IN THE SUPREME COURT OF THE STATE OF KANSAS

No. 123,063

KANSAS FIRE AND SAFETY EQUIPMENT, a Kansas Corporation; HAL G. RICHARDSON d/b/a BUENO FOOD BRAND and TOPEKA VINYL TOP; and HAL G. RICHARDSON and DOUG VESS, General Partners in MINUTEMAN SOLAR FILM, a Kansas Partnership,
Appellants/Cross-appellees,

v.

CITY OF TOPEKA, KANSAS,
Appellee/Cross-appellant.

SYLLABUS BY THE COURT

1.

Kansas courts generally follow a two-part test to determine whether a statute implies a private right of action. First, the party must show that the statute was designed to protect a specific group of people rather than to protect the general public. Second, the court must review legislative history to determine whether a private right of action was intended.

2.

K.S.A. 26-518 does not create an implied private right of action allowing displaced persons to sue a condemning authority for relocation benefits and assistance in a civil cause of action filed directly in district court.

3.

The Eminent Domain Procedure Act, K.S.A. 26-501 et seq., limits the scope of judicial review in eminent-domain appeals to the issue of just compensation as defined by K.S.A. 26-513. Relocation benefits are not a component of just compensation under K.S.A. 26-513.

4.

K.S.A. 58-3509(a) of the Kansas Relocation Assistance for Persons Displaced by Acquisition of Real Property Act, K.S.A. 58-3501 et seq., provides a comprehensive remedy for vindicating the statutory right to relocation benefits and assistance. K.S.A. 58-3509(a) allows a displaced person to appeal to the state, agency, or political subdivision within 60 days of the initial determination of relocation benefits. If such an appeal is made, an independent hearing examiner shall be appointed by the condemning authority within 10 days and a determination of the appeal made within 60 days. After administrative review is complete, any party wishing to appeal the ruling of the hearing examiner may do so by filing a written notice of appeal with the clerk of the district court within 30 days of the hearing examiner's decision. Any such appeal to the district court shall be a trial de novo only on the issue of relocation benefits.

5.

A party must exhaust their administrative remedies under K.S.A. 58-3509(a) before appealing a hearing examiner's ruling on the issue of relocation benefits and assistance to the district court. The failure to exhaust such administrative remedies deprives the district court of subject matter jurisdiction.

Review of the judgment of the Court of Appeals in 62 Kan. App. 2d 341, 514 P.3d 387 (2022). Appeal from Shawnee District Court; RICHARD D. ANDERSON, judge. Oral argument held March 31, 2023. Opinion filed June 30, 2023. Judgment of the Court of Appeals reversing and remanding to the district court is affirmed. Judgment of the district court is reversed, and the case is remanded with directions.

John R. Hamilton, of Hamilton, Laughlin, Barker, Johnson & Jones, of Topeka, argued the cause, and *Jason B. Prier*, of The Prier Law Firm, L.L.C., of Lawrence, was with him on the briefs for appellants/cross-appellees.

Shelly Starr, chief of litigation, City of Topeka, argued the cause and was on the briefs for appellee/cross-appellant.

The opinion of the court was delivered by

WALL, J.: Governmental authorities have inherent power to take private property for public use. But the exercise of this power comes at a cost to those whose property is taken. Thus, the Fifth Amendment to the United States Constitution and Article 12, section 4, of the Kansas Constitution prohibit such takings without just compensation. These constitutional principles are reflected in the Kansas Eminent Domain Procedure Act (EDPA), K.S.A. 26-501 et seq., which creates a process for determining just compensation.

But the financial costs of eminent domain are not limited to the loss of private property. Persons may be displaced when the government exercises this power. So Kansas law also requires a condemning authority to provide certain relocation benefits and assistance to those displaced by the government's exercise of eminent domain. Specifically, the EDPA provides that whenever federal funding is not involved and real property is acquired by a condemning authority through negotiation in advance of a condemnation action or through a condemnation action, the authority must provide relocation payments and assistance to displaced persons. K.S.A. 26-518(a). The Kansas Relocation Assistance for Persons Displaced by Acquisition of Real Property Act (KRA), K.S.A. 58-3501 et seq., recognizes the same substantive right to relocation benefits and assistance. See K.S.A. 58-3508. In fact, the language in the two statutory provisions is nearly identical.

But the EDPA and KRA differ in remedy. The EDPA does not provide for judicial review of relocation-benefit determinations. Instead, in eminent-domain appeals, the EDPA limits the district court's scope of review to the issue of just compensation only.

But the KRA provides an administrative remedy designed to vindicate the statutory right to relocation benefits and assistance under the EDPA and KRA. Under K.S.A. 58-3509, a displaced person may appeal the condemning authority's relocation-benefits determination to an independent hearing examiner. Once the administrative remedy has been exhausted, any party dissatisfied with the examiner's ruling may seek judicial review in the district court.

Kansas Fire and Safety Equipment, Hal G. Richardson d/b/a Bueno Foods Brand and Topeka Vinyl Top, and Minuteman Solar Film (the tenants), were forced to relocate when the City of Topeka (the City) bought the real property the tenants leased for their business operations. The tenants alleged that the property was acquired before a condemnation action. And they sued the City to recover relocation expenses in an action filed directly with the district court under the EDPA.

The City moved for summary judgment, arguing there is no statutory right to judicial review of relocation-benefit determinations under the EDPA. And without a statutory basis for such review, the City claimed the district court lacked subject matter jurisdiction over the action. The district court agreed and granted summary judgment to the City. On appeal, a panel of the Court of Appeals agreed that the district court lacked subject matter jurisdiction. But the panel held that the proper disposition of the case was dismissal without prejudice, rather than entry of judgment for the City. So, the panel reversed and remanded for the district court to enter such an order. *Kansas Fire and Safety Equipment v. City of Topeka*, 62 Kan. App. 2d 341, 353, 514 P.3d 387 (2022).

