STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Congregation Yagdil Torah,
Petitioner,

v MTT Docket No. 382349

City of Southfield,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

FINAL OPINION AND JUDGMENT

INTRODUCTION

This case involves Petitioner's claim that parcel number 76-24-24-481-007, located in the City of Southfield, is exempt from ad valorem taxation pursuant to Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s.[1] Petitioner further contends that if the Tribunal does not find that the subject property is exempt, Petitioner claims that the subject property's assessment is excessive.[2] A hearing was held on October 17, 2012. Ieshula R. Ishakis, JD, CPA, appeared on behalf of Petitioner. Sean M. Mulchay, of the firm Hallahan &

[1] MCL 205.737(4) provides that a Petitioner filing an appeal of a property's assessment for a given year must file an amended petition to include subsequent years in its appeal. However, MCL 205.737(5) provides that if Petitioner files a claim of exemption, subsequent years are automatically included in the appeal. Therefore, because Petitioner failed to file amended petitions for the 2010 through 2012 tax years, the Tribunal has jurisdiction over Petitioner's exemption claim for tax years 2009 – 2012, but only has jurisdiction over Petitioner's assessment claim for the 2009 tax year.

[2] At the hearing, the parties agreed that if the Tribunal denied Petitioner's claim of exemption, the true cash value of the subject property for the 2009 tax year would be $120,000, with corresponding assessed and taxable values of $60,000.

Associates, P.C., appeared on behalf of Respondent. Petitioner presented the only witness at the hearing. The parties filed post-hearing briefs on November 7, 2012.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner has failed to prove by a preponderance of the evidence that the subject property is entitled to an exemption under Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s. As a result, the subject property is not exempt from ad valorem property taxes for tax years 2009 – 2012, and the subject property's true cash values (TCV), state equalized values (SEV), and taxable values (TV) for the 2009 tax year, as stipulated by the parties, are:

Parcel Number	Year	TCV	SEV	TV
76-24-24-481-007	2009	$120,000	$60,000	$60,000

ADMITTED EXHIBITS

P-1: Petitioner's Articles of Incorporation filed on January 28, 1999.

PETITIONER'S ARGUMENT

Petitioner, an ecclesiastical corporation incorporated in 1999, contends that the subject property is exempt from taxation under Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s for the 2009, 2010, 2011, and 2012 tax years. In support of its contention, Petitioner states (i) it

"operates a seminary program in furtherance of its religious and educational mission" (Post-Hearing Brief, p 1); (ii) "[t]he purpose of the Seminary is to educate post high school girls in the Jewish Law and in the Jewish way of life" (Post-Hearing Brief, p 1); (iii) the subject property is used exclusively for the seminary to provide housing, meals, classes, and religious services to seminarians; (iv) the seminarians are required to reside at the subject property during their period of study, absent good cause; (v)"[t]he only people that live at the property on a full-time regular basis are the seminarians" (Post-Hearing Brief, p 2); (vi) weekday evening classes and a program on Saturdays are held at the subject property; (vii) admission into the seminary is not limited to Petitioner's members; (viii) the seminary is "open to all adherents of the Jewish Faith that wish to practice Torah based Judaism" (Post-Hearing Brief, p 5); (ix) the seminary furthers its goal to "improve, spread, [and] disseminate toward Judaism" (Transcript, p 81); (x) the subject property is analogous to student housing at a college, which is tax exempt (*National Music Camp v Green Lake Twp*, 76 Mich App 608; 257 NW2d 188 (1977); (xi) the subject property should be deemed a parsonage pursuant to MCL 211.7s; and (xii) Petitioner qualifies for exemption as a charitable organization under MCL 211.7o because it (a) owns and occupies the subject property solely for the purpose for which Petitioner was formed and (b) "provides

a gift for the benefit of an indefinite number of people, bringing them under the influence of religion or education." (Transcript, pp 6-9, 81-82; Post-Hearing Brief)

