perfect appeals, the taxpayer was limited to those defenses, for purposes of Tex. Tax Code Ann. § 42.09, but did not assert them. *Atl. Shippers of Tex., Inc. v. Jefferson County*, 363 S.W.3d 276, 2012 Tex. App. LEXIS 1821 (Tex. App. Beaumont Mar. 8, 2012, no pet.).

Although a taxpayer delayed payment thinking it would receive corrected bills for each tax year, the taxpayer did not protest or comply with procedures to contest the assessments at issue, for purposes of Tex. Tax Code Ann. §§ 41.41, 41.44, 42.01, and delinquent taxes incurred penalties and interest under Tex. Tax Code Ann. § 33.01. *Atl. Shippers of Tex., Inc. v. Jefferson County*, 363 S.W.3d 276, 2012 Tex. App. LEXIS 1821 (Tex. App. Beaumont Mar. 8, 2012, no pet.).

Taxpayer's argument that the county calculated taxes based on the wrong footage, which it raised as constitutional claims under Tex. Const. art. I, §§ 3, 17, 19 and Tex. Const. VIII, §§ 1, 2, were foreclosed by the failure of the taxpayer to exhaust administrative remedies, for purposes of Tex. Tax Code Ann. § 42.09(a)(1), and because the taxpayer failed to file a protest, the trial court committed no error in rejecting the constitutional claims. *Atl. Shippers of Tex., Inc. v. Jefferson County*, 363 S.W.3d 276, 2012 Tex. App. LEXIS 1821 (Tex. App. Beaumont Mar. 8, 2012, no pet.).

For purposes of Tex. Tax Code Ann. § 33.47(a), the county's tax records were prima facie evidence of the amount owed, such that the burden shifted to the taxpayer to raise a defense, presumably under Tex. Tax Code Ann. § 42.09; however, the defenses asserted were not among those available to a taxpayer who failed to timely protest, and the trial court properly granted the county summary judgment. *Atl. Shippers of Tex., Inc. v. Jefferson County*, 363 S.W.3d 276, 2012 Tex. App. LEXIS 1821 (Tex. App. Beaumont Mar. 8, 2012, no pet.).

Hidalgo County Appraisal District's alleged failure to properly assess the market value of the taxpayer's inventory was not clerical error, Tex. Tax Code Ann. § /Aa1.04(18), but as a result of error in methodology, procedure, and/or computation, and Tex. Tax Code Ann. § /Aa25.25(c) was not available to remedy issues pertaining to disputed property valuations. *Lack's Valley Stores, Ltd. v. Hidalgo County Appraisal Dist.*, No. 13-10-500-CV, 2011 Tex. App. LEXIS 4752 (Tex. App. Corpus Christi June 23, 2011), pet. dismissed w.o.j. No. 11-0590, 2011 Tex. LEXIS 997 (Tex. Dec. 16, 2011).

Term "property owner" with respect to Tex. Tax Code Ann. § 41.41(a) (7) is interpreted as having a consistent meaning, a person listed as the property owner in the tax appraisal rolls; under the court's interpretation, § 41.41(a)(7) provides that a person listed as the property owner in the tax appraisal rolls is entitled to protest before the appraisal review board the determination that the person listed as the property owner in the tax appraisal rolls is the owner of property. The court's interpretation is consistent with the definition of a tax protest because it provides that the person against whom the tax is assessed not the untaxed actual property owner has the administrative right to challenge the tax erroneously assessed against him. *Houston Indep. Sch. Dist. v. Morris*, 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011), reh'g denied, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 10297 (Tex. App. Houston 1st Dist. July 13, 2011), rev'd, 388 S.W.3d 310, 2012 Tex. LEXIS 898 (Tex. 2012).

Trial court erred by denying the taxing units' plea to the jurisdiction because the taxpayers were "property owners" under Tex. Tax Code Ann. § 41.41(a)(7), as they were listed as the owner in the tax appraisal rolls, entitled to administrative challenge, and because the taxpayers failed to timely exercise their administrative challenge under Tex. Tax Code Ann. § 42.09(a), the trial court did not have jurisdiction over their case seeking a refund. The exception of § 42.09(b) did not apply because when the taxing units nonsuited their claims for delinquent taxes, the taxpayers' affirmative defense became moot. *Houston Indep. Sch. Dist. v. Morris*, 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011), reh'g denied, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 10297 (Tex. App. Houston 1st Dist. July 13, 2011), rev'd, 388 S.W.3d 310, 2012 Tex. LEXIS 898 (Tex. 2012).