We granted the tenants' petition for review to determine whether the district court had subject matter jurisdiction. Ultimately, we hold that the district court lacked subject matter jurisdiction over the tenants' petition. The EDPA neither provides a private right of action to recover relocation benefits nor authorizes judicial review of relocation-benefit determinations in eminent-domain appeals. In contrast, the KRA does provide an

administrative remedy to vindicate the statutory right to relocation benefits. And once the administrative appeal is completed, the KRA also authorizes district court review of the hearing examiner's ruling. But the tenants' failure to exhaust this administrative remedy deprived the district court of subject matter jurisdiction under the KRA. Finally, while K.S.A. 60-2101(d) authorizes appeals to the district court from certain final judgments and orders of a political subdivision, this statute does not apply because the KRA provides a more specific procedure for judicial review. We thus affirm the judgment of the Court of Appeals.

FACTS AND PROCEDURAL BACKGROUND

This is the second time this case is before us. In 2011, the City passed an ordinance authorizing a public works project to replace a structurally deficient drainage system on a tributary to Butcher Creek. The purpose of the project was to alleviate potential flooding within the city limits. As part of the project, the City entered negotiations to buy property the tenants leased to operate their businesses. During negotiations, the City informed the property owner that it wanted the land vacant before obtaining title. The owner and the City entered a purchase agreement in September 2013. That agreement required the owner to notify all tenants to vacate and ensure the property was vacant by early January 2014.

On October 18, 2013, an attorney representing the tenants sent a letter to the City requesting relocation costs under K.S.A. 26-518 (if no federal funds were involved in the public works project), or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (if federal funds were involved).

The Deputy City Attorney denied the request in an October 31, 2013 letter. The letter stated that no federal funds were involved in the project, thus the City need not pay relocation costs under K.S.A. 58-3502 (the provision in the KRA providing for relocation

benefits when federal funds are part of the displacing project). The letter also stated that the City was purchasing the property from the owner, rather than acquiring the property through condemnation, thus the City need not pay relocation costs under K.S.A. 58-3508 or K.S.A. 26-518.

The tenants later sued for relocation costs. They alleged that they were entitled to such costs because they were displaced persons as defined by K.S.A. 26-518 of the EDPA and the URA. According to the United States Department of Housing and Urban Development, the URA "is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms." https://www.hudexchange.info/programs/relocation/overview/#overview-of-the-ura. While K.S.A. 26-518 incorporates some provisions of the URA by reference, the URA itself applies only when federal funds are involved in the displacing project. See *City of Columbia v. Baurichter*, 713 S.W.2d 263, 265 (Mo. 1986) (condemner must satisfy URA requirements when federal funds involved); see also 42 U.S.C. §§ 4601-4655 (2018). In their petition, the tenants alleged that the City had represented that no federal funds were involved, so their cause of action was based solely on K.S.A. 26-518 of the EDPA.

The City responded by arguing K.S.A. 26-518 did not apply because the City never intended to condemn the property. The City also argued that the tenants did not meet the statutory definition of "displaced persons" under K.S.A. 26-518. Both parties moved for summary judgment.

The district court entered summary judgment for the City, ruling that the tenants were not displaced persons under the EDPA. It also found the uncontroverted facts showed that the City did not acquire the property "in advance of a condemnation action."

See K.S.A. 26-518 (condemning authority must provide relocation payments and assistance when acquiring real property "through negotiation in advance of a condemnation action or through a condemnation action"). The tenants appealed.

The Court of Appeals held that the tenants were displaced persons under the EDPA and that a question of fact existed as to whether the City had acquired the property through negotiation before a condemnation action. The panel thus reversed and remanded for the district court to resolve disputed issues of material fact. *Nauheim v. City of Topeka*, 52 Kan. App. 2d 969, 975-77, 979-80, 391 P.3d 508 (2016). The tenants petitioned our court for review. They argued that the panel erred by holding that a displaced person must prove the condemning authority either threatened condemnation or took affirmative acts to condemn the property in order to recover relocation benefits under K.S.A. 26-518.

On review, we held that the Court of Appeals erred by requiring a specific evidentiary showing on this factor. *Nauheim v. City of Topeka*, 309 Kan. 145, 153, 432 P.3d 647 (2019). Instead, we concluded that a displaced person may prove the property was acquired through "'negotiation in advance of a condemnation action'" by showing "(1) a negotiation resulted in the property's acquisition before any eminent domain proceedings commenced; and (2) a condemnation would have followed had that negotiation failed." 309 Kan. at 151-52. We then remanded the case to the district court for further proceedings "to explore whether the City's negotiations were in advance of a condemnation action under K.S.A. 2017 Supp. 26-518." 309 Kan. at 154.

On remand, the tenants moved to amend their petitions to add parties in interest, but the amended petitions continued to list the URA and K.S.A. 26-518 as the basis of the tenants' causes of action.

The City again moved for summary judgment, arguing there was no evidence that the City would have condemned the property if negotiations had failed. And for the first time, the City also argued that the district court lacked subject matter jurisdiction over the tenants' cause of action because there is no private right of action for relocation benefits under the EDPA. The City asserted that the tenants should have brought their claim under the KRA but failed to do so.

In response, the tenants argued that there was a factual dispute as to whether the City would have condemned the property if negotiations had failed. As for the jurisdictional challenge, the tenants claimed that the appellate courts had implicitly found subject matter jurisdiction by ruling on the merits in the previous appeal. The tenants also claimed that K.S.A. 26-518 creates a private right of action and that our court has recognized that a condemning authority must provide relocation benefits under the two statutorily recognized circumstances. See *Nauheim*, 309 Kan. at 151 ("K.S.A. 2017 Supp. 26-518 identifies two distinct situations in which a condemning authority must provide relocation benefits to a displaced person: [1] when the acquisition occurs through negotiation before a condemnation action, or [2] when the acquisition occurs through a condemnation action.").

The district court ruled that it lacked subject matter jurisdiction and granted summary judgment to the City. The court reasoned that there was no private right of action for relocation benefits under K.S.A. 26-518 and no other statute in the EDPA granted the district court jurisdiction. The district court also stated that "[h]ad [it] not found subject matter jurisdiction lacking, summary judgment would not be appropriate" because there was a disputed question of fact as to whether the City would have condemned the property if negotiations had failed. The tenants appealed the district court's ruling on subject matter jurisdiction. The City cross-appealed the district court's advisory ruling that plaintiffs had demonstrated a genuine issue of material fact.