In further support of its contentions, Petitioner called Rabbi Eli Yelen as its sole witness. Rabbi Yelen testified that (i) he is an ordained Rabbi, from the Rabbinical College of Telshe in Wickliffe, Ohio; (ii) Petitioner was incorporated as an ecclesiastical corporation on January 28, 1999; (iii) Petitioner is in good standing with the State of Michigan; (iv) he has been Petitioner's Rabbi since Petitioner was formed; (v) Petitioner has 30 families that are members of the congregation; (vi) Petitioner's mission is to promote the Torah, which is the Jewish way of life; (vii) the seminary program is used to teach the Torah to female seminarians, ages 17 – 18; (viii) the seminarians must be of the Jewish faith and are required to complete an application in order to be accepted into the seminary program; (ix) the seminary program costs $10,000 and is a full-time, nine-month, seven-day-a-week program; (x) Petitioner typically does not receive $10,000 per student and instead Rabbi Yelen has to "try and raise the money" to cover the cost of tuition (Transcript, p 50); (xi) seminarians are required to reside at the subject property, except for good cause; (xii) residing at the subject property is an important part of the program because Rabbi Yelen "want[s] the [seminarians] to be together" (Transcript, p 43); (xiii) seminarians attend daytime classes regarding

Jewish writings and Jewish lore every day at the synagogue; (xiv) evening and Saturday classes are held at the subject property; (xv) upon completion of the seminary program, the seminarians receive a certificate which allows them to teach the Jewish education and Torah values, but the certificate does not allow them to become a Rabbi, which is strictly limited to men; (xvi) the subject property, which is used solely for seminary purposes, was purchased by Petitioner in 2006; (xvii) the seminary program began in 2005; (xviii) for the tax years at issue, the seminary program had five students for the 2009 school year,[3] approximately four students for the 2010 school year, no students for the 2011 school year, and currently has five students for the 2012 school year; (xix) the subject property was vacant for the 2011 school year because Petitioner did not have a sufficient number of admitted students to provide a seminary program. (Transcript, pp 16 – 80)

RESPONDENT'S ARGUMENT

Respondent contends that it is Petitioner's burden to establish that the subject property qualifies for exemption from ad valorem taxation pursuant to the Michigan constitution and statutes, and that Petitioner has repeatedly failed to satisfy that burden in its prosecution of this appeal. First, Respondent contends that the subject property does not qualify for exemption pursuant to MCL 211.7o,

[3] School years begin in September of a given year and end in June of the following year.

which provides exemption to property owned and occupied by a nonprofit charitable institution while occupied by that institution solely for the purposes for which it was incorporated. Respondent contends that Petitioner has failed to satisfy the three criteria established in *Ladies Literary Club v City of Grand Rapids*, 409 Mich 748, 751; 298 NW2d 422 (1980), to qualify for exemption under MCL 211.7o. Specifically, Respondent supports its position by stating (i) "the key question to be resolved in this case is whether the subject property . . . used solely for the housing of seminary students, is used for the purposes for which it was incorporated[,] and whether the use provides a sufficient benefit to the public" (Post-Hearing Brief, p 5); (ii) Petitioner is not a charitable institution; and (iii) because the "subject property is used by a small subset of the population restricted to the congregation" (Transcript, p 11), the subject property is not entitled to an exemption under MCL 211.7o.

In support of its contention that the subject property is not a house of public worship or parsonage exempt from ad valorem taxation under MCL 211.7s, Respondent states that the subject property "must be used as housing for ordained ministers of the church in order for the property to be exempt under MCL 211.7s," and "[g]iven that the testimony at the fact-finding hearing clearly establishes that the property is not occupied by ordained ministers of the church, Petitioner has

failed to demonstrate that it is entitled to the exemption." (Post-Hearing Brief, pp 6-7) Respondent further contends that "the use of the subject property involved in this case is far different that [sic] use of the property appealed . . ." in a prior Tribunal case heard by this Tribunal Member,[4] because "[u]nlike the dormitory in *Congregation Mishkan Israel,* which was used for 'informal gatherings with peers and dorm counselors and formal gatherings with teachers,' the subject property is primarily used for meals, rest, and Friday night services." (Post-Hearing Brief, pp 7-8) Thus, Respondent asserts that "the subject property is not predominantly used for the teaching of religious truths and beliefs" in order to come under the purview of MCL 211.7s. (Post-Hearing Brief, p 8) (Emphasis removed)

Finally, pursuant to MCL 205.743(1), Respondent requests that the Tribunal withhold its decision in this case until the taxes for 2010, 2011, and 2012 are paid. (Transcript, pp 9-12)

FINDINGS OF FACT

1. The subject property is classified as residential real property and is designed to be used as a single-family residence. The subject property, located at 15629 Jeanette, Southfield, Michigan, is currently being used as a residence for young women attending Petitioner's seminary program.

