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APPENDIX A

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

SAM SILVERBERG,
Plaintiff,

v.

DISTRICT OF COLUMBIA, et al.,
Defendants.

Civil Action No. 21-cv-2144 (TSC)

MEMORANDUM OPINION

Plaintiff Sam Silverberg owns property located at 6820 32nd Street N.W., Washington, District of Columbia 20015. Am. Compl. at 3, ECF No. 10. The District of Columbia recently determined that the property was vacant and reassessed Silverberg's annual property tax bill from \$9,000 to \$45,000. Id. at 3. He filed suit in this court under 42 U.S.C. § 1983, alleging that the District's assessment and tax increase constituted an unconstitutional taking under the 5th and 14th Amendments to the United States Constitution. Id. at 3. Defendants moved to dismiss, arguing that this court does not have the requisite subject-matter jurisdiction to hear this case and, in the alternative, that Silverberg has failed to state a claim for municipal liability as required by 42 U.S.C. § 1983. Mot. to Dismiss, ECF No. 12.

Federal courts are courts of limited jurisdiction; they may only hear cases within the limits "authorized by Constitution and statute." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377

(1994). Thus all litigants—including those proceeding pro se—have a burden to establish that the court has subject-matter jurisdiction in a particular matter. See, e.g., *Bickford v. Gov't of United States*, 808 F. Supp. 2d 175, 179 (D.D.C. 2011) (citation omitted).

Congress has also limited this court's ability to hear challenges to the District of Columbia's tax assessments and has instead given that jurisdiction to the Superior Court of the District of Columbia. District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91-358, § 11-501, 84 Stat. 473, 477 (codified at D.C. Code. § 11-921(a)(3)(B)

("[T]he Superior court has jurisdiction of any civil action or other matter . . . [that] involves an appeal from or petition for review of any assessment of tax (or civil penalty thereon) made by the District of Columbia."). That jurisdiction is exclusive—all challenges must be brought in Superior Court. *Id.* at § 11-1202, 84 Stat. 473, 489 (codified at D.C. Code. § 11-202).

Silverberg argues that this does not apply to constitutional challenges. He is incorrect. In limiting this court's jurisdiction, "Congress unambiguously intended to vest in the District of Columbia courts exclusive jurisdiction over all challenges to District of Columbia taxes including those involving federal statutory or constitutional claims in lieu of (rather than concurrently with) jurisdiction in the federal courts." *Jenkins v. Washington Convention Ctr.*, 236 F.3d 6, 11 (D.C. Cir. 2001). That limitation includes constitutional takings claims. See *id.* at 9; see also *Johnson v. Dist. of Columbia*, No. 21-cv-2686, 2022 WL 4130843 at *3 (D.D.C. Sept. 12, 2022). Silverberg provides no compelling or related authority to rebut this claim.

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Given the clear statutory and precedential requirement that Silverberg bring his case in Superior Court, this court will GRANT Defendants' Motion to Dismiss, ECF No. 12. The case will be closed.

Date: September 19, 2022

s/
TANYA S. CHUTKAN
United States District Judge

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APPENDIX B

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 22-7133 September Term, 2022
1:21-cv-02144-TSC

Filed On: August 23, 2023

Sam Silverberg,
Appellant
V.

District of Columbia, et al.,
Appellees

BEFORE: Wilkins, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the motion for leave to file an amended complaint and the petition for rehearing, it is

ORDERED that the motion for leave to file an amended complaint be denied. It is **FURTHER ORDERED** that the petition for rehearing be denied.

PerCuriam

FOR THE COURT:
Mark J. Langer, Clerk

BY: Daniel J. Reidy Deputy Clerk

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APPENDIX C

USCA Case #22-7133 Document #1988703 Filed:
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FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 22-7133 September Term, 2022
1:21-cv-02144-TSC

Filed On: March 6, 2023

Sam Silverberg,
Appellant

v.

District of Columbia, et al.,
Appellees

BEFORE: Wilkins, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance and the opposition thereto and motion for summary reversal, it is

ORDERED that the motion for summary reversal be denied and that the motion for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See *Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court correctly held that it lacked subject matter jurisdiction over appellant's § 1983 action concerning

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his District of Columbia tax assessment. See *Jenkins v. Washington Convention Center*, 236 F.3d 6 (D.C. Cir. 2001). Appellant's takings claim arises directly from his tax assessment. Moreover, he alleged in the amended complaint that the District of Columbia had wrongly determined that his property was vacant, and the complaint described as "actual damages" the amount of additional tax resulting from the vacancy assessment.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

PerCuriam

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APPENDIX D

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 22-7133 September Term, 2022
1:21-cv-02144-TSC

Filed On: August 23, 2023

Sam Silverberg,
Appellant

v.

District of Columbia, et al.,
Appellees

BEFORE: Srinivasan, Chief Judge, and Henderson,
Millett, Pillard, Wilkins, Katsas, Rao,
Walker, Childs, Pan, and Garcia, Circuit
Judges

ORDER

Upon consideration of the petition for rehearing
en banc, and the absence of a request by any member
of the court for a vote, it is
ORDERED that the petition be denied.

PerCuriam

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FOR THE COURT:
Mark J. Langer, Clerk

BY: _____s/
Daniel J. Reidy Deputy Clerk

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APPENDIX E
CERTIFICATE AS TO PARTIES AND AMICI
CURIAE,

RULINGS, AND RELATED CASES

Petitioner-Appellant pursuant to D.C. Circuit Rule
28(a)(1), hereby states as follows:

A. Parties and Amici

Petitioner-Appellant is Sam Silverberg

Respectfully Submitted,

Sam Silverberg
s/Silverberg

8515 Baymeadows Way Unit 301
Jacksonville, Fl 32256
Email sam@atigauge.com
Tele 904-5510980