A panel of the Court of Appeals affirmed the district court's ruling on subject matter jurisdiction. *Kansas Fire and Safety Equipment*, 62 Kan. App. 2d at 350-51. The panel held that judicial review of eminent domain proceedings under the EDPA is limited to the issue of just compensation for a taking, which does not include relocation benefits. 62 Kan. App. 2d at 346-48. The panel also held that the Legislature did not intend to create an implied private right of action under K.S.A. 26-518, which would have invoked the original jurisdiction of the district court under K.S.A. 20-301. 62 Kan. App. 2d at 348-50. The panel declined to reach the merits of the City's cross-appeal having concluded that jurisdiction was lacking. 62 Kan. App. 2d at 353. Finally, the panel held that the district court should have dismissed the matter without prejudice rather than granting summary judgment based on a lack of subject matter jurisdiction. The panel thus reversed and remanded for the district court to enter such an order. 62 Kan. App. 2d at 352-53.

The tenants petitioned for review of the panel's jurisdictional holding. The City conditionally cross-petitioned for review of the district court's advisory ruling that the tenants had shown a genuine issue of material fact as to whether the City would have condemned the property if purchase negotiations had failed.

We granted both petitions. And we heard oral argument from the parties on March 31, 2023. The City did not petition for review of the panel's holding that the proper disposition of the case was dismissal without prejudice. Thus, that issue remains settled in favor of the tenants. See Supreme Court Rule 8.03(b)(6)(C)(i) (2023 Kan. S. Ct. R. at 56) (Supreme Court will not consider issues not presented or fairly included in petition for review).

ANALYSIS

The question before us is straightforward: did the district court have subject matter jurisdiction over tenants' claims for relocation benefits? We consider four potential theories of subject matter jurisdiction in this matter. First, the EDPA creates a private right of action permitting displaced persons to sue for relocation benefits in a civil action filed directly in the district court. Second, the Legislature created a right to judicial review of relocation-benefit determinations in eminent-domain appeals under the EDPA. Third, the Legislature created a right to judicial review of relocation-benefit determinations under the KRA. And, finally, K.S.A. 60-2101(d) grants the district court jurisdiction to review relocation-benefit determinations made by political subdivisions.

We address each theory in turn. Ultimately, we conclude that none of these theories vest the district court with subject matter jurisdiction.

I. *K.S.A. 26-518 Does Not Create a Private Right of Action, Thus the District Court Did Not Have Original Civil Jurisdiction*

We begin our analysis by considering the tenants' primary argument in support of subject matter jurisdiction—the private-right-of-action theory. The tenants contend that K.S.A. 26-518 creates a private right of action allowing displaced persons to sue the condemning authority for relocation costs in a civil action filed directly with the district court. If tenants are correct, then the district court would have original jurisdiction over that civil cause of action under K.S.A. 20-301 (District courts have "general original jurisdiction over all matters, both civil and criminal, unless otherwise provided by law".).

A. *Standard of Review and Relevant Legal Framework*

The tenants argue that K.S.A. 26-518 creates a private right of action and that the district court has original jurisdiction over that civil action. But K.S.A. 26-518 does not expressly create a private right of action. Thus, we must decide whether the Legislature implied such a right. Whether a statute implies a private right of action is a question of law subject to unlimited review. *Pullen v. West*, 278 Kan. 183, 194, 92 P.3d 584 (2004).

We apply a two-part test to answer this question. "First, the party must show that the statute was designed to protect a specific group of people rather than to protect the general public. Second, the court must review legislative history in order to determine whether a private right of action was intended." *Pullen*, 278 Kan. at 194; see also *Nichols v. Kansas Political Action Committee*, 270 Kan. 37, 48, 11 P.3d 1134 (2000).

B. *K.S.A. 26-518 Does Not Satisfy the Two-Part Test for an Implied Private Right of Action*

Under the first prong of the test, the tenants must show that K.S.A. 26-518 was designed to protect a specific group of people rather than the general public. *Pullen*, 278 Kan. at 194. In its order granting summary judgment, the district court found that the EDPA protects the general public, not a specific group. The panel did not address this ruling specifically. The tenants argue the district court erred because the general principles of eminent domain and the language of the EDPA protects a specific group of people—those who have had private property taken for public use. And K.S.A. 26-518's plain language protects an even narrower group of people—those displaced by a condemning authority's acquisition of property through negotiations in advance of a condemnation action or through a condemnation action when federal funds are not involved.

The tenants' argument has appeal. But the second part of the legal test is more relevant and insightful to our analysis. See *Kansas State Bank & Tr. Co. v. Specialized Transportation Services, Inc.*, 249 Kan. 348, 371, 819 P.2d 587 (1991) (The test for an implied private right of action turns on "whether the legislature intended to give such a right."). Thus, we presume without deciding that K.S.A. 26-518 is designed to protect a specific group of people and proceed to the second part of the inquiry.

The second part of the test directs us to the relevant statutes and pertinent legislative history. *Pullen*, 278 Kan. at 194. The plain language and structure of K.S.A. 26-518, along with the legislative history, confirm that the Legislature did not intend to create a private right of action under K.S.A. 26-518.

1. *The Plain Language and Structure of K.S.A. 26-518, Other EDPA Provisions, and the KRA Undermine Tenants' Argument*

We begin our analysis of the second part of the test by reviewing the plain language and structure of the relevant statute. See *Pullen*, 278 Kan. at 194 (quoting *Greenlee v. Board of Clay County Comm'rs*, 241 Kan. 802, 804, 740 P.2d 606 [1987]) ("'The legislative intent to grant or withhold a private cause of action for a violation of a statute, or the failure to perform a statutory duty, is determined primarily from the form or language of the statute.'"). But we do not examine K.S.A. 26-518 in isolation. Instead, we consider that statute alongside its companion provisions in the EDPA, along with other KRA provisions addressing the same subject matter, to achieve a sensible interpretation. See *State v. Mora*, 315 Kan. 537, 543, 509 P.3d 1201 (2022) (courts must consider statutes relating to same subject together to achieve sensible results if possible).

