STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
MICHIGAN TAX TRIBUNAL

St. George Orthodox Church,
Petitioner,

v

MTT Docket No. 346986

Township of Frenchtown,
Respondent.

Tribunal Judge Presiding
Patricia L. Halm

FINAL OPINION AND JUDGMENT

On November 24, 2010, Administrative Law Judge Thomas A. Halick issued a Proposed Opinion and Judgment granting an exemption for Parcel No. 58-07-124-010-00 pursuant to MCL 211.7s. The Proposed Opinion and Judgment provided, in pertinent part:

> The parties have 20 days from date of entry of this Proposed Opinion to notify the Tribunal in writing if they do not agree with the Proposed Opinion and why they do not agree (i.e., exceptions). After the expiration of the 20-day time period, the Tribunal will review the Proposed Opinion and consider the exceptions, if any, and:
>
> a. Adopt the Proposed Opinion as a Final Decision.
> b. Modify the Proposed Opinion and adopt it as a Final Decision.
> c. Order a rehearing or take such other action as is necessary and appropriate.

Neither party filed exceptions to the Proposed Opinion within the allotted time.

The Tribunal, haven given due consideration to the Proposed Opinion and Judgment and the case file, adopts the November 24, 2010 Proposed Opinion and Judgment as the Tribunal's Final Opinion and Judgment in this case pursuant to MCL 205.726. The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law in the Proposed Opinion and Judgment in this Final Opinion and Judgment. Therefore,

IT IS ORDERED that the Administrative Law Judge's Proposed Opinion and Judgment is AFFIRMED and adopted by the Tribunal as the Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Proposed Opinion and Judgment, Page 2, within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Final Opinion and Judgment within 28 days of the entry of the Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (ii) after December 31, 2008, at the rate of 3.315% for calendar year 2009, (iii) after December 31, 2009, at the rate of 1.23% for calendar year 2010, and (iv) after December 31, 2010 at the rate of 1.12% for calendar year 2011.

This Final Order and Judgment resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: March 4, 2011 By: Patricia L. Halm

* * *

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

St George Serbian Orthodox Church,
Petitioner,

v

Township of Frenchtown,
Respondent.

MICHIGAN TAX TRIBUNAL
Entire Tribunal Division
Property Tax Appeal
MTT Docket No. 346986

Administrative Law Judge Presiding
Thomas A. Halick

PROPOSED OPINION AND JUDGMENT

Petitioner, St. George Serbian Orthodox Church, appeals property tax assessments for the 2008, 2009, and 2010 tax years levied by Respondent, Township of Frenchtown. On October 14, 2010, this matter came before the Tribunal for a hearing. Attorney Jahn F. Landis, Lennard, Graham &

Goldsmith, P.L.C., appeared on behalf of Petitioner. Dino Lupi, Assessor, Township of Frenchtown, appeared on behalf of Respondent. Petitioner claims the subject property is exempt under MCL 211.7s and MCL 211.7o. The subject's True Cash Value and State Equalized Value are not at issue. The Taxable Values appearing on the assessment rolls are as follows:

Parcel Number	Year	TV
58-07-124-010-00	2008	$274,300
58-07-124-010-00	2009	$286,369
58-07-124-010-00	2010	$285,509

The Tribunal concludes that the subject is exempt under MCL 211.7s for each year at issue. The property's taxable values shall be as follows:

Parcel Number	Year	TV
58-07-124-010-00	2008	$0 (exempt)
58-07-124-010-00	2009	$0 (exempt)
58-07-124-010-00	2010	$0 (exempt)

Procedural History

The subject property is located at 2326 North Monroe Street, in Frenchtown Township, Michigan, in the County of Monroe. Respondent assessed the subject property for the 2008 tax year. Petitioner protested the subject's taxable status to the 2008 March Board of Review. Petitioner filed this appeal on May 21, 2008. The years at issue are 2008, 2009, and 2010. A prehearing conference was held on September 29, 2010.

Petitioner's Arguments

Petitioner claims that the subject property is exempt from taxation as a house of public worship under MCL 211.7s and as a nonprofit charitable organization under MCL 211.7o. The

controlling case is *Institute of Basic Life Principles, Inc v City of Grand Rapids*, 217 Mich App 7; 551 NW2d 199 (1996). Petitioner presented the testimony of its president, Robert Oklejas. Petitioner offered no documentary evidence.

