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Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-0052**

Clarence Johnson,
Appellant,

Pauline Johnson,
Plaintiff,

vs.

County of Hennepin,
Respondent.

**Filed July 22, 2019
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CV-18-14064

Clarence Johnson, Richfield, Minnesota (*pro se* appellant)

Michael O. Freeman, Hennepin County Attorney, Rick J. Sheridan, Assistant County
Attorney, Minneapolis, Minnesota (for respondent)

Considered and decided by Connolly, Presiding Judge; Halbrooks, Judge; and
Slieter, Judge.

UNPUBLISHED OPINION

SLIETER, Judge

Clarence Johnson challenges the district court's dismissal of his complaint for lack of subject-matter jurisdiction pursuant to Minn. R. Civ. P. 12.02(a).¹ We affirm.

FACTS

In 1999, Johnson and his wife purchased a home on 66th Street in Richfield. In 2015, Hennepin County informed Johnson of its plans to reconstruct 66th Street, acquire the parcel, and compensate Johnson for the property. Eventually, Hennepin County purchased the property. Johnson and his wife obtained a replacement home after Hennepin County's acquisition of the parcel.

On April 20, 2017, Johnson filed a complaint in the United States District Court against Hennepin County for "taking their property for a public use without just compensation, in violation of the Fifth Amendment to the United States Constitution." *Johnson v. City of Richfield*, No. 17-CV-01254 (PJS/HB), 2017 WL 8787048, at *1 (D. Minn. Dec. 5, 2017). Johnson's complaint also raised state-law claims under the Minnesota Constitution and Minn. Stat. §§ 117.031, .187, .232 (2016). *Id.* at *3. The federal district

¹ Johnson's brief does not clearly identify an appeal from the district court's dismissal of his breach-of-contract claim pursuant to Minn. R. Civ. P. 12.02(e), or its striking of his request for punitive damages for failing to comply with Minn. Stat. § 549.191 (2018). Although Johnson is a *pro se* litigant, Johnson must comply with the same standards imposed on attorneys. *See Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). We deem these matters forfeited because Johnson failed to present an argument on these issues. *Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn. 1982); *see State v. Beaulieu*, 859 N.W.2d 275, 278 n.3 (Minn. 2015) (recognizing that failing to make an assertion of right constitutes forfeiture rather than waiver).

court dismissed Johnson’s Fifth Amendment claim with prejudice on the merits, but the remaining claims were dismissed without prejudice. *Johnson v. City of Richfield*, No. 17-CV-1254 (PJS/HB), 2018 WL 1009107, at *2 (D. Minn. Feb. 22, 2018).

On August 28, 2018, Johnson sued Hennepin County. Johnson’s complaint sought relief in the form of: (1) \$31,850 for down payment for the replacement home, (2) \$6,804 in “discount p[o]ints,” and (3) 2016 property taxes. Additionally, the complaint noted that “all punitive damages must apply.” The complaint’s basis for relief cited portions of the Minnesota Uniform Relocation Act (MURA), specifically Minn. Stat. §§ 117.50-.56 (2018); a breach-of-contract claim; and the federal Uniform Relocation Act (URA), *see generally* 42 U.S.C. §§ 4621-38 (2012), and implementing regulations, specifically 49 C.F.R. § 24.403(b) (2014).² Hennepin County moved to dismiss for lack of subject-matter jurisdiction, Minn. R. Civ. P. 12.02(a), and failure to state a claim upon which relief may be granted, Minn. R. Civ. P. 12.02(e). Johnson responded. The district court dismissed Johnson’s complaint and entered judgment. This appeal follows.

D E C I S I O N

I. The district court properly dismissed Johnson’s relocation claims for lack of subject-matter jurisdiction.

“Subject matter jurisdiction refers to a court’s authority to consider an action or issue a ruling that will decide the issues raised by the pleadings.” *Rasmussen v. Sauer*,

² URA includes both a statutory and regulatory scheme “for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance.” 42 U.S.C. § 4621; *see also* 49 C.F.R. § 24.1 (2014) (recognizing the purpose of the regulations “to promulgate rules to implement” URA).

597 N.W.2d 328, 330 (Minn. App. 1999), *review denied* (Minn. Sept. 14, 1999). “Subject matter jurisdiction cannot be conferred by consent of the parties, it cannot be waived, and it can be raised at any time in the proceeding.” *Tischer v. Hous. & Redevelopment Auth.*, 693 N.W.2d 426, 430 (Minn. 2005). “Whether subject-matter jurisdiction exists is a question of law, which is reviewed de novo.” *Centra Homes, LLC v. City of Norwood Young Am.*, 834 N.W.2d 581, 585 (Minn. App. 2013).

The district court dismissed Johnson’s claim pursuant to MURA because Johnson failed to exhaust the administrative remedies for the claim. The district court dismissed Johnson’s federal URA claim implicitly for lack of subject-matter jurisdiction for the same reason.

Johnson’s brief before this court does not address the issue of subject-matter jurisdiction. Johnson cites Minn. Stat. §§ 117.50-.56 as grounds for relief without identifying error in the district court’s determination that he should have raised the claim in the administrative process. Similarly, Johnson’s brief cites 49 C.F.R. § 24.4039D as grounds for relief, which appears to be a typographical error with the intention to cite to 49 C.F.R. § 24.403(b)—the basis for relief identified in the complaint before the district court. This court does not presume error on appeal; it is the burden of the appellant to establish a basis for reversal. *Waters v. Fiebelkorn*, 13 N.W.2d 461, 464-65 (Minn. 1944).