Reading these provisions together, it is apparent the Legislature intended the KRA's administrative and judicial review process to serve as the exclusive remedy when displaced persons challenge relocation-benefit determinations. And it did not intend to create a private right of action under K.S.A. 26-518 of the EDPA.

The EDPA creates an administrative process for determining just compensation when a condemning authority takes private property for public use. *Estate of Kirkpatrick v. City of Olathe*, 289 Kan. 554, 558-59, 215 P.3d 561 (2009); *Miller v. Bartle*, 283 Kan. 108, 113-14, 150 P.3d 1282 (2007). The condemning authority initiates the process by filing a petition with the district court in the county where the land is situated. K.S.A. 26-501(b); see also K.S.A. 26-504; K.S.A. 26-507. If the district court finds the condemning authority has the power of eminent domain and the taking is necessary to a lawful corporate purpose, the district court then appoints three appraisers to view and determine the value of the property. K.S.A. 26-504.

If the condemning authority, or any property owner, is dissatisfied with the appraisers' award, they may appeal to the district court for a trial de novo. K.S.A. 26-508. The only issue that the district court has jurisdiction to consider in such an appeal is the "compensation required by K.S.A. 26-513." K.S.A. 26-508(a). In turn, K.S.A. 26-513 defines that compensation based on the fair market value of the property or interest at the time of the taking. As discussed in greater detail in Issue II, such compensation does not include relocation benefits.

Since 2003, the EDPA has also required condemning authorities to provide relocation payments and assistance to displaced persons when the authority acquires property through condemnation or through negotiations before condemnation, and federal funds are not involved in the displacing project. K.S.A. 26-518 provides:

"Whenever federal funding is not involved, and real property is acquired by any condemning authority through negotiation in advance of a condemnation action or through a condemnation action, and which acquisition will result in the displacement of any person, the condemning authority shall:

"(a) Provide the displaced person, as defined in the federal uniform relocation assistance and real property acquisition policies act of 1970, fair and reasonable relocation payments and assistance to or for displaced persons.

"(b) Fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203 and 204 of the federal uniform relocation assistance and real property acquisition policies act of 1970, and amendments thereto, shall be deemed fair and reasonable relocation payments and assistance pursuant to this section.

"(c) Nothing in this section shall preclude the voluntary negotiation of fair and reasonable relocation payments and assistance between the displaced person and condemning authority. If such negotiations lead to agreement between the displaced person and the condemning authority, that agreement shall be deemed fair and reasonable."

The same statutory right to relocation benefits and assistance is found in the KRA. The purpose of the KRA is to minimize the injuries and hardships faced by persons displaced by public works projects. See K.S.A. 58-3501 (KRA authorizes compliance with URA); 42 U.S.C. § 4621(b) (2018) (purpose of URA is to "ensure that [displaced] persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons").

Since 2004, the KRA, like the EDPA, has required condemning authorities to provide relocation payments and assistance to displaced persons when acquiring property through condemnation or through negotiations before condemnation, and federal funds are not involved. K.S.A. 58-3508 provides in relevant part:

> "On and after July 1, 2004: (a) Whenever federal funding is not involved, real property is acquired by any condemning authority through negotiation in advance of a condemnation action or through a condemnation action and the acquisition will result in the displacement of any person, the condemning authority shall:
>
> "(1) Provide the displaced person, as defined in the federal uniform relocation assistance and real property acquisition policies act of 1970, and amendments thereto, fair and reasonable relocation payments and assistance to or for displaced persons. Relocation payments shall not be required until title to the real property vests in the condemning authority.
>
> "(2) Fair and reasonable relocation payments and assistance to or for displaced persons as provided under sections 202, 203 and 204 of the federal uniform relocation assistance and real property acquisition policies act of 1970, and amendments thereto, shall be deemed fair and reasonable relocation payments and assistance pursuant to this section.
>
> "(3) Nothing in this section shall preclude the voluntary negotiation of fair and reasonable relocation payments and assistance between the displaced person and condemning authority. If such negotiations lead to agreement between the displaced person and the condemning authority, that agreement shall be deemed fair and reasonable."

Since July 2004, the KRA has also provided a review procedure whereby displaced persons can challenge the condemning authority's relocation-benefit determination. That procedure includes an administrative review and the right to an appeal to the district court on the issue of relocation benefits:

> "On and after July 1, 2004: (a) Any displaced person entitled to benefits under this article may appeal by written notice to the state, agency or political subdivision a determination of relocation payments. If such an appeal is made to the state, agency or political subdivision within 60 days of the [*sic*] receiving notice of the determination being appealed, an independent hearing examiner shall be appointed by the state, agency or political subdivision within 10 days and a determination of the appeal made within 60 days. Any party wishing to appeal the ruling of the hearing examiner may do so by filing a written notice of appeal with the clerk of the district court within 30 days of the hearing examiner's decision. In the event any parties shall perfect an appeal to district court, copies of such notice of appeal shall be mailed to all parties affected by such appeal within three days after the date of perfection thereof. Any such appeal to district court shall be a trial de novo only on the issue of relocation benefits." K.S.A. 58-3509(a).

In short, both the EDPA and the KRA contain nearly identical provisions granting displaced persons the right to relocation benefits and assistance. But only the KRA provides a mechanism to enforce that right. Specifically, the KRA creates an administrative remedy (appeal to an independent hearing examiner), coupled with the right to judicial review of the hearing examiner's ruling in district court.

Construing K.S.A. 26-518 to create an implied private right of action would be inconsistent with the plain language of K.S.A. 26-508 and K.S.A. 26-513. As discussed more fully in Issue II, these provisions limit the scope of judicial review in eminent-domain appeals to the issue of just compensation for the taking, which does not include relocation benefits. Recognizing an implied private right of action for relocation benefits under K.S.A. 26-518 would undermine both the administrative remedy and the limited scope of judicial review the Legislature has created within the EDPA.