Actual property owner could not establish that it operated its business under a common name based solely upon the fact that the name was so reflected in the records of the appraisal district, but there was other evidence that the partnership actually filed both the administrative protest and the suit for judicial review; there was a question of fact about the identity of the party filing the tax protest and suit for judicial review, which precluded dismissal of the case on a plea to the jurisdiction. *730 N. Post Oak Office Park v. Harris County Appraisal Dist.*, No. 01-10-00011-CV, 2011 Tex. App. LEXIS 1956 (Tex. App. Houston 1st Dist. Mar. 17, 2011), op. withdrawn, sub. op., vacated, No. 01-10-00011-CV, 2011 Tex. App. LEXIS 4787 (Tex. App. Houston 1st Dist. June 23, 2011).

Taxpayers were not deprived of due process due to lack of notice where the record showed that they received actual notice at least one year before trial and that they failed to administratively protest the failure to give notice through the administrative procedures in the Texas Tax Code. The taxpayers had a right to and could have challenged their non-ownership of the property they paid taxes on under the administrative provisions of the Tax Code. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

At least as it is used in Tex. Tax Code Ann. § 41.41(a)(7), the term "property owner" includes one listed as the owner in the tax appraisal rolls who is challenging the determination that he is the owner of property. Accordingly, taxpayers-regardless of whether they were in fact the true owners of the property at issue-were entitled to protest an appraisal review board's determination that they were the owners of the property, and because the taxpayers failed to timely exercise their administrative challenge under Tex. Tax Code Ann. § 42.09(a), a district court did not obtain jurisdiction over their case by an appeal under that portion of the statute. *Houston Indep. Sch. Dist. v. Morris*, No. 01-10-00043-CV, 2011 Tex. App. LEXIS 1665 (Tex. App. Houston 1st Dist. Mar. 4, 2011), reh'g denied, op. withdrawn, sub. op., 355 S.W.3d 668, 2011 Tex. App. LEXIS 3819 (Tex. App. Houston 1st Dist. May 19, 2011).

Assignee of a limited partnership interest was not a property owner entitled to appeal a protest ruling under Tex. Tax Code Ann. §§ 1.111, 41.41(a)(9), 42.01(1)(A), 42.21, 42.23, 42.015 because the assignee was not an owner of the partnership's property under Tex. Bus. Orgs. Code Ann. §§ 152.101, 152.056, 153.003.

Bexar Appraisal Dist. v. Am. Opportunity for Housing-Perrin Oaks, L.L.C., No. 04-10-00278-CV, 2010 Tex. App. LEXIS 9648 (Tex. App. San Antonio Dec. 8, 2010).

Where the evidence showed that another entity owned property and a trustee was not liable for taxes on this property, he had no standing to bring an action challenging the denial of an exemption under Tex. Tax Code Ann. § 11.20. Therefore, a dismissal for lack of subject matter jurisdiction was warranted. *Bernard Dolenz Life Estate v. Dallas Cent. Appraisal Dist. & Appraisal Review Bd.*, 293 S.W.3d 920, 2009 Tex. App. LEXIS 6313 (Tex. App. Dallas Aug. 13, 2009, no pet.).

Motor vehicle dealer was not denied due process under Tex. Const. art. I, §§ 19, 27 because the actual market value of its inventory for a given year was not based on the dealer's actual sales in that calendar year but was the actual market value of inventory as of January 1 based on sales in the previous calendar year under Tex. Tax Code Ann. § 23.121. Thus, the actual sales in the later calendar year were irrelevant to the dealer's protest and the dealer could have timely protested the valuation under Tex. Tax Code Ann. §§ 41.41 and 41.44. *Expo Motorcars, L.L.C. v. Harris County Appraisal Dist.*, No. 01-08-00473-CV, 2009 Tex. App. LEXIS 5738 (Tex. App. Houston 1st Dist. July 23, 2009).

