



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

Oshtemo Township,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 19-003982

Kalamazoo County and Kalamazoo
County Board of Commissioners,
Respondents.

Presiding Judge
Steven M. Bieda

FINAL OPINION AND JUDGMENT ON REMAND

The Tribunal issued a Proposed Opinion and Judgment (POJ) in the above-captioned case on September 28, 2020. Exceptions and a response to exceptions were filed by the parties and the Tribunal issued a Final Opinion and Judgment (FOJ) on November 19, 2020, adopting the POJ, which held that Petitioner had the authority to levy mills for road purposes under MCL 247.670 but not the authority to levy the 5-mill charter millage.¹ Petitioner appealed the FOJ to the Michigan Court of Appeals and the Court Appeals issued an opinion on September 30, 2021, providing that:

The MTT erred by concluding that petitioner may not levy a charter millage. Binding caselaw from the Supreme Court establishes that the tax at issue in this case falls within Section 31's "authorized by law" exemption. We decline to follow the nonbinding Attorney General opinion that predated the Supreme Court caselaw.

Reverse and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction. No taxable costs because a public question is involved.²

The Tribunal has reviewed the case file and Court of Appeals opinion and finds that the opinion specifically addresses the Tribunal's determination regarding the

¹ The November 19, 2020 FOJ denied Respondent's Request for Summary Disposition, granted Petitioner's request for summary disposition, and vacated the October 15, 2019 Resolution Authorizing 2019 Tax Rates for Oshtemo Township Within Statutory Limits.

² See *Oshtemo Charter Township v Kalamazoo County*, ___ Mich App ___; ___ NW2d ___ (2021).

charter millage limit but not the Tribunal's determination that Petitioner was authorized to levy millage for road purposes under MCL 247.670. Nevertheless, it is clear from the opinion that Petitioner also had the authority to levy the 5-mill charter millage.

Therefore,

IT IS ORDERED that Respondents' Request for Summary Disposition is DENIED.

IT IS FURTHER ORDERED that Petitioner's Request for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that the October 15, 2019 Resolution Authorizing 2019 Tax Rates for Oshtemo Township Within Statutory Limits is AFFIRMED.

Entered: December 10, 2021
pmk

By 