It would also be inconsistent with the plain language of K.S.A. 58-3509(a), which establishes a comprehensive administrative remedy for vindicating the statutory right to relocation benefits. Recognizing a private right of action under K.S.A. 26-508 would

permit displaced persons to circumvent the KRA remedy altogether, rendering K.S.A. 58-3509(a) obsolete. In short, the comprehensive administrative remedy in the KRA offers compelling evidence that the Legislature did not intend to create a separate private right of action under K.S.A. 26-518. See *Nichols*, 270 Kan. at 46-53 (concluding Campaign Finance Act did not provide for implied private right of action because it provided for comprehensive administrative remedy).

2. *The History Confirms that the Legislature Did Not Intend to Create a Private Right of Action Under K.S.A. 26-518*

A review of the relevant history bolsters our conclusion that the Legislature did not intend to create a private right of action under K.S.A. 26-518. As originally enacted, the EDPA did not require condemning authorities to pay relocation benefits to displaced persons. L. 1963, ch. 234. This changed in 2003 with H.B. 2032.

As introduced, H.B. 2032 would have amended the KRA to require condemning authorities to provide relocation payments and assistance to displaced persons whether or not federal funds were involved in the project causing displacement. H.B. 2032, as introduced (2003); House Journal, p. 55 (January 17, 2003). The House then amended the bill to create what is now K.S.A. 26-518 and to delete the language limiting the district court's jurisdiction in eminent-domain appeals under K.S.A. 26-508. H.B. 2032, as amended by House Committee (2003); House Journal, p. 166 (February 18, 2003); House Journal, p. 179 (February 20, 2003); House Journal, p. 184-85 (February 21, 2003). In other words, the House version of the bill would have amended the EDPA (rather than the KRA) in two respects. First, it would have required condemning authorities to pay relocation benefits to displaced persons. Second, it would have effectively expanded the scope of judicial review in eminent-domain appeals to include all issues raised in an EDPA proceeding, including relocation benefits.

But H.B. 2032 was later amended by the Senate to reintroduce the language found in K.S.A. 26-508 that limits the scope of review in eminent-domain appeals to only the issue of just compensation. H.B. 2032, as amended by House Committee, as amended by Senate Committee (2003); Sen. Journal, p. 300-01 (March 24, 2003). Ultimately, the Senate version of H.B. 2032 was enacted. Thus, H.B. 2032 amended the EDPA to require condemning authorities to provide relocation payments and assistance in certain circumstances. But it left unchanged the limited the scope of judicial review in eminent-domain appeals. L. 2003, ch. 106, §§ 2 and 4.

But the Legislature soon recognized that it had created a statutory right to relocation benefits without a remedy to enforce that right. So, during the 2004 session, the Legislature considered two potential solutions: (1) making relocation-benefit determinations appealable under the EDPA; or (2) providing an administrative review procedure for relocation-benefit determinations under the KRA.

The first potential solution was included in H.B. 2800. This bill would have amended K.S.A. 26-508 to provide district courts with jurisdiction to hear appeals of relocation-benefit determinations in eminent domain proceedings. See H.B. 2800 (2004) (deletions indicated by strikethrough text; additions indicated by italics text) ("The only ~~issue~~ *issues* to be determined therein shall be the compensation required by K.S.A. 26-513, and amendments thereto, *and the adequacy of fair and reasonable relocation payments and assistance as provided by law*."). But H.B. 2800 eventually died in committee. House Actions Report and Subject Index, p. 106 (May 27, 2004).

The second potential solution was included in proposed amendments to S.B. 461. That version of S.B. 461 proposed to amend the KRA to create an administrative review procedure for relocation-benefit determinations, followed by judicial review of that agency action. The amended version of S.B. 461 would later become K.S.A. 58-3508 (providing for relocation benefits when no federal funding involved) and K.S.A. 58-3509

(review process for relocation-benefit determinations). Minutes of the House Judiciary Committee, Attachment 5 (March 8, 2004); House Journal, p. 1566 (March 25, 2004). S.B. 461 was enacted with these amendments effective July 1, 2004. L. 2004, ch. 110, §§ 8 and 9.

This history confirms that the Legislature never intended to create a private right of action for relocation benefits under the EDPA. Rather, the Legislature considered proposals to make relocation-benefit determinations appealable to the district court under the EDPA. But those proposals were never enacted. Instead, the Legislature amended the KRA to provide an administrative remedy for relocation-benefit determinations, along with the right to judicial review of that agency action. The Legislature's decision to enact a comprehensive administrative remedy under the KRA confirms that it did not intend to create a private right of action for relocation benefits under K.S.A. 26-518 of the EDPA. See *Alexander v. Sandoval*, 532 U.S. 275, 290, 121 S. Ct. 1511, 149 L. Ed. 2d 517 (2001) ("The express provision of one method of enforcing a substantive rule suggests that Congress intended to preclude others."); *Osher v. City of St. Louis, Missouri*, 903 F.3d 698, 703 (8th Cir. 2018) (existence of administrative review procedures in URA "'counsel[s] against . . . finding a congressional intent to create individually enforceable private rights'") (quoting *Gonzaga Univ. v. Doe*, 536 U.S. 273, 290, 122 S. Ct. 2268, 153 L. Ed. 2d 309 [2002]).

The tenants point out that this same history reflects the Legislature's intent to impose a duty on condemning authorities to provide relocation benefits to displaced persons. We agree that K.S.A. 26-518 imposes such a duty, as does K.S.A. 58-3508. But it does not necessarily follow that the Legislature intended the remedy for a violation of that duty to be a private right of action. See *Cannon v. University of Chicago*, 441 U.S. 677, 688, 99 S. Ct. 1946, 60 L. Ed. 2d 560 (1979) ("[T]he fact that a federal statute has been violated and some person harmed does not automatically give rise to a private cause of action in favor of that person."). Rather, the remedy for a failure to provide relocation

benefits lies under the KRA and not the EDPA. See *Nichols*, 270 Kan. at 52 (statutorily created wrong is to be remedied in the manner prescribed by the Legislature). Thus, contrary to the tenants' assertion, our holding that K.S.A. 26-518 provides no private right of action does not render that statute meaningless. See *Montgomery v. Saleh*, 311 Kan. 649, 655, 466 P.3d 902 (2020) (courts presume Legislature does not intend to enact meaningless legislation). The statutory right to relocation benefits under both the EDPA and KRA can be vindicated through the administrative remedy the Legislature created in K.S.A. 58-3509(a).