Taxpayer was not entitled to a hearing under Tex. Tax Code Ann. § 41.411 because it did not receive notice until after the taxes had become delinquent, and therefore the taxpayer could not timely file a protest under that section, and the taxpayer's protest made pursuant to Tex. Tax Code Ann. § 41.41 was untimely because it was made after the taxes had been assessed and had become delinquent; the Tax Code, as it existed prior to 2008, contained no procedural mechanisms to provide the taxpayer a hearing on its protest, and thus the trial court properly denied the taxpayer's motion for summary judgment on its claim for a judgment compelling a hearing pursuant to Tex. Tax Code Ann. § 41.45(f). *Indus. Communs., Inc. v. Ward County Appraisal Dist.*, 296 S.W.3d 707, 2009 Tex. App. LEXIS 4047 (Tex. App. El Paso June 3, 2009), reh'g denied, No. 08-07-00083-CV, 2009 Tex. App. LEXIS 9177 (Tex. App. El Paso July 15, 2009).

Tex. Tax Code Ann. § 42.29 authorized attorney's fees for only two distinct types of protest: excessive value and unequal appraisal; therefore, because a protest to an appraisal district's ability to tax oil located in an interstate pipeline did not fall under Tex. Tax Code Ann. §§ 42.25, 42.26, several oil companies were not able to recover such fees. In addition, the appraisal district did not waive a complaint to an award of attorney's fees because repeated objections were made. *Midland Cent. Appraisal Dist. v. BP Am. Prod. Co.*, 282 S.W.3d 215, 172 Oil & Gas Rep. 428, 2009 Tex. App. LEXIS 2048 (Tex. App. Eastland Mar. 26, 2009), cert. denied, 563 U.S. 936, 131 S. Ct. 2097, 179 L. Ed. 2d 891, 2011 U.S. LEXIS 3129 (U.S. 2011).

Where a church failed to pursue the administrative procedures that were its exclusive means of relief pursuant to Tex. Tax Code Ann. §§ 41.41(a)(3), (9), (b)(3), 41.47, and 42.09(a), its argument that it could not submit jurisdiction to any other by paying taxes or filling out demanded government forms could not be considered at trial and could not be considered on appeal because that basis for protest could have been presented to the appropriate appraisal review board. Because the tax-protest procedure set forth in the Texas Tax Code was the exclusive means to assert the argument, it was not a legally-cognizable defense in a tax collection proceeding. *Grace Mem'l Baptist Church v. Harris County*, No. 14-07-00447-CV, 2008 Tex. App. LEXIS 7070 (Tex. App. Houston 14th Dist. Aug. 28, 2008).

Where a church failed to pursue the administrative procedures that were its exclusive means of relief pursuant to Tex. Tax Code Ann. §§ 41.41(a)(3), (9), (b)(3), 41.47, and 42.09(a), its argument that it was immune from taxation could not be considered at trial and could not be considered on appeal. Because the tax-protest procedure set forth in the Texas Tax Code was the exclusive means to assert the argument, it was not a legally-cognizable defense in a tax collection proceeding. *Grace Mem'l Baptist Church v. Harris County*, No. 14-07-00447-CV, 2008 Tex. App. LEXIS 7070 (Tex. App. Houston 14th Dist. Aug. 28, 2008).

Taxpayer could not assert inadequate notice under Tex. Tax Code Ann. § 11.43(c) of the removal of its Tex. Tax Code Ann. § 11.18(a)(1)-(2) charitable property tax exemption because it did not file a protest under Tex. Tax Code Ann. §§ 41.41(a)(9),

41.411(a) after being advised it could do so; Tex. Tax Code Ann. § 42.09(a)(1) makes the administrative protest procedures exclusive. *Public, Inc. v. County of Galveston*, 264 S.W.3d 338, 2008 Tex. App. LEXIS 9235 (Tex. App. Houston 14th Dist. July 10, 2008, no pet.).