Respondent's Arguments

Respondent does not dispute and has stipulated that Petitioner owned and occupied the subject property during the years at issue, that Petitioner is a "religious society," and that the subject property was granted an exemption for years prior to 2008. Respondent claims that the property was used for commercial purposes and does not qualify for exemption under MCL 211.7s or MCL 211.7o, because the property was advertised for rental as a banquet hall and a catering business was conducted there. Respondent cites *Mt Zion Temple v Township of Waterford*, MTT Docket No. 214501. Respondent called no witnesses and offered no documentary evidence. Respondent cross-examined Petitioner's witness.

Tribunal's Findings of Fact

1. The subject property has the following parcel identification number: 58-07-124-010-00.
2. The subject land is improved by a church building, a parking lot, and the subject building, which the parties referred to as the "Cultural Center," the "banquet hall" or "the hall." The parties do not contest the exempt status of the church building, the parking lot, and land. Only the hall is in dispute. The hall is also referred to as the "St. George Cultural Center" and is located at 2326 North Monroe Street, Monroe, Michigan. The subject hall is adjacent to the church building, which is located at 2330 North Monroe Street. The church building and the hall occupy the same parcel.

3. The subject property is classified as commercial real property.

4. Petitioner is a "religious society" as that term is used in MCL 211.7s and is exempt from federal income tax under IRC 501(c).

5. Petitioner was incorporated in 1958 as a Michigan nonprofit ecclesiastical corporation. Official notice is taken of the fact that Petitioner is incorporated under 1931 PA 327.

6. The subject property was purchased in 1958, and a church building was constructed on the land in 1960.

7. Construction on the subject building commenced in 1979 and was completed in 1980. The hall is located a short walk from the church building, and shares the same parking lot.

8. Petitioner built the hall because a larger space was needed to accommodate certain church events.

9. Petitioner has used the hall as a meeting place and banquet center since 1980.

10. Before the hall was constructed, Petitioner rented hall space at other locations when a larger space was needed for church events.

11. After construction of the hall, Petitioner conducted certain meetings and events at the hall that were formerly held at the main church building.

12. Petitioner's board of directors meets once per month in the hall.

13. Mr. Robert Oklejas is Petitioner's president. He testified regarding his personal knowledge of the property.

14. Mr. Oklejas testified that the hall is only rented to groups that have a positive social purpose, such as the "Exchange Club" and the Rotarians. He stated that the hall is not rented for events such as Super Bowl parties, New Year's parties, "comedy club" events, or Valentine's Day parties.

15. Mr. Oklejas stated that Petitioner mainly rents the hall for family events, such as wedding receptions and funeral memorial dinners. Approximately six birthday parties in 10 years have been held at the hall. Approximately two high school reunions were held in the hall over a two-year period.

16. The hall has been rented for use for the "National Prayer Breakfast."

17. Petitioner placed an advertisement in the Monroe Town Money Saver, January 2009, advertising the St. George Cultural Center's banquet hall, soliciting members of the public to attend a Valentine's Day party to be held at the subject property. However, this

advertisement was placed by a church employee without authorization from Petitioner's board of directors, and the board cancelled the event.

18. Petitioner employed an individual named Raven Ausmus as a "hall manager" until she was terminated in July 2010.

19. Raven Ausmus scheduled an event to take place at the subject property, referred to as a "Comedy Club Night." Petitioner's board of directors did not approve this event, and informed Ms. Ausmus regarding the types of events that would be permitted at the hall.

20. The hall was used for "bingo nights" for a period of time, but a governing bishop of the church ordered this to be discontinued because it constituted gambling which is contrary to the teachings of the church.

21. Petitioner placed an advertisement for the St. George Cultural Center in the November 2008 AT&T Yellow Pages for Monroe County under "Halls, Auditoriums and Ballrooms."

22. Petitioner holds a "food service establishment license" issued by the State of Michigan.

23. Petitioner employed an individual named Renee Mullendore as a cook, until she was terminated in July 2010 for failure to follow directives of Petitioner's board.

24. The food service at the hall was provided by Petitioner's employees.

25. Income earned from hall rentals is used to support the operating expenses of the church and its property, such as utilities, insurance, and snow removal. The annual income from hall rentals is approximately equal to or less than the property taxes imposed on the property.

26. Official notice is taken that public tax records indicate that Petitioner paid property taxes in 2009 (summer and winter) in the amount of $12,902.52.

27. Official notice is taken that public tax records indicate that Petitioner paid summer property taxes in 2010 in the amount of $3,082.12.