The tenants also contend that K.S.A. 26-518 was enacted to implement the URA. And failing to recognize a private right of action under the statute ignores the URA's purpose, which is to ensure displaced persons are compensated. See 42 U.S.C. § 4621(b) (2020). But again, we are not suggesting that K.S.A. 26-518 imposes no duty on condemning authorities to provide relocation payments and assistance. Rather, we hold that the remedy for a failure to fulfill that duty is the review process under K.S.A. 58-3509(a), not a private right of action. Thus, our holding is consistent with the URA and its purpose.

Finally, the tenants note that both our court and the Court of Appeals issued decisions on the merits in the previous appeal. They reason that such decisions could not have been entered without an implicit finding that jurisdiction was proper. Thus, in granting summary judgment to the City on remand, the tenants believe the district court made an unsupported finding of fact that the appellate courts overlooked the issue of jurisdiction in the prior appeal, and the panel erroneously adopted that unsupported finding.

But the tenants' argument is a red herring. For one, whether jurisdiction exists is a question of law. *Barnes v. Board of Cowley County Comm'rs*, 293 Kan. 11, 16, 259 P.3d 725 (2011). And no fact-findings were required to determine whether the district court

had subject matter jurisdiction in this case. Further, "'[o]ne of the first and continuing duties of a court is to determine whether it has jurisdiction of the subject matter of the action.'" *Harshberger v. Board of County Commissioners*, 201 Kan. 592, 594, 442 P.2d 5 (1968). Thus, once the City raised the issue of subject matter jurisdiction on remand, it was incumbent upon the district court to address it. Neither the parties' failure to raise the issue earlier nor the absence of an explicit ruling on the issue in the previous appeal can create subject matter jurisdiction. See *Kingsley v. Kansas Dept. of Revenue*, 288 Kan. 390, 395, 204 P.3d 562 (2009) ("[P]arties cannot convey subject matter jurisdiction on a court by failing to object to the court's lack of jurisdiction. If the district court lacks jurisdiction to make a ruling, an appellate court does not acquire jurisdiction over the subject matter on appeal. [Citations omitted.]").

In sum, there is no private right of action under K.S.A. 26-518. Even presuming that the statute protects a specific group of people, the relevant statutory provisions and legislative history confirm that the Legislature did not intend to create a private right of action to recover relocation costs under K.S.A. 26-518. Instead, the Legislature intended K.S.A. 58-3509(a) to provide a single, comprehensive administrative remedy to vindicate the statutory right to relocation benefits and assistance. Because there is no private right of action under K.S.A. 26-518, the district court did not have original civil jurisdiction over the tenants' cause of action. See K.S.A. 20-301.

II. *The EDPA Provides No Right to Judicial Review of Relocation-Benefit Determinations*

Having concluded that the EDPA provides no private right of action to recover relocation benefits under K.S.A. 26-518, we next consider whether the EDPA provides a right to judicial review of relocation-benefit determinations in eminent-domain appeals. If so, the district court would arguably have appellate jurisdiction to review the City's denial of relocation benefits. See K.S.A. 20-301 (district courts have "such appellate

jurisdiction as prescribed by law"). But as suggested in the analysis of Issue I, the EDPA limits judicial review to the question of just compensation only, which does not include relocation benefits.

A. *Standard of Review and Relevant Legal Framework*

We continue to employ an unlimited standard of review when determining the existence of subject matter jurisdiction. *In Equalization Appeal of Target Corp.*, 311 Kan. 772, 775, 466 P.3d 1189 (2020).

Also, eminent domain proceedings under the EDPA are administrative in nature. *Bartle*, 283 Kan. at 113-14. Courts have appellate jurisdiction to review administrative actions only if the Legislature has enacted statutes providing for such review:

> "Courts have no inherent appellate jurisdiction over official acts of administrative officials or boards, unless there is a statute providing for judicial review. Absent such a statutory provision, appellate review of administrative decisions is limited to claims of relief from illegal, fraudulent, or oppressive official conduct through the equitable remedies of quo warranto, mandamus, or injunction. The right to appeal an administrative decision is not vested or constitutional; it is statutory and may be limited or completely abolished by the legislature. [Citation omitted.]" *Barnes*, 293 Kan. at 17.

In short, the second theory of jurisdiction turns on whether the EDPA authorizes the district court to review relocation-benefit determinations in eminent-domain appeals. We employ unlimited review when interpreting the relevant statutory provisions of the EDPA. *State v. Smith*, 311 Kan. 109, 111, 456 P.3d 1004 (2020) (applying a de novo review to a statutory interpretation question).

B. *The EDPA's Plain Language Limits the Scope of Judicial Review to the Exclusion of Relocation-Benefit Determinations*

In determining whether the EDPA provides for judicial review of relocation-benefit determinations under K.S.A. 26-518, we first look to the plain language of the relevant statutory provisions. See *Bruce v. Kelly*, 316 Kan. 218, 224, 514 P.3d 1007 (2022) (when interpreting statutes, courts begin with statute's plain language, and may consider statutes *in pari materia* even when language is unambiguous).

K.S.A. 26-508 specifically limits eminent-domain appeals to the issue of just compensation. The statute provides that the plaintiff or any defendant may appeal the appraisers' award to the district court, but "[t]he only issue to be determined [in an eminent-domain appeal] shall be the compensation required by K.S.A. 26-513, and amendments thereto." K.S.A. 26-508(a).