In a tax dispute that arose after a county appraisal district denied a property owner a foreign-trade zone (FTZ) exemption from county ad valorem taxes for inventory located in the owner's foreign-trade subzone, the district, the appraisal review board, and the trial court had jurisdiction to review the owner's protest where the owner properly pursued its tax protest action under the prescribed procedures of the Texas Property Tax Code because the owner had claimed entitlement to the FTZ exemption pursuant to Tex. Tax Code Ann. § 11.12 and would have been precluded from claiming the FTZ exemption had it not timely followed the exclusive procedures set out in the Tax Code; the district had miscast the case as a contract dispute improperly brought under the Tax Code, and filing a common law contract action against the county to review an agreement between the county and the owner and determine the obligations under that agreement would have neither brought relief to the owner nor settled the present dispute, as the county had no authority to grant the owner the requested FTZ exemption, even if it agreed that the owner was entitled to the exemption based on the agreement. *Harris County Appraisal Dist. v. Shell Oil Co.*, No. 14-07-00106-CV, 2008 Tex. App. LEXIS 3671 (Tex. App. Houston 14th Dist. May 22, 2008).

In a case involving a tax reappraisal, a jurisdictional challenge should not have been granted because several property owners were permitted to seek relief under Tex. Tax Code Ann. § 42.25 without filing an administrative protest under Tex. Tax Code Ann. § 41.41(a); they filed a protest under Tex. Tax Code Ann. § 25.25 instead. *Benson Chevrolet, Inc. v. Bexar Appraisal Dist.*, 242 S.W.3d 54, 2007 Tex. App. LEXIS 6452 (Tex. App. San Antonio Aug. 15, 2007), reh'g denied, No. 04-07-00204-CV, 2007 Tex. App. LEXIS 10109 (Tex. App. San Antonio Oct. 1, 2007).

No language within Tex. Tax Code Ann. § 42.25 limits its application to only Tex. Tax Code Ann. § 41.41(a) excessive appraisal challenges, and, because no such limitation exists within Tex. Tax Code Ann. § 42.25, there is no reason why property owners filing administrative challenges under Tex. Tax Code Ann. § 25.25(d) are precluded from seeking relief under Tex. Tax Code Ann. § 42.25 in a district court; an excessive appraisal challenge brought under Tex. Tax Code Ann. § 25.25(d) must allege the appraisal district over-valued a property by more than one-third; therefore, it logically follows that Tex. Tax Code Ann. § 42.25 applies on judicial review of such administrative challenge since Tex. Tax Code Ann. § 42.25 explicitly authorizes a court to remedy an excessive valuation by an appraisal district. *Benson Chevrolet, Inc. v. Bexar Appraisal Dist.*, 242 S.W.3d 54, 2007 Tex. App. LEXIS 6452 (Tex. App. San Antonio Aug. 15, 2007), reh'g denied, No. 04-07-00204-CV, 2007 Tex. App. LEXIS 10109 (Tex. App. San Antonio Oct. 1, 2007).

Owners' claims in an ad valorem property tax case that their property was unequally and excessively appraised lacked merit because an agreement related to a matter specified under Tex. Tax Code Ann. § 1.111(e) was reached between the owners, through their agent, and the county appraisal district, and even though the owners contended that the lack of an agreement was evidenced by the fact that the parties did not act upon the agreement or announce the agreement to the court, Tex. Tax Code Ann. § 1.111(e) does not require such actions. *Sondock v. Harris County Appraisal Dist.*, 231 S.W.3d 65, 2007 Tex. App. LEXIS 4361 (Tex. App. Houston 14th Dist. May 31, 2007, no pet.).

When a property owner alleges that its property is exempt from taxation or has been overly appraised, the legislature intended for the appraisal review board to make the initial factual determination, and, consequently, a property owner must exhaust its administrative remedies before seeking judicial review of an exemption claim or property appraisal; the failure to do so is jurisdictional. *Midland Cent. Appraisal Dist. v. Plains Mktg., L.P.*, 202 S.W.3d 469, 169 Oil & Gas Rep. 220, 2006 Tex. App. LEXIS 8251 (Tex. App. Eastland Sept. 21, 2006, no pet.).