28. Other churches in the township that operate daycare centers or bingo games have been granted tax exempt status.

29. Petitioner maintained a log (calendar) of all use of the hall in 2009 and 2010. The testimony establishes that the use of the subject during 2008 is substantially similar to 2009 and 2010.

30. After each Sunday church service, the church members meet informally in the hall for social and cultural purposes and to meet informally with the priest. This meeting formerly took place in the basement of the church building, but was moved to the hall in 1980.

This meeting occurred weekly during the years at issue, except during special religious events.

31. Members of the church held a Christmas celebration at the hall during the years at issue.

32. Members of the church have a "Serbian New Year" service at the hall annually.

33. Religious education classes were held at the hall each Tuesday.

34. Members of the church held special celebrations of patron saints at the hall.

35. Members of the church held special Easter celebrations at the hall annually.

36. The church held an annual meeting of the members at the hall, where members nominated and elected church officers and a budget is presented and approved.

37. In 2009, there were 58 non-church related events held at the hall. These events include wedding receptions, funeral memorial dinners, birthday parties, Monroe County Exchange Club meetings, and Rotarian meetings.

38. In 2009, 116 church related events were held at the hall. These include the events attended mainly by church members for religious purposes, described in findings 30 through 36 above.

39. In 2010, 46 non-church related events were held at the hall.

40. In 2010, 110 church related events were held at the hall.

41. Mr. Oklejas testified that Petitioner maintains a calendar with notations regarding the use of the hall and the specific activity taking place on a daily basis, including official church meetings and rental use. The calendar was not admitted into evidence, but Mr. Oklejas had it in his possession and referred to it during testimony. He demonstrated personal knowledge of the events indicated on the calendar.

42. Respondent determined that the subject property was exempt for all tax years from 1980 until 2006.

43. Respondent determined that the subject property was taxable upon discovering that Petitioner advertised the hall for rental by members of the general public and that Petitioner offered food service for such events for a fee. Respondent believed that a catering business was being operated at the hall.

44. Petitioner's board of directors has determined that public use of the subject property for events such as wedding receptions, birthdays, and funeral dinners are consistent with its religious purposes.

45. The rental of the hall is open to the public and is not limited to members of St. George Orthodox Church.

46. The hall is used for family gatherings for church members.

47. The hall is used for small group gatherings with a spiritual emphasis and for administrative activities.

48. During portions of the years at issue, Petitioner's members and employees provided food service for a monthly meeting of a group called the Monroe County Exchange Club.

49. Petitioner charges a fee to use the hall. The amounts of the fees are not in evidence.

50. Petitioner owned the subject property during the years at issue.

51. Petitioner occupied the subject property during the tax years at issue.

Conclusions of Law

Under the Michigan Constitution of 1963, "All political power is inherent in the people. Government is instituted for their equal benefit, security, and protection." Const 1963, art 1, sec 1.

"The legislature shall impose taxes sufficient with other resources to pay the expenses of state government." Const 1963, art 9, sec 1. The Constitution requires the taxation of real and personal property.

> The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. . . . Const 1963 art 9, sec 3.

Pursuant to the above constitutional mandate, the people of the State of Michigan have enacted[1], through the Legislature and Governor, the General Property Tax Act, 1893 PA 206, MCL 211.1, et seq.

[1] "The style of the laws shall be: The People of the State of Michigan enact." Mich. Const. of 1963, art 4, sec 23. Michigan laws are enacted by the "People" and are called Public Acts.

The General Property Tax Act, 1893 PA 206, provides: “That all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation.” MCL 211.1. The act further provides:

> (1) For the purpose of taxation, real property includes all of the following:
>
> (a) All land within this state, all buildings and fixtures on the land, and all appurtenances to the land, except as expressly exempted by law. MCL 211.2 .

The state constitution declares that certain property of a religious organization is exempt from property taxes:

> Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes. Mich Const 1963, art IX, sec 4.

The General Property Tax Act provides:

> Houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and any parsonage owned by a religious society of this state and occupied as a parsonage are exempt from taxation under this act. Houses of public worship includes buildings or other facilities owned by a religious society and used predominantly for religious services or for teaching the religious truths and beliefs of the society. MCL 211.7s.

The dispositive legal question is whether the subject property is exempt from property taxes under MCL 211.7s. Petitioner bears the burden of proving that it is entitled to the

exemption by a preponderance of the evidence. *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002).