2. The true cash, assessed, and taxable values determined by Respondent for the 2009 tax year are:

[4] *Congregation Mishkan Israel Nusach H'Ari, Lubavitcher Center v City of Oak Park,* MTT Docket No. 336205 (2011)

Parcel Number	Year	TCV	SEV	TV
76-24-24-481-007	2009	$167,220	$83,610	$83,610

3. The following were admissions Petitioner served on Respondent, pursuant to MCR 2.312, to which Respondent did not respond.[5] During the hearing, only the following admissions were accepted (Transcript, pp 63-80), as modified herein:

    a. Petitioner is an Ecclesiastical Corporation in good standing formed under the laws of the State of Michigan.

    b. Petitioner appeared before the 2009 City of Southfield Board of Review and protested the subject property's assessment.

    c. Petitioner specifically stated in its Petition that "[t]his property is owned by an Ecclesiastical Organization and is used in its exempt purpose and should therefore have a zero taxable value" and that the issue of exemption is properly before the Tribunal.

    d. Petitioner engages in the following activities in furtherance of its mission as an Ecclesiastical Corporation: (i) Provision of religious services, (ii) classes and lectures in religious ethics and historical texts, (iii) youth groups, (iv) religious education/seminary, (v) ministering to the sick and infirm through home and hospital visits, and (vi) coordinating the provision of assistance programs for new mothers.

[5] Petitioner's Requests to Admit were served on Respondent on July 2, 2012, pursuant to MCR 2.312, and contained 21 admissions. The Tribunal, in its October 10, 2012 Order, denied Petitioner's Motion for Summary Disposition based on these admissions and stated, "Admissions are sought during discovery to facilitate proof regarding issues and to narrow the issues. Thus, the goal of requests for admissions is to ***expedite*** the pending action, not to ***eliminate*** it." (Emphasis included.) The Order further stated, "Additionally, the Tribunal is not bound by a deemed admission as the Tribunal is "required to make an independent determination of true cash value." *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 353; 483 NW2d 416 (1992). As a result, the statements contained in these admissions were addressed at the hearing held on October 17, 2012, and those that were accepted are stated in the Findings of Fact.

e. Petitioner operates a seminary program in furtherance of its religious and education not-for-profit mission.

f. Seminarians are engaged in all religious, education, and ecclesiastical functions of the congregation and community at large including (i) ministering to the sick and homebound, (ii) assisting in the preparation for the services, and (iii) studying and teaching of the scriptures and other related texts.

g. The subject property is utilized exclusively for needs of the seminarians as a residence, meeting area for classes, and as a place to take their meals.

h. The only people who reside at the subject property are the seminarians and a mentor. The mentor resides at the subject property exclusively for safety reasons.

i. The subject property is utilized exclusively for the seminarians, with the exception of the mentor, and the seminarians are required, absent good cause, to reside at the property during their period of study.

j. The seminary program is wholly operated by the congregation and its operation is in furtherance of the congregation's mission as an Ecclesiastical Corporation.

4. The subject property was vacant for the 2011 school year.

5. The subject property is vacant during the summer months when the seminary program is not in session.

6. Petitioner's appeal, relative to its claim for exemption pursuant to Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s, is for the 2009, 2010, 2011, and 2012 tax years.

7. Petitioner's appeal, relative to its alternative claim regarding the true cash, assessed, and taxable values of the subject property, is limited to the 2009 tax year.

8. At the hearing, the parties stipulated to a true cash value of $120,000 for the subject property for the 2009 tax year.

9. The only people that live at the property on a full-time, regular basis are the seminarians.

10. The subject property is only open to seminarians (i.e., Jewish girls between the ages of 17-18 who are admitted into Petitioner's seminary program).

11. Religious services and classes are "usually" provided at the subject property on weeknights and on Saturdays. (Transcript, p 31)

12. Seminarians attend weekday classes at Petitioner's synagogue.

13. The sole function of seminarians is to engage in study and perform ecclesiastical functions.

14. Upon completion of the seminary program, the seminarians are certified to teach religious classes in accordance with the orthodox Jewish tradition and engage in religious services.