Taxpayer had exhausted its administrative remedies, and a trial court had subject-matter jurisdiction over the taxpayer's appeal of an assessment of taxes on crude oil inventory accounts, where the taxpayer's exemption claim was presented and rejected

by the county appraisal review board; the claim was not only discussed at length but also debated and determined, and was, in fact, the only issue of significance discussed or decided by the board, and while the taxpayer could have done a much better job documenting the claim prior to the hearing, and its notices highlighted the risk of overdependence on forms, that did not alter the fact that the exemption claim was presented and determined. *Midland Cent. Appraisal Dist. v. Plains Mktg., L.P.*, 202 S.W.3d 469, 169 Oil & Gas Rep. 220, 2006 Tex. App. LEXIS 8251 (Tex. App. Eastland Sept. 21, 2006, no pet.).

PERSONAL PROPERTY TAX

Intangible Property

Imposition of Tax. — Court correctly rendered summary judgment in favor of the county, because the taxpayer's motion to correct the appraisal rolls was untimely, when a Tex. Tax Code Ann. § 25.25(c)(3) motion was not the appropriate vehicle to pursue challenges to the inclusion of property not located in Texas and of intangible property as personal property on the appraisal records, and the appropriate vehicle was a Tex. Tax Code Ann. ch. 41 protest, which the taxpayer admittedly did not pursue. *Bauer-Pileco, Inc. v. Harris County Appraisal Dist.*, 443 S.W.3d 304, 2014 Tex. App. LEXIS 8637 (Tex. App. Houston 1st Dist. Aug. 7, 2014, no pet.).

TANGIBLE PROPERTY

General Overview. — Taxpayer failed to exhaust its administrative remedies as to its complaint that its natural gas was exempt from taxation under the interstate commerce clause; thus, trial court lacked jurisdiction to address that complaint, Tex. Tax Code Ann. §§ 41.41, 41.47, and Tex. Tax Code Ann. § 25.25(c)(3) was not the appropriate vehicle for seeking the requested relief. *Harris County Appraisal Dist. v. ETC Mktg.*, 399 S.W.3d 364, 2013 Tex. App. LEXIS 4177 (Tex. App. Houston 14th Dist. Apr. 2, 2013, no pet.).

Under Tex. Tax Code Ann. §§ 41.41, 42.09, for those accounts of a taxpayer containing a single, grand total assessment upon multiple units, a taxpayer is not required to prove that it does not own each and every unit in the account in order to show it is not responsible for the tax assessed on that account. *General Elec. Capital Corp. v. Corpus Christi*, 850 S.W.2d 596, 20 U.C.C. Rep. Serv. 2d (CBC) 616, 1993 Tex. App. LEXIS 468 (Tex. App. Corpus Christi Feb. 11, 1993, writ denied), modified in part, 20 U.C.C. Rep. Serv. 2d (CBC) 616, 1993 Tex. App. LEXIS 790 (Tex. App. Corpus Christi 1993).

Where the taxing authorities introduced delinquent tax rolls under Tex. Tax Code Ann. §§ 33.47(a), 41.41, 42.09(b)(1), (2), the taxpayer waived any complaint about the manner in which the taxing authorities determined that the taxpayer was the party responsible for the taxes because the taxpayer's failure to pursue administrative remedies precluded any protest in a subsequent suit for delinquent taxes, except for the affirmative defenses of non-ownership and the taxing authority's lack of jurisdiction over the property. *General Elec. Capital Corp. v. Corpus Christi*, 850 S.W.2d 596, 20 U.C.C. Rep. Serv. 2d (CBC) 616, 1993 Tex. App. LEXIS 468 (Tex. App. Corpus Christi Feb. 11, 1993, writ denied), modified in part, 20 U.C.C. Rep. Serv. 2d (CBC) 616, 1993 Tex. App. LEXIS 790 (Tex. App. Corpus Christi 1993).

Taxpayer was not entitled to a temporary injunction against the county appraisal district and the county appraisal review board because Tex. Tax Code Ann. §§ 41.41, 42.01, and 42.21 provided an adequate legal remedy for the taxpayer. Further, the proper district court could redress any harm that the taxpayer suffered as a result of administrative actions. *Brazoria County Appraisal Dist. v. Notlef, Inc.*, 721 S.W.2d 391, 1986 Tex. App. LEXIS 8835 (Tex. App. Corpus Christi Oct. 16, 1986, no writ).