The statute at issue consists of two sentences. The first sentence unconditionally exempts all of the following: houses of public worship, the land on which a house of public worship stands, and furniture in a house of public worship. Therefore, a structure commonly identified as a church building, synagogue, temple, or mosque is exempt. It has been held that an exempt "house of public worship" must be actually used for religious worship or teaching. See, *Lake Louise Christian Community v Hudson Township*, 10 Mich App 573; 159 NW2d 849 (1968) [Church lands that remain idle and unused are not exempt[2]]. Land being held by a church for future development is not exempt. *St Paul Lutheran Church v City of Riverview*, 165 Mich App 155; 418 NW2d 412 (1987). The requirement that the exempt structure be used for religious worship or teaching is inherent in the term "house of public worship."

The second sentence of the statute states that "houses of public worship" *includes* buildings or facilities owned by a religious society and used predominantly for religious services or for teaching the religious truths and beliefs of the society. By using the word "includes" the statute indicates that the second sentence is not a comprehensive definition, but provides examples of "buildings or other facilities" that are included within the phrase "houses of public worship." The first sentence presumes that a religious

[2] The "quantum of use" is not to be considered. *Institute of Basic Life Principles, Inc v City of Grand Rapids*, 217 Mich App 7; 551 NW2d 199 (1996).

society would typically own land with a structure used for religious services, which is clearly exempt. The second sentence, although generally applicable to any structure on land owned by a religious society, especially applies when the religious society owns "buildings or other facilities" in addition to the primary "house of public worship." In such case, an additional "building or other facility" is exempt as a "house of public worship" as long as it is owned by the religious society, and is "used predominantly for religious services or for teaching the religious truths and beliefs of the society." Therefore, in our present case, the subject building is exempt if it was used "predominantly" for the same purposes as the primary "house of public worship."

Predominant means "Having greatest ascendency, importance, influence, authority, or force . . . . Most common or conspicuous; main or prevalent." *The American Heritage College Dictionary*, (2002), p 1097.

A building that is used to serve the purposes of a religious society is exempt under circumstances where the activities that take place in the building are similar to activities that would commonly take place in a "house of public worship." For example, if a house of public worship would typically have office space for administration of the society, it should make no difference that the offices are located in a separate building on the same parcel, rather than within or affixed to the main "house of worship." There is no known case where portions of an otherwise qualifying "house of public worship," such as a large meeting room, dining area, or administrative offices, were found to be taxable merely because religious services were not held in those portions of the building.

Respondent cites *Mt Zion Temple v Township of Waterford*, MTT Docket No. 214501. In that case, the Tribunal denied a charitable exemption under MCL 211.7o for a recreational facility owned and operated by a church. There was no claim in that case that the building was a “house of public worship” or a “building or other facility” within the meaning of MCL 211.7s. The church purchased a “run-down” racquet club facility and renovated it, preserving four of the six original tennis courts, and a basketball court. Persons from the general public could use the facility for a fee. There were 1,250 members of the facility, including both church members and non-church members.

The Tribunal ruled that the church’s ownership and use of the racquet club did not bring person’s minds and hearts under the influence of religion or lessen the burden of government and that the petitioner failed to show that it offered a gift to the general public, as required under case law interpreting and applying MCL 211.7o (charitable exemption). *Mt Zion Temple* is factually and legally distinguishable or our present case.

Respondent cites *Institute of Basic Life Principles, Inc v City of Grand Rapids*, 217 Mich App 7; 551 NW2d 199 (1996). That case held that a house of public worship is exempt “if the entire property was used in a manner consistent with the purposes of the owning institution.” The court rejected the “quantum of use test,” which had been previously rejected in the context of educational institutions in *Nat’l Music Camp v Green Lake Township*, 76 Mich App 608; 257 NW2d 188 (1977).The property at issue was 16 parcels constituting 1,800 acres of land. Four of the parcels were improved, including a lodge building with 15 rooms, a conference center with 90 rooms, an auditorium for 350

people where worship services were held, a dining room, and a gymnasium. There was no dispute in that case that the buildings were used for a religious purpose, as the petitioner was a “well-established, legitimate, religious entity” that used the property to further its religious purposes.” *Id*, p 17. Also, there was no claim that the “dining room” was taxable merely because religious services were not held there. The dispute was whether the petitioner used the entire 1,800 acres for religious purposes, where there were large undeveloped areas of land. The land included seven miles of bicycle trails and undeveloped areas where persons could “walk through the woods and think about what they heard” at petitioner’s religious meetings. There was “no evidence that the property was used for purposes outside those enumerated in petitioner’s bylaws.” *Id*, p 19. There was no allegation that the petitioner conducted commercial activity or rented the property to outside persons.