Relocation benefits are not part of the "compensation required by K.S.A. 26-513, and amendments thereto." K.S.A. 26-508(a). Instead, K.S.A. 26-513(b) provides that "the measure of compensation is the fair market value of the property or interest at the time of the taking." And, if only a part of the property or interest is taken, just compensation is based on the "difference between the fair market value of the entire property or interest immediately before the taking, and the value of that portion of the tract or interest remaining immediately after the taking." K.S.A. 26-513(c). The statute defines fair market value as "the amount in terms of money that a well informed buyer is justified in paying and a well informed seller is justified in accepting for property in an open and competitive market, assuming that the parties are acting without undue compulsion." K.S.A. 26-513(e). Relocation benefits fall outside the statutory meaning of "fair market value" under K.S.A. 26-513(e). Nor are relocation benefits listed as a factor in determining compensation and damages under K.S.A. 26-513(d).

Based on this plain language, we have held that district courts lack subject matter jurisdiction to review any issue other than just compensation (defined as the fair market value of a taking) in an eminent-domain appeal. See, e.g., *Miller v. Glacier Development Co.*, 293 Kan. 665, 672, 270 P.3d 1065 (2011) (district court lacked jurisdiction in eminent-domain appeal to determine whether LLC's member or manager could be held personally liable to reimburse condemning authority for excess payment to LLC); *Bartle*, 283 Kan. at 115-117 (compensation beyond fair market value not justiciable in eminent-domain appeal); *Nat'l Compressed Steel Corp. v. Unified Gov't of Wyandotte County/Kansas City*, 272 Kan. 1239, 1245, 39 P.3d 723 (2002) (no right to litigate outside issues—such as right to exercise the power of eminent domain and the necessity and the extent of the taking—in eminent-domain proceeding).

The plain language of K.S.A. 26-508(a) limits the district court's jurisdiction in eminent-domain appeals to "the compensation required by K.S.A. 26-513." And K.S.A. 26-513 makes clear that relocation benefits are not a component of, nor a factor to be considered in calculating, the compensation required for the taking. Thus, relocation-benefit determinations are not subject to judicial review under K.S.A. 26-508(a). And the EDPA did not provide the district court with jurisdiction over the tenants' claims.

C. *Legislative History Also Supports This Plain-Language Interpretation*

Because this issue can be resolved on the EDPA's plain language alone, we need not look to legislative history to determine intent. See *Jarvis v. Kansas Dept. of Revenue*, 312 Kan. 156, 159, 473 P.3d 869 (2020) (if Legislature's intent unclear from statutory language, court may look to legislative history, background considerations, and canons of construction to determine legislative intent). That said, we note that the legislative history bolsters our plain-language interpretation.

At one point during the 2003 legislative session, H.B. 2032 (the bill that enacted K.S.A. 26-518) was amended to remove the language limiting the scope of judicial review in eminent-domain appeals under K.S.A. 26-508. But that limiting language was later reintroduced and incorporated into H.B. 2032 before it was enacted.

The next year, H.B. 2800 was introduced, and that bill would have amended K.S.A. 26-508 to expand the scope of judicial review in eminent-domain appeals to include relocation-benefit determinations specifically. But H.B. 2800 died in committee, leaving intact K.S.A. 26-508's limits on judicial review.

In sum, the plain language of K.S.A. 26-508 and K.S.A. 26-513 limits the district court's review in eminent-domain appeals to the question of just compensation only, which does not include relocation benefits. The legislative history supports our plain-language interpretation. Thus, the EDPA provides no basis for the district court to exercise jurisdiction over the tenants' claims.

III. *The KRA Creates a Right to Judicial Review of a Hearing Examiner's Ruling on Relocation Benefits, but Tenants Failed to Pursue and Exhaust This Remedy, Foreclosing District Court Review*

We next consider whether the KRA vested the district court with subject matter jurisdiction over the tenants' relocation benefits claims. Again, we exercise unlimited review when interpreting statutes and deciding whether subject matter jurisdiction exists. *Barnes*, 293 Kan. at 16.

As noted, the EDPA does not provide for judicial review of relocation-benefit determinations. But the KRA provides an administrative remedy, with subsequent judicial review of that agency action, to enforce the statutory right to relocation benefits found in both the EDPA and KRA. But the tenants' failure to pursue that remedy at all, let alone in a timely manner, deprived the district court of jurisdiction under the KRA.

K.S.A. 58-3509(a) allows a displaced person to appeal to the state, agency, or political subdivision within 60 days of the initial determination of relocation benefits. If such an appeal is made, "an independent hearing examiner shall be appointed by [the condemning authority] within 10 days and a determination of the appeal made within 60 days." K.S.A. 58-3509(a). After administrative review is complete, "[a]ny party wishing to appeal the ruling of the hearing examiner may do so by filing a written notice of appeal with the clerk of the district court within 30 days of the hearing examiner's decision." K.S.A. 58-3509(a). And "[a]ny such appeal to district court shall be a trial de novo only on the issue of relocation benefits." K.S.A. 58-3509(a).

Here, the tenants did not pursue this remedy. The City denied the tenants' request for relocation benefits on October 31, 2013. Under the KRA, the tenants had 60 days, roughly through the end of 2013, to pursue an administrative appeal of the City's relocation-benefits determination. The tenants never initiated an administrative appeal. See *State ex rel. Slusher v. City of Leavenworth*, 285 Kan. 438, 453, 172 P.3d 1154 (2007) (party ordinarily must exhaust any administrative remedy provided by statute before that party may bring the matter before a court).

The failure to pursue the KRA's administrative remedy deprives the district court of subject matter jurisdiction over the petition. K.S.A. 58-3509(a) allows any party to seek review in the district court of the hearing examiner's ruling on the issue of relocation benefits. But without a ruling by the hearing examiner, there is no basis for district court review. In other words, exhaustion of the administrative appeal process in K.S.A. 58-3509(a) is a jurisdictional prerequisite to judicial review in the district court. Cf. *Kingsley*, 288 Kan. at 410 (exhaustion requirement of K.S.A. 77-612 is a jurisdictional prerequisite to the entire petition for judicial review).

This legal conclusion is consistent with our precedent interpreting K.S.A. 58-3509. We have held that in conducting judicial review of relocation benefits under K.S.A. 58-3509(a), the district court must make "independent findings of fact and conclusions of law regarding the question of relocation benefits *based upon the record of proceedings before the administrative hearing examiner*." (Emphasis added.) *Frick v. City of Salina*, 289 Kan. 1, 24, 208 P.3d 739 (2009). When a displaced person fails to exercise the administrative remedy under the KRA, there is no record of the administrative proceeding upon which the district court can make those findings and conclusions. Thus, where, as here, petitioners do "not exhaust all available and adequate administrative remedies before filing a petition for judicial review of an agency action, then the district court lacks subject matter jurisdiction to consider the contents of the petition." *Kingsley*, 288 Kan. at 408-09.