IMPOSITION OF TAX. — Motor vehicle dealer was not denied due process under Tex. Const. art. I, §§ 19, 27 because the actual market value of its inventory for a given year was not based on the dealer's actual sales in that calendar year but was the actual market value of inventory as of January 1 based on sales in the previous calendar year under Tex. Tax Code Ann. § 23.121. Thus, the actual sales in the later calendar year were irrelevant to the dealer's protest and the dealer could have timely protested the valuation under Tex. Tax Code Ann. §§ 41.41 and 41.44. *Expo*

Motorcars, L.L.C. v. Harris County Appraisal Dist., No. 01-08-00473-CV, 2009 Tex. App. LEXIS 5738 (Tex. App. Houston 1st Dist. July 23, 2009).

REAL PROPERTY TAX

General Overview. — Where county had properly provided taxpayer with notice of reappraisal of property, and taxpayer failed to protest the reappraisal within 30 days after receipt of notification, taxpayer had failed to exhaust exclusive administrative remedies as required by Tex. Tax Code Ann. § 41.41 which precluded judicial review of the appraisal. *Escamilla v. City of Laredo*, 9 S.W.3d 416, 1999 Tex. App. LEXIS 9255 (Tex. App. San Antonio Dec. 15, 1999, no pet.).

Because Tex. Tax Code Ann. § 41.41 identified a protest for a determination that land did not qualify for an appraisal separately from a protest for an excessive or unequal appraisal, and because an appeal protesting the denial of the designation concerned the use of the property, not its value, taxpayers' protests of the denial of their applications were not also protests of excessive appraisals. *Dallas Cent. Appraisal Dist. v. Seven Inv. Co.*, 835 S.W.2d 75, 1992 Tex. App. LEXIS 67 (Tex. 1992).

Where plaintiff taxpayer acquired certain real property by foreclosure but did not receive notice of the property's appraisal until the time period for protesting the property's valuation had expired, the methods of protesting tax appraisals set forth in Tex. Tax Code Ann. §§ 41.41, 41.44, were inadequate and deprived defendant of due process of law; plaintiff was entitled to a new administrative hearing to protest defendant appraisal district review board's assessment on the property. *Bank of America Nat'l Trust & Sav Asso. v. Dallas Cent. Appraisal Dist.*, 765 S.W.2d 451, 1988 Tex. App. LEXIS 3418 (Tex. App. Dallas Dec. 14, 1988, writ denied).

ASSESSMENT & VALUATION

General Overview. — Dry dock owner had actual notice of the tax assessment against it, and the owner did not file a timely protest under Tex. Tax Code Ann. §§ 41.41-47, 41.411; because the owner failed to exhaust its administrative remedies concerning its claim of improper notice, the trial court was without jurisdiction to entertain those claims. *Thames Shipyard & Repair Co. v. Galveston Cent. Appraisal Dist.*, No. 14-10-01142-CV, 2011 Tex. App. LEXIS 8463 (Tex. App. Houston 14th Dist. Oct. 25, 2011).

Plea to the jurisdiction in favor of the county appraisal district was proper, because the company lacked standing to protest the ad valorem property-tax protest for tax year 2007 before the district or appeal its determination of the protest since the company did not own the property as of January 1, 2007, the group did not exercise any right to protest and the district did not determine any protest by these parties, and there was no evidence the group held themselves out as the company or requested that the district refer to them by that name in the appraisal records. *DI Louetta Vill. Square LP v. Harris County Appraisal Dist.*, No. 14-08-00549-CV, 2009 Tex. App. LEXIS 9685 (Tex. App. Houston 14th Dist. Dec. 22, 2009).

Since the basis of taxpayer's complaint in the trial court was not a ground of protest contained under Tex. Tax Code Ann. § 41.41 seeking to recover a refund of penalties, fees, and interest allegedly imposed on its property without proper notice and in violation of due process of law, the exclusivity provision of Tex. Tax Code Ann. § 42.09 was not applicable and did not preclude the trial court from exercising subject matter jurisdiction over the taxpayer's lawsuit. *Dallas Cent. Appraisal Dist. v. 1420 Viceroy Ltd.*, 180 S.W.3d 267, 2005 Tex. App. LEXIS 9699 (Tex. App. Dallas Nov. 18, 2005, no pet.).