Although instructive, the facts of our present case are not entirely on-point with *Institute of Basic Life Principles.* In the case at hand, Respondent denied the exemption because Petitioner allegedly conducted commercial activity at the hall that is inconsistent with its religious purposes. Respondent does not allege, as in *Institute of Basic Life Principles,* that Petitioner did not use portions of the property. In our present case, substantial religious activity takes place in the subject hall. The question is whether renting the hall to others when it is not used by the church destroys the predominant religious use.

In *Christian Reformed Church in North America v City of Grand Rapids*, 104 Mich App 10; 303 NW2d 913 (1981), the court upheld the Tax Tribunal’s ruling that a building

used for administration purposes by a religious denomination was exempt. That building, situated on seven acres, was a “denominational building” that housed the administrative offices of the petitioner’s synod and the several boards and agencies that supervised, organized, coordinated and administered the church’s programs. The court ruled that the administration building was exempt as a charitable institution under MCL 211.7o. The Tribunal had ruled that the property was exempt as property “owned by a religious society and used exclusively for religious services or for teaching religious truths and beliefs of the society” under statute that was in effect at that time, MCL 211.7(e). That statute required that the property be used “exclusively” for religious purposes, whereas the current version states the use must be “predominantly” for religious purposes. The appellate court did not address the exemption for property owned by a religious society, having ruled that the “charitable” exemption applied. Nevertheless, the Tribunal’s holding on the exemption under MCL 211.7s stands as persuasive authority.

In our present case, Respondent alleges that Petitioner used the property for a catering business and rented the hall to the general public. Although Petitioner offered food service for a fee to persons renting the hall, it cannot be concluded on this record that the food service constituted a “catering business” that was operated for profit. There is no evidence that Petitioner or any entity or private individual earned a profit, but rather, the testimony establishes that the gross revenues were approximately equal to the property taxes imposed on the property in 2009 and 2010. The annual revenues did not exceed $13,000. Mr. Oklejas testified that in years when the hall was exempt, the gross

revenues from the hall did not exceed operating expenses such as utilities, insurance, and snow removal. Respondent offered no evidence to the contrary.

Petitioner formerly operated a “bingo night” in order to raise funds for the church, and Mr. Oklejas credibly testified that that bingo would raise “5 or 10 times” more revenue than the rental of the hall. Neither party has cited any authority for the proposition that conducting an activity to raise revenue to support a religious society disqualifies the religious society from the exemption under MCL 211.7s. See, *Bishop of the Roman Catholic Diocese of Cleveland v Kinney*, 2 Ohio St3d 52; 442 NE2d 764 (1982) [a large room (hall) in a church building was exempt where its primary use was religious in nature, notwithstanding that the room was also used for scout meetings, social gatherings, and bingo games].

In *Christian Reformed Church,* the court stated that a publishing house operated by a church is exempt if used only for church purposes, but if used in part for church purposes and the publishing house is *substantially devoted to other commercial printing*, the exemption is not granted. Applying that standard to the case at hand, it cannot be concluded that the hall is “substantially devoted” to rental and catering activity. Rather, the facts indicate that the “predominant” use is for religious worship and teaching the religious truths and beliefs of the society. The weekly informal meetings by church members in the hall that take place immediately after the worship service demonstrate the overall religious purpose of the hall. The priest attends those meetings and interacts with worshippers. Furthermore, offering the hall to the general public for

uses consistent with Petitioner's mission and teachings does not preclude it from exemption, even if Petitioner charges a fee. A nonprofit, ecclesiastical corporation, "may incorporate for the purpose of establishing any church organization for the purpose of teaching and spreading their religious beliefs and principles." MCL 450.178. The facts in this case prove that Petitioner uses the hall in a manner consistent with its nonprofit corporate purpose.

The subject hall is located adjacent to Petitioner's church building that is used for worship services. The hall is not attached to the main church building, but is located on the same parcel and shares the same parking lot. The subject property is not qualitatively different than a dining hall or large group assembly room that would be commonly found within a church building. It is common knowledge that many religious societies allow non-members to use their buildings and facilities for events such as weddings or receptions, and charge a fee. This incidental use does not change the predominant character of the building as a "house of public worship." The mere fact that Petitioner charges a fee for use of the subject and makes it available to the general public does not defeat a finding that the building is used predominantly for religious services or teaching.