The tenants attempted to circumvent the KRA remedy altogether by filing a civil action directly in district court to recover relocation benefits. The tenants assert that Kansas courts have held that a private right of action and subject matter jurisdiction exists under the KRA. But no Kansas court has expressly held that K.S.A. 58-3508 creates a private right of action to recover relocation benefits.

The tenants cite an unpublished Court of Appeals opinion, *Stalnaker v. Cowley County Community College*, No. 112,659, 2016 WL 1391631 (Kan. App. 2016) (unpublished opinion), to support their proposition. But *Stalnaker* involved a different issue—whether a displaced person had produced records demonstrating they were entitled to relocation benefits under K.S.A. 58-3508. The panel in *Stalnaker* never addressed whether K.S.A. 58-3508 creates a private right of action for relocation benefits. And while the decision states that the plaintiff "filed this lawsuit for relocation payments," the decision also refers to both "the hearing on this matter" and a trial. 2016 WL 1391631, at *1. Thus, it is unclear whether the plaintiff sued directly in district court or followed the review process in K.S.A. 58-3509(a).

Perhaps more important, construing K.S.A. 58-3508 to create a private right of action would undermine the comprehensive administrative remedy the Legislature created in K.S.A. 58-3509. Recognizing such a private right of action would allow displaced persons to circumvent that administrative remedy altogether. And, as we established in Issues I and II, the Legislature intended K.S.A. 58-3509(a) to serve as the single, comprehensive remedy for redressing violations of the statutory right to relocation benefits under both the EDPA and KRA.

In sum, the KRA grants district courts subject matter jurisdiction to review a hearing examiner's ruling on the issue of relocation benefits. But a petitioner must first exhaust the administrative appeal and then timely seek review of the examiner's decision to invoke that jurisdiction. The tenants failed to exhaust their KRA administrative remedies, depriving the district court of subject matter jurisdiction over their claims.

IV. *A Relocation-Benefit Determination Is Not Appealable Under K.S.A. 60-2101(d)*

Finally, we examine whether the district court had jurisdiction over the tenants' petition under K.S.A. 60-2101(d). That statute generally authorizes the district court to review final judgments and orders of a political or taxing subdivision when it exercises judicial and quasi-judicial functions:

> "A judgment rendered or final order made by a political or taxing subdivision, or any agency thereof, exercising judicial or quasi-judicial functions may be reversed, vacated or modified by the district court on appeal. If no other means for perfecting such appeal is provided by law, it shall be sufficient for an aggrieved party to file a notice that such party is appealing from such judgment or order with such subdivision or agency within 30 days of its entry, and then causing true copies of all pertinent proceedings before such subdivision or agency to be prepared and filed with the clerk of the district court in the county in which such judgment or order was entered." K.S.A. 60-2101(d).

The City is a political subdivision. But even assuming the City was exercising a judicial or quasi-judicial function when it denied the tenants' request for relocation costs, K.S.A. 60-2101(d) does not apply. The statute's plain language confirms it is intended to be a default jurisdictional statute because it applies "[i]f no other means for perfecting such appeal is provided by law." K.S.A. 60-2101(d). But the KRA provides other means for perfecting an appeal of a relocation-benefit determination. See K.S.A. 58-3509(a). And K.S.A. 58-3509 would also control as the statute more specific to judicial review of relocation-benefit determinations. See *State ex rel. Schmidt v. Governor Kelly*, 309 Kan. 887, 898, 441 P.3d 67 (2019) ("'A specific statute controls over a general statute.'").

Having reviewed and rejected all viable theories of jurisdiction, we conclude that the district court lacked subject matter jurisdiction in this action. This conclusion likewise deprives the appellate courts of jurisdiction over the subject matter of the tenants' claims. See *In re Care & Treatment of Emerson*, 306 Kan. 30, 39, 392 P.3d 82 (2017) (if trial court lacks jurisdiction, appellate court does not acquire jurisdiction on appeal).

And because we lack jurisdiction over the matter, we do not reach the City's conditional cross-petition addressing the merits of the district court's advisory summary judgment ruling. See *In re of Estate of Lentz*, 312 Kan. 490, 504, 476 P.3d 1151 (2020) (a court that dismisses for lack of jurisdiction should not opine on the merits).

CONCLUSION

We hold that neither the district court nor the appellate courts have subject matter jurisdiction over the tenants' claims. The EDPA does not create an implied private right of action over which the district court has original jurisdiction. Nor does the EDPA separately provide a right to judicial review of relocation-benefit determinations in eminent-domain appeals. While the KRA provides a right to judicial review of

relocation-benefit determinations, the tenants did not exhaust their administrative remedies under K.S.A. 58-3509(a), depriving the district court of subject matter jurisdiction. And while K.S.A. 60-2101(d) authorizes appeals to the district court from certain final judgments and orders of a political subdivision, this statute does not apply because the KRA provides a more specific procedure for judicial review.

We thus affirm the Court of Appeals judgment. Because the City did not challenge the panel's holding regarding the proper disposition of this case, see *Kansas Fire and Safety Equipment*, 62 Kan. App. 2d at 352-53, we reverse the district court's order granting summary judgment and remand to the district court to enter an order dismissing the case without prejudice.

On a final note, because we hold that the district court lacked subject matter jurisdiction over the tenants' petition, the decisions issued in the prior appeal of this case—*Nauheim v. City of Topeka*, 309 Kan. 145 and *Nauheim v. City of Topeka*, 52 Kan. App. 2d 969—were also entered without subject matter jurisdiction. We thus vacate those decisions, and they are no longer of any precedential value.

Judgment of the Court of Appeals reversing and remanding to the district court is affirmed. Judgment of the district court is reversed, and the case is remanded with directions.