Where county had properly provided taxpayer with notice of reappraisal of property, and taxpayer failed to protest the reappraisal within 30 days after receipt of notification, taxpayer had failed to exhaust exclusive administrative remedies as required by Tex. Tax Code Ann. § 41.41 which precluded judicial review of the appraisal. *Escamilla v. City of Laredo*, 9 S.W.3d 416, 1999 Tex. App. LEXIS 9255 (Tex. App. San Antonio Dec. 15, 1999, no pet.).

Taxpayer protests to an appraisal district's determination of a property's use had to be challenged under Tex. Tax Code Ann. §§ 41.41(5), 41.411, or 41.44. *Collin County Appraisal Dist. v.*

Northeast Dallas Assocs., 855 S.W.2d 843, 1993 Tex. App. LEXIS 1907 (Tex. App. Dallas May 18, 1993, no writ).

Texas Tax Code remedies of administrative and judicial review are a property owner's exclusive remedies when he is dissatisfied with his property appraisal or any other aspect of his ad valorem tax falling within the grounds of protest allowed him under Tex. Tax Code Ann. § 41.41. Valero Transmission Co. v. Hays Consol. Independent School Dist., 704 S.W.2d 857, 1985 Tex. App. LEXIS 12908 (Tex. App. Austin Dec. 18, 1985, writ ref'd n.r.e.).

Tex. Tax Code Ann. Chapters 41, 42, which contained the exclusive remedies under which plaintiff property owners could challenge defendant appraiser's appraisal of their properties, met the requirements of due process. Brooks v. Bachus, 661 S.W.2d 288, 1983 Tex. App. LEXIS 5721 (Tex. App. Eastland Nov. 3, 1983, no writ).

VALUATION. — Judicial estoppel did not preclude property owners from asserting on appeal in the district court that the tax appraisal value of the property should be less than the value they asserted at the appraisal review board, because judicial estoppel only applied in subsequent actions, and the appeal constituted the same proceeding. Curry v. Harris County Appraisal Dist., 434 S.W.3d 815, 2014 Tex. App. LEXIS 6151 (Tex. App. Houston 14th Dist. June 5, 2014, no pet.).

Owner was not "adversely affected" by an act of the county appraisal district or the Review Board in this case, and it was undisputed that the Review Board appraised the value of the owner's travel trailer property at zero; the owner, therefore, could not have been "adversely affected" by this action because she did not pay any taxes on her travel trailer in 2011, Tex. Tax Code Ann. § 41.41. Groves v. Cameron Appraisal Dist., No. 13-12-00149-CV, 2012 Tex. App. LEXIS 7461 (Tex. App. Corpus Christi Aug. 31, 2012).

Hidalgo County Appraisal District's alleged failure to properly assess the market value of the taxpayer's inventory was not clerical error, Tex. Tax Code Ann. § /Aa1.04(18), but as a result of error in methodology, procedure, and/or computation, and Tex. Tax Code Ann. § /Aa25.25(c) was not available to remedy issues pertaining to disputed property valuations. Lack's Valley Stores, Ltd. v. Hidalgo County Appraisal Dist., No. 13-10-500-CV, 2011 Tex. App. LEXIS 4752 (Tex. App. Corpus Christi June 23, 2011), pet. dism'd w.o.j. No. 11-0590, 2011 Tex. LEXIS 997 (Tex. Dec. 16, 2011).

Since "unfair" valuation of property was not a defense to a tax delinquency suit, an appellate court lacked jurisdiction to consider an heir's challenge to the valuation of property that had been ordered sold to satisfy the delinquency. The remedy set forth for valuation challenges was exclusive, pursuant to Tex. Tax Code Ann. § 42.09(a)(1). Gilbert v. Houston Indep. Sch. Dist., No. 01-06-00159-CV, 2009 Tex. App. LEXIS 7496 (Tex. App. Houston 1st Dist. Sept. 24, 2009).

Appraisal district's inaction on an untimely application for an open-space agricultural appraisal did not violate an energy com-

pany's due process rights; the energy company should have notified the appraisal district that it was no longer using the land at issue for a public purpose beginning in 1999. It could have filed at that time for the open-space agricultural appraisal, and then used the procedures set forth for protests. City of San Antonio v. Bastrop Cent. Appraisal Dist., 275 S.W.3d 919, 2009 Tex. App. LEXIS 309 (Tex. App. Austin Jan. 16, 2009, no pet.).