Respondent is correct that a building owned by a church may lose its exemption under MCL 211.7s if it is not used predominantly for religious services or teaching religious truths. If Petitioner used the hall predominantly for rental to the general public and for the sale of food services, the exemption would be properly denied. However, in this

case, the evidence establishes that Petitioner predominantly used the subject building as a "house of public worship." Petitioner regularly used the property for religious education, meetings of church members (after the regular Sunday worship service), and special events related to various religious holidays. The hall was constructed for these purposes that formerly took place in the church building.

A brief survey of the law in other jurisdictions indicates that exemptions have been allowed under similar circumstances.

> . . . in *First Unitarian Society v Hartford*, 66 Conn 368, 34 A 89 (1895), we determined that a church was still occupied and used exclusively as a church within the meaning of the tax exemption statute even though it defrayed the cost of religious services by "renting its audience-room at other times for lectures, concerts, readings, and other things not inappropriate to be had in a church." Id., at 375, 34 A 89. We reasoned, on the basis of "[t]he policy on which the exemption of church buildings from taxation is granted"; id.; that the exclusive use requirement did not prohibit the church from "permitting this building [the church hall] to be used for profit, when not needed for those services distinctly called religious services...." Id. *St Joseph's Living Center, Inc v Town of Windham*, 290 Conn 695, 744; 966 A2d 188, 220 (2009).

The Oregon Tax Court, Magistrate's Division, reached a similar conclusion in *Subud Portland v Multnomah County Assessor*, 2009 WL 242347; TC-MD 07621C (2009). That case involved a 2,100 square foot building with two meeting areas or halls of about 850 square feet each, a kitchen, and lounge area for gathering. It had a capacity of 125 to 150 people. The property was either used specifically by the church for its own purposes or rented by other religious and non-religious groups and individuals for weddings, wedding receptions, and memorial services, which the court found were "typical uses for many, if not most, churches." The property was also used for educational meetings, meetings by nonprofit organizations, and general community

uses. “Those uses are for the benefit of the community and typical of what churches and other charitable organizations that have meeting facilities have long allowed to be used at their property when they are not using the property themselves.” *Id*.

Finally, the Tax Court of Indiana recently upheld an exemption under a similar exemption statute under similar facts. *Lake County Property Tax Assessment Bd of Appeals v St George Serbian Orthodox Church*, No. 49T10-0712-TA-72; 905 NE2d 536, 537 (2009). That case involved an exemption for the church’s cultural center, which consisted of 39,000 square feet, church administration offices, conference rooms, and a banquet facility complete with its own kitchen. The church used the cultural center for church events including, choir practice, folklore practice, church meetings, and fish fries. The cultural center's banquet facility was also available to the public for rent. The local tax board denied the exemption because it believed the cultural center's predominant use was as a commercial banquet hall. The court held that the church met its prima facie burden of proof by offering “calendar summaries” that indicated the various uses of the building. The taxing unit failed to rebut this evidence.

In our present case, Petitioner has proven by a preponderance of the evidence that the predominant use of the subject hall is for “religious services or for teaching the religious truths and beliefs of the society.” On this record, Petitioner has established that the religious education classes and various church meetings held at the hall fall within the parameters of MCL 211.7s. The fact that Petitioner also rents the property to selected groups and individuals during times when it is not used by the church does not destroy its predominant character as a house of public worship owned by a religious society under the facts of this case. The property is entitled to the

exemption under MCL 211.7s. Having so concluded it is unnecessary to render a judgment as to whether the subject would qualify under MCL 211.7o.

JUDGMENT

IT IS ORDERED that the subject property shall be exempt from property taxes under MCL 211.7s for tax years 2008, 2009, and 2010.

Entered: November 24, 2010 MICHIGAN TAX TRIBUNAL

By: Thomas A. Halick

This Proposed Opinion and Judgment ("Proposed Opinion") was prepared by the State Office of Administrative Hearings and Rules. The parties have 20 days from date of entry of this Proposed Opinion to notify the Tribunal in writing if they do not agree with the Proposed Opinion and why they do not agree (i.e., exceptions). After the expiration of the 20-day time period, the Tribunal will review the Proposed Opinion and consider the exceptions, if any, and:

a. Adopt the Proposed Opinion as a Final Decision.
b. Modify the Proposed Opinion and adopt it as a Final Decision.
c. Order a rehearing or take such other action as is necessary and appropriate.

The exceptions are limited to the evidence submitted prior to or at the hearing and any matter addressed in the Proposed Opinion. There is no fee for the filing of exceptions. A copy of a party's written exceptions must be sent to the opposing party.