15. Petitioner has not paid all property taxes due and owing on the subject property for 2010, 2011, and 2012.

CONCLUSIONS OF LAW

Although Petitioner's appeal was two-fold (assessment appeal relative to the true cash, assessed, and taxable values of the subject property for the 2009 tax year, along with its claim for exemption under Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s for the 2009, 2010, 2011, and 2012 tax years), as indicated above, only the issue of exemption is pending before the Tribunal since the parties stipulated to the true cash and taxable values of the

subject property for the 2009 tax year at the hearing, in the event the Tribunal concluded that the subject property was not exempt pursuant to Michigan statute.

The General Property Tax Act ("GPTA"), Act 206 of 1983, provides that "all property, real and personal, within the jurisdiction of this state, **not expressly exempted**, shall be subject to taxation." MCL 211.1 (Emphasis added). "Exemption statutes are subject to a rule of strict construction in favor of the taxing authority." *Huron Residential Services for Youth, Inc v Pittsfield Charter Twp*, 152 Mich App 54, 58; 393 NW2d 568 (1986).

The rule to be applied when construing tax exemptions was well summarized by Justice Cooley as follows:

> An intention on the part of the legislature to grant an exemption from the taxing power of the State will never be implied from language which will admit of any other reasonable construction. Such an intention must be expressed in clear and unmistakable terms, or must appear by necessary implication from the language used, for it is a well-settled principle that, when a specific privilege or exemption is claimed under a statute, charter or act of incorporation, it is to be construed strictly against the property owner and in favor of the public. This principle applies with peculiar force to a claim of exemption from taxation. Exemptions are never presumed, the burden is on a claimant to establish clearly his right to exemption, and an alleged grant of exemption will be strictly construed and cannot be made out by inference or implication but must be beyond reasonable doubt. In other words, since taxation is the rule, and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms; it cannot be taken to have been intended when the language of the statute on which it depends is doubtful or uncertain; and the burden of establishing it is upon him

> who claims it. Moreover, if an exemption is found to exist, it must not be enlarged by construction, since the reasonable presumption is that the State has granted in express terms all it intended to grant at all, and that unless the privilege is limited to the very terms of the statute the favor would be extended beyond what was meant. *Id*. at 59, quoting *Detroit v Detroit Commercial College*, 322 Mich 142, 148-149; 33 NW2d 737 (1948), quoting 2 Cooley, Taxation (4th ed.), §672, p 1403.

There is no dispute that the subject property, but for any exemption afforded it, is subject to property tax.

It is also well settled that a petitioner seeking a tax exemption bears the burden of proving that it is entitled to the exemption. The Michigan Court of Appeals, in *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002), discussed Justice Cooley's treatise on taxation and held that:

> [T]he **beyond a reasonable doubt** standard applies when the petitioner attempts to establish that an entire class of exemptions was intended by Legislature. However, the **preponderance of the evidence** standard applies when a petitioner attempts to establish membership in an already exempt class. *Id*. at 494-495 (Emphasis added).

That said, nonprofit religious or educational organizations, nonprofit charitable institutions, parsonages, and houses of public worship have already been recognized as exempt classes. See Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and MCL 211.7s. Because Petitioner is attempting to

establish membership under Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s, the preponderance of evidence standard applies.

Article 9, Section 4 of the Michigan Constitution

Article 9, Section 4 of the Michigan Constitution states, "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."

In relying on Article 9, Section 4 of the Michigan Constitution to support its contentions that the subject property is entitled to exemption, Petitioner contends that "[t]he Seminarians are required to live in the subject property during their training as the religious atmosphere significantly contributes to their growth and education . . . [and i]t is well established that an Ecclesiastical Organization[']s school and properties utilized in education are exempt from taxes . . . ." (Petitioner's Post-Hearing Brief, p 3) With that, Petitioner asserts that this case is analogous to *National Music Camp v Green Lake Twp*, 76 Mich App 608; 257 NW2d 188 (1977).

In *National Music Camp, supra,* which was later distinguished by *Liberty Hill Housing Corp v City of Livonia*, 480 Mich 44; 746 NW2d 282 (2008), the Court of Appeals held, in a combined decision, that properties owned by plaintiff-

appellant, an educational corporation, were entitled to exemption. The Tribunal, however, finds this case to be irrelevant since Petitioner is not an educational corporation.