In a case involving a tax reappraisal, a jurisdictional challenge should not have been granted because several property owners were permitted to seek relief under Tex. Tax Code Ann. § 42.25 without filing an administrative protest under Tex. Tax Code Ann. § 41.41(a); they filed a protest under Tex. Tax Code Ann. § 25.25 instead. Benson Chevrolet, Inc. v. Bexar Appraisal Dist., 242 S.W.3d 54, 2007 Tex. App. LEXIS 6452 (Tex. App. San Antonio Aug. 15, 2007), reh'g denied, No. 04-07-00204-CV, 2007 Tex. App. LEXIS 10109 (Tex. App. San Antonio Oct. 1, 2007).

No language within Tex. Tax Code Ann. § 42.25 limits its application to only Tex. Tax Code Ann. § 41.41(a) excessive appraisal challenges, and, because no such limitation exists within Tex. Tax Code Ann. § 42.25, there is no reason why property owners filing administrative challenges under Tex. Tax Code Ann. § 25.25(d) are precluded from seeking relief under Tex. Tax Code Ann. § 42.25 in a district court; an excessive appraisal challenge brought under Tex. Tax Code Ann. § 25.25(d) must allege the appraisal district over-valued a property by more than one-third; therefore, it logically follows that Tex. Tax Code Ann. § 42.25 applies on judicial review of such administrative challenge since Tex. Tax Code Ann. § 42.25 explicitly authorizes a court to remedy an excessive valuation by an appraisal district. Benson Chevrolet, Inc. v. Bexar Appraisal Dist., 242 S.W.3d 54, 2007 Tex. App. LEXIS 6452 (Tex. App. San Antonio Aug. 15, 2007), reh'g denied, No. 04-07-00204-CV, 2007 Tex. App. LEXIS 10109 (Tex. App. San Antonio Oct. 1, 2007).

COLLECTION

Tax Deeds & Tax Sales. — Since "unfair" valuation of property was not a defense to a tax delinquency suit, an appellate court lacked jurisdiction to consider an heir's challenge to the valuation of property that had been ordered sold to satisfy the delinquency. The remedy set forth for valuation challenges was exclusive, pursuant to Tex. Tax Code Ann. § 42.09(a)(1). Gilbert v. Houston Indep. Sch. Dist., No. 01-06-00159-CV, 2009 Tex. App. LEXIS 7496 (Tex. App. Houston 1st Dist. Sept. 24, 2009).

EXEMPTIONS. — Taxpayer could not assert inadequate notice under Tex. Tax Code Ann. § 11.43(c) of the removal of its Tex. Tax Code Ann. § 11.18(a)(1)-(2) charitable property tax exemption because it did not file a protest under Tex. Tax Code Ann. §§ 41.41(a)(9), 41.411(a) after being advised it could do so; Tex. Tax Code Ann. § 42.09(a)(1) makes the administrative protest procedures exclusive. Public, Inc. v. County of Galveston, 264 S.W.3d 338, 2008 Tex. App. LEXIS 9235 (Tex. App. Houston 14th Dist. July 10, 2008, no pet.).

Sec. 41.411. Protest of Failure to Give Notice.

(a) A property owner is entitled to protest before the appraisal review board the failure of the chief appraiser or the appraisal review board to provide or deliver any notice to which the property owner is entitled.

(b) If failure to provide or deliver the notice is established, the appraisal review board shall determine a protest made by the property owner on any other grounds of protest authorized by this title relating to the property to which the notice applies.

(c) A property owner who protests as provided by this section must comply with the payment requirements of Section 41.4115 or the property owner forfeits the property owner's right to a final determination of the protest.

HISTORY: Enacted by Acts 1985, 69th Leg., ch. 504 (S.B. 760), § 1, effective June 12, 1985; am. Acts 2007, 80th Leg., ch. 1106 (H.B. 3496), § 4(a), effective January 1, 2008; am. Acts 2011, 82nd Leg., ch. 771 (H.B. 1887), § 8, effective September 1, 2011; am. Acts 2011, 82nd Leg., ch. 793 (H.B. 2220), § 3, effective June 17, 2011.