A. MURA Claim

First, Johnson’s complaint in district court sought relief for relocation benefits under MURA. “In 1973, the Minnesota Legislature enacted MURA for the purpose of making public funds available to reimburse relocation costs incurred by households and businesses

displaced by the public acquisition of property when there is no federal financial participation.” *In re Midway Pro Bowl Relocation Benefits Claim*, ___ N.W.2d ___, ___, 2019 WL 2167739, at *2 (Minn. App. May 20, 2019) (*Midway Pro Bowl*), review granted (Minn. June 26, 2019). MURA provides that contested claims for relocation benefits are first addressed by an administrative law judge. *Id.*; see also *Instant Testing Co. v. Cmty. Sec. Bank*, 715 N.W.2d 124, 126 (Minn. App. 2006) (“Generally, disputes involving relocation benefits are processed administratively and are subject to judicial review only by writ of certiorari to the court of appeals.”).

Pursuant to Minn. Stat. § 117.52, subd. 4:

Relocation assistance eligibility or amount determined by administrative law judge. Notwithstanding any law or rule to the contrary, if a person entitled to relocation assistance under this section does not accept the acquiring authority’s determination of the amount of relocation assistance or if a person does not accept the acquiring authority’s denial of relocation assistance, the acquiring authority must initiate contested case proceedings under sections 14.57 to 14.66 for a determination of the eligibility for or amount of relocation assistance that must be provided by the acquiring authority. The administrative law judge’s determination of the person’s eligibility for or amount of relocation assistance that the acquiring authority must provide constitutes a final decision in the case, as provided in section 14.62, subdivision 4.

Minn. Stat. §§ 14.57-.66 (2018) discuss the contested administrative process and judicial review of contested administrative proceedings. If a party disagrees with the administrative law judge’s determination, then that party may seek a writ of *certiorari*. Minn. Stat. § 14.63.

Johnson's request for relocation benefits pursuant to MURA must be sought through the administrative process. *See Midway Pro Bowl*, 2019 WL 2167739, at *2. The district court did not err by dismissing the claim for lack of subject-matter jurisdiction. *Cf. State ex rel. Swan Lake Area Wildlife Ass'n v. Nicollet Cty. Bd. of Cty. Comm'rs*, 711 N.W.2d 522, 525-27 (Minn. App. 2006) (recognizing that a statute providing remedies in addition to any administrative rights granted the district court subject-matter jurisdiction over a Minnesota Environmental Rights Act claim), *review denied* (Minn. June 20, 2006).

B. URA Claim

Second, Johnson's complaint sought relief under URA. Johnson specifically requested application of 49 C.F.R. § 24.403(b) in his complaint that a "replacement home must be safe, decent, sanitary inspected." Pursuant to 49 C.F.R. § 24.403(b):

Before making a replacement housing payment or releasing the initial payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at § 24.2(a)(8).

The term "agency" in the regulation is defined as "the Federal Agency, State, State Agency, or person that acquires real property or displaces a person." 49 C.F.R. § 24.2(a)(1) (2014).

Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, . . . a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

49 C.F.R. § 24.10(b) (2014). The agency must address appeals from aggrieved persons. *Id.* (a) (2014). After the agency receives the information in support of the person's appeal:

[T]he Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

Id. (g) (2014).

This court has acknowledged URA does not identify the type of judicial review available in 49 C.F.R. § 24.10(g). “The regulations do not specifically provide for review in district court. In the absence of authority to review an administrative decision in district court, a writ of certiorari pursuant to Minn. Stat. § 606.01 and Minn. R. Civ. App. P. 120 is the only method of review.” *Naegle Outdoor Advert., Inc. v. Minneapolis Cmty. Dev. Agency*, 551 N.W.2d 235, 237 (Minn. App. 1996); *see also Wax ‘n Works v. City of St. Paul*, 213 F.3d 1016, 1020 (8th Cir. 2000) (“The Minnesota courts have held that judicial review of an administrative agency decision is available through a writ of certiorari from a state appellate court.”). Johnson sought relief in the district court, which lacked jurisdiction over the URA claim.

“Courts generally require that before judicial review of administrative proceedings will be permitted, the appropriate channels of administrative appeal must be followed.” *Nw. Airlines, Inc. v. Metro. Airports Comm’n*, 672 N.W.2d 379, 381 (Minn. App. 2003), *review denied* (Minn. Feb. 25, 2004). The district court properly dismissed Johnson’s relocation claims and entered judgment for lack of subject-matter jurisdiction because Johnson failed to properly seek relief through the administrative process.

II. Johnson’s just-compensation claim is not properly before this court.

Johnson’s brief raised a claim he described as “just compensation” pursuant to Minn. Stat. § 117.187 (2018). This provision provides:

When an owner must relocate, the amount of damages payable, at a minimum, must be sufficient for an owner to purchase a comparable property in the community and not less than the condemning authority’s payment or deposit under section 117.042, to the extent that the damages will not be duplicated in the compensation otherwise awarded to the owner of the property. For the purposes of this section, “owner” is defined as the person or entity that holds fee title to the property.

Johnson, however, failed to raise this claim to the district court. Appellate courts generally will not consider matters not argued to and considered by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988). We, therefore, do not address this claim.

Affirmed.