Furthermore, although Article 9, Section 4 of the Michigan Constitution states that 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, the exemptions are expressly defined by statute (i.e., MCL 211.7o and MCL 211.7s), as further described below.

MCL 211.7o

MCL 211.7o(1) provides, "Real or personal property *owned and occupied* by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act." (Emphasis added) The Michigan Supreme Court in *Liberty Hill Housing Corp*, *supra*, p 50; 746 NW2d 282 (2008), stated:

> As a consequence of the statutory requirements, courts should consider three factors when determining whether the tax exemption under MCL 211.7o(1) applies:
>
> (1) The real estate must be *owned and occupied* by the exemption claimant[,]

> (2) the exemption claimant must be a nonprofit charitable institution[,]and
>
> (3) the exemption exists only when the buildings and other property thereon are *occupied by the claimant solely for the purposes for which it was incorporated.* [Citing *Wexford Medical Group v City of Cadillac*, 474 Mich 192, 203; 713 NW2d 734 (2006)] (Emphasis included)

In this case, there was no dispute that Petitioner owns the subject property. Thus, the Tribunal must determine if Petitioner occupies the subject property. In determining the definition of "occupy," the Michigan Supreme Court has held that "the second meaning [of occupy in *Webster's Universal College Dictionary* (1997)] is the one the Legislature intended." *Liberty Hill Housing Corp, supra,* p 56. This second meaning states "to be a resident or tenant of; dwell in." *Id*. The Court further stated, "Thus, aided by this dictionary definition, we conclude that to occupy property under MCL 211.7o(1), the charitable institution must at a minimum have a regular physical presence on the property." *Id*. at 57. The facts in *Liberty Hill Housing Corp*, however, differ from the case before us, as petitioner in *Liberty Hill Housing Corp* leased housing to disabled and low-income individuals, whereas Petitioner in this case did not lease the subject property, but instead utilizes the subject property to provide housing, meals, classes, and religious services to seminarians as part of its seminary program. Although the subject property is generally occupied by the seminarians for no more than nine

months out of any school year, Petitioner maintains a physical presence in the subject property for those nine months, specifically with regard to the classes and religious services usually offered at the subject property on weekday evenings and on Saturdays. Further, the subject property has not been used for any other purpose, including when it was vacant during the 2011 school year and during the summer months when the seminary is not in session. As a result, the Tribunal finds that Petitioner has maintained a regular physical presence on the subject property and, therefore, has satisfied the requisite that it owns and occupies the subject property.

The Tribunal also finds that Petitioner has satisfied the third criteria in *Liberty Hill Housing Corp, supra,* which provides that the exemption under MCL 211.7o exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. Petitioner was incorporated as an ecclesiastical corporation in 1999 pursuant to the General Corporation Act, Act 327 of 1931. Pursuant to MCL 450.178, the purpose of an ecclesiastical corporation is the "teaching and spreading [of] religious beliefs and principles."

Based upon the testimony and evidence, the Tribunal finds that the subject property is used to further the Torah, the Jewish way of life. Although a mentor

resides at the property during the nine months in which the seminary is in session, Rabbi Yelen testified that the mentor only resides at the subject property at night for safety reasons, not to provide housing to the mentor. And, although the subject property remains vacant for the summer months when the seminary is not in session, and was vacant for the 2011school year, the subject property has not been used for any other purpose during the time in which it was vacant. As such, the Tribunal finds that the subject property is generally used for the purposes for which Petitioner was incorporated – to teach and spread religious beliefs and principles.

In determining whether an institution is a "charitable institution" for purposes of MCL 211.7o, as required by the second prong in *Liberty Hill Housing Corp*, the Michigan Supreme Court, in *Wexford Medical Group*, *supra*, p 215, looked to the following factors as guidance:

> (1) A "charitable institution" must be a nonprofit institution;
>
> (2) A "charitable institution" is one that is organized chiefly, if not solely, for charity.
>
> (3) A "charitable institution" does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services. Rather, a "charitable institution" serves any person who needs the particular type of charity being offered.
>
> (4) A "charitable institution" brings people's minds or hearts under the influence of education or religion; relieves people's bodies from disease, suffering, or constraint; assists people to establish themselves

> for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government.
>
> (5) A "charitable institution" can charge for its services as long as the charges are not more than what is needed for its successful maintenance.
>
> (6) A "charitable institution" need not meet any monetary threshold of charity to merit the charitable institution exemption; rather, if the overall nature of the institution is charitable, it is a "charitable institution" regardless of how much money it devotes to charitable activities in a particular year.

In *Retirement Homes v Sylvan Township*, 416 Mich 340; 330 NW2d 682 (1982), the Michigan Supreme Court established the following definition of "charity":

> Charity is a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government. (*Id*. at 348)

To determine whether an organization is charitable, Petitioner must prove by a preponderance of the evidence that it is a "charitable institution." In this regard, the Michigan Supreme Court concluded that the "institution's activities as a whole must be examined." (See *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661; 378 NW2d 737 (1985) ("*MUCC*")), which held that "[t]he proper focus in this case is whether MUCC's activities, taken as a whole, constitute a charitable

gift for the benefit of the general public without restriction or for the benefit of an indefinite number of persons." *Id*. at 673 (Emphasis added).

The Tribunal finds that while Petitioner is organized as a nonprofit corporation, specifically as an ecclesiastical corporation in Michigan, the subject property is not used for charitable purposes. Although "[t]he advancement of religion may come within the definition of "charity[,]" [s]ee *Gull Lake Bible Conference Ass'n v Ross Twp,* 351 Mich 269; 88 NW2d 264 (1958)[, . . . i]n order to qualify for the charitable exemption, the organization must not only be religiously oriented, it must also confer a benefit upon society in general." *Michigan Christian Campus Ministries, Inc v City of Mt Pleasant*, 110 Mich App 787, 794-795; 314 NW2d 482 (1981). Here, although the subject property is used to further Petitioner's purpose, to spread religious beliefs and principles, specifically in regards to Judaism, "[t]he property appears to be the same as the other single-family residences in the neighborhood," (Respondent's Post-Hearing Brief, p 3), and the subject property is only open to seminarians, Jewish girls between the ages of 17-18, who are admitted into Petitioner's seminary program. Thus, the subject property is not charitable because it is not open to the general public and only benefits a very few select individuals rather than society in general. As a result, the Tribunal finds that Petitioner failed to meet the second

prong in *Liberty Hill Housing Corp, supra*, and therefore has failed to prove by a preponderance of the evidence that the subject property is entitled to exemption under MCL 211.7o.

MCL 211.7s

MCL 211.7s states:

> 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.

As such, MCL 211.7s provides an exemption from ad valorem property tax to houses of public worship and any parsonage owned by a religious society.

That said, however, the Tribunal finds that the subject property is not a parsonage because, although the subject property is owned by Petitioner, a religious society, the subject property is not a residence for the Rabbi or his assistants who are ordained teaching ministers for Petitioner. See *St. John's Evangelical Lutheran Church v City of Bay City*, 114 Mich App 616; 319 NW2d 378 (1982); *Michigan Christian Campus Ministries, Inc, supra*; *St Matthew Lutheran Church v Delhi Twp*, 76 Mich App 597; 257 NW2d 183 (1977).

Nevertheless, although the subject property is not a parsonage, the subject property could still qualify for exemption under MCL 211.7s if it is deemed to be a house of worship. Houses of worship must be "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 (Emphasis added).

It has already been established that Petitioner, as a religious society, owns the subject property. Thus, the Tribunal must determine if the subject property is used predominantly for religious services or for the teaching of religious truths and beliefs.

Because "predominantly" is not defined in the GPTA, reference to dictionary definitions is appropriate.

> The primary goal of statutory interpretation is to ascertain the legislative intent that may reasonably be inferred from the statutory language. The first step in that determination is to review the language of the statute itself. Unless statutorily defined, every word or phrase of a statute should be accorded its plain and ordinary meaning, taking into account the context in which the words are used. We may consult dictionary definitions to give words their common and ordinary meaning. *Spectrum Health Hospitals v Farm Bureau Mutual Ins Co of Michigan*, 492 Mich 503, 515; 821 NW2d 117 (2012).

According to *Webster's New World Dictionary* (Third College Edition, 1994, p 1062), predominant, or the adverb use of the word, predominantly, is

defined as "having ascendancy, authority, or dominating influence over others; superior" and "most frequent, noticeable, etc.; prevailing; preponderant."

Petitioner contends that the seminary furthers its goal to "improve, spread, [and] disseminate toward Judaism." (Transcript, p 81) The subject property provides female students, admitted into the seminary program, housing, a place to eat meals, and a place to attend classes and religious services. Although the religious services and classes are usually taught at the subject property, those services and classes are only provided on weeknights and on Saturdays. The majority of the classes in the seminary program are taught at Petitioner's synagogue. As a result, the Tribunal finds that the religious services or the teaching of religious truths and beliefs of Petitioner are "ancillary to the residential function rather than vise versa," see *Michigan Christian Campus Ministries, Inc, supra*, p 793; thus, the subject property is not used *predominantly* for religious services or for the teaching of the religious truths and beliefs of the society. In contrast, the subject property is most frequently (i.e., predominantly) used to provide housing for the seminarians. While the subject property may enhance the seminarians' learning and assist Petitioner in its objective to teach the seminarians the Jewish way of life, Petitioner's religious services or teaching of the religious

truths and beliefs of the society, as part of its seminary program, are predominantly taught at Petitioner's synagogue, not at the subject property.[6]

Based on the testimony and evidence, the Tribunal finds that the subject property is not exempt from ad valorem taxation under Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s for the 2009, 2010, 2011, and 2012 tax years.

Finally, MCL 205.743(1) provides that the Tribunal "shall not make a final decision on the entire proceeding until the taxes are paid. This requirement may be waived at the tribunal's discretion." The Tribunal finds that Respondent has failed to provide any specific reason why delaying the Tribunal's decision in this matter until Petitioner paid all taxes due and owing would serve the interests of Petitioner

[6] While, at first blush, the facts in this case appear to parallel those presented in *Congregation Mishkan Israel Nusach H'Ari, supra,* upon further review, the distinctions between this case and *Congregation Mishkan Israel Nusach H'Ari* are significant. In *Congregation Mishkan Israel Nusach H'Ari,* the Tribunal found that the property, a dormitory, was entitled to exemption from ad valorem taxation for the tax years at issue under MCL 211.7s based on the testimony and evidence that the dormitory is a house of worship used predominantly for teaching of religious truths and beliefs of the society. The distinction between this case and *Congregation Mishkan Israel Nusach H'Ari,* however, revolves around the detail provided as to what occurs at the subject property. In *Congregation Mishkan Israel Nusach H'Ari,* Rabbi Shemtov provided extensive detail about how the dormitory provided students with a communal living situation that fosters their learning of the Code of Jewish Law. Here, however, the testimony and evidence lacks such detail. Although religious services and classes are usually taught at the subject property on weeknights and on Saturdays, there was no discussion as to what those classes and services entail, nor was there discussion as to why it was important for seminarians to reside together. As a result, the Tribunal finds that Petitioner, in this case, has failed to provide pertinent factual evidence such as was provided in *Congregation Mishkan Israel Nusach H'Ari*. Petitioner, therefore, has failed to prove, by a preponderance of the evidence, that the subject property in this case is predominantly used for religious services or for teaching the religious truths and beliefs to warrant exemption from ad valorem taxation under MCL 211.7s.

or Respondent. Petitioner's witness, Rabbi Yelen, testified that while some taxes have been paid, Petitioner has failed to pay all taxes due because no taxes would be due if exemption was granted and because Petitioner lacks sufficient funds to pay these taxes. The Tribunal, therefore, finds that waiving the statutory requirement, pursuant to MCL 205.743(1), is appropriate in this case.

JUDGMENT

IT IS ORDERED that the subject property is not exempt from ad valorem taxation pursuant to Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and/or MCL 211.7s.

IT IS FURTHER ORDERED that the property's true cash, state equalized, and taxable values for the 2009 tax year shall be as follows, pursuant to the parties' stipulation entered during the hearing of this matter:

Parcel Number: 76-24-24-481-007

Year	TCV	SEV	TV
2009	$120,000	$60,000	$60,000

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 parties' agreement as finally provided in this Consent Judgment within 20 days of the entry of the Consent 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 refunding the affected taxes shall issue a refund as required by the Consent Judgment within 28 days of the entry of the Consent 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 Consent Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, and prior to July 1, 2012, at the rate of 1.09% for calendar year 2012 and (iv) after June 30, 2012 and prior to July 1, 2013, at the rate of 4.25%.

This Opinion resolves the last pending claim and closes this case.

MICHIGAN TAX TRIBUNAL

By: Steven H. Lasher

Entered: 11/29/12