The Salvation Army,
Petitioner,

v

Addison Township,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-003766

Presiding Judge
Christine Schauer

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, The Salvation Army, appeals ad valorem property tax assessments levied by Respondent, Addison Township, against parcel number A-05-22-101-012 for the 2018 and 2019 tax years. W. Todd Van Eck, Attorney, represented Petitioner, and Robert C. Davis, Attorney, represented Respondent.

A hearing on this matter was held on January 11, 2022. Petitioner's witnesses were John Turner and Matthew Coakle. Respondent offered no witnesses.

Based on the evidence, testimony, and case file, the Tribunal finds the taxable values (TV) of the subject property for the 2018 and 2019 tax years are as follows:

Parcel Number: A-05-22-101-012

Year	TV
2018	$0
2019	$0

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property qualifies for a Charitable Organization exemption under MCL 211.7o because it houses the Activities Manager

for Echo Grove Camp ("the camp") and is also used for meetings and entertainment of camp staff. The barn on the subject property is used to store camp equipment. A portion of the land is used for Petitioner's hiking trails.

PETITIONER'S ADMITTED EXHIBITS

P-1 Echo Grove Camp Aerial Maps with subject parcel

P-2 Petitioner's Restated Articles of Incorporation

P-3 Petitioner's General Introduction Document

P-4 The Salvation Army Summer Camps at Echo Grove Camp – 2019

P-5 Planning and Rate Sheet for Camp Groups

P-6 Licensing and Regulatory Affairs Required Camp Policies and Documents Guide

P-7 Echo Grove Camp Financial Statements for Fiscal Year 2018/2019

P-8 Echo Grove Camp Vision and Mission Statements

PETITIONER'S WITNESSES

John E. Turner

Lieutenant Colonel John Turner (Turner) testified as an employee, minister, and officer of the Salvation Army and as divisional commander of the eastern half of Michigan who oversees all Salvation Army operations in that designated area. The camp, where the subject property is located, falls under Turner's supervision. Turner testified to the history and purpose of the camp and described its programs and ministry. Turner stated that it is necessary for certain employees holding four designated positions to reside at the camp because it is a 24-hour operation. He stated

the subject was occupied by Petitioner's former Activities Manager, Mr. Josh Brockway (Brockway), during the tax years at issue. Turner testified that Petitioner is a church and is organized as a 501(c)(3) organization. He stated that Petitioner owns the camp and uses it year-round for the purposes for which Petitioner is organized. He stated the subject property is used to house the camp's Activities Manager and the Manager's family because that individual must be available at the camp around the clock. Turner described the physical attributes located at and around the camp as well as the ways that the camp helps to fulfill Petitioner's mission.

On cross-examination, Turner testified that Brockway lived at the property with his family during the years at issue. The subject property was utilized as Brockway's family home as well as occasional use for Petitioner's organized purposes, such as meetings, entertainment, and storage. Turner stated that Brockway was required to live at the subject and that Brockway was available to the camp at all hours during the years at issue. Turner testified to a situation during the years at issue when Brockway would be contacted to conduct various activities at the camp, including at night. Turner stated that the Activities Manager needs to be easily accessible at various times during the morning, afternoon, and evening, as well as in emergency situations involving a child. Turner estimated the commute from the subject property to the heart of the camp to be between a quarter-mile and a half-mile.

On re-direct examination, Turner stated that, while it is possible for an Activities Manager to perform the job duties while not residing at the subject property, it is not preferred by Petitioner because that person is expected to be always accessible for conducting camp operations and ensuring the safety of children and vulnerable adults.

Turners contends this living situation is also necessary to ensure compliance with state licensing requirements and Petitioner's internal policies. Turner states that Petitioner has policies in place for use of the subject property. Turner states that, absent this house, the Activities Manager is still required to reside at or near the camp.

On re-cross examination, Turner states that the policy of on-site living is driven by time more than distance of the Activities Manager. No example was provided.

Upon questioning from the court, Turner stated that all four on-site employees - the Camp Director, Maintenance Director, Activities Manager, and Program Director - are required to be "Safe From Harm"-qualified.

Matthew J. Coakley

Matthew Coakley (Coakley) testified that he is the Camp Director for the camp, where he oversees fiscal issues and manages employees. Coakley agreed with Turner's testimony that the camp fits within Petitioner's stated organizational purpose. Coakley testified to the price list and activities at the camp. He stated that the Activities Manager needs to be involved in many of these activities for operational or safety reasons and that they can occur at all times of day or night. Coakley described several the activities Petitioner hosts at the camp under the responsibility of the Activities Manager.

Coakley testified that he started working for Petitioner at the camp in November 2018. He agrees with Turner's testimony regarding the importance of the Activities Manager living at or near the camp. Coakley contends that Petitioner requires the person holding that position to live at the subject property for reasons described by

Turner as well as to conduct off-season maintenance. The Activity Manager's presence was required in part to be available when a vulnerable population group was at the camp because the Activities Manager oversees compliance with state regulations for operating a camp, ensuring staff is trained in those requirements, and is often Petitioner's primary person ensuring compliance with those requirements.

Coakley stated that Brockway, his wife, and three daughters lived at the subject property when Coakley arrived in 2018. Coakley observed the Brockway kids take the bus to school from that residence. Brockway's wife also worked for Petitioner as Program Director and reported to Coakley until the Brockways left Petitioner's employment in 2020. That position also required her to live at the camp. Coakley stated the subject property also serves as camp storage as well as an expansion of the camp's hiking trail. Coakley testified to a map of Petitioner's property in the area, which has not changed since the tax years at issue, and the subject land is used as part of a simulated deep woods camping and hiking experience. Coakley stated that the Activities Manager must supervise across the entirety of the camp and that his proximity is necessary given the long hours and need for last-minute switching of activities.

On cross-examination, Coakley stated that it is difficult to estimate how many days per year the camp is unrented. He also did not know that information for 2019. Coakley stated that, during periods when campers are not present, the Activities Manager becomes the Assistant Program Director and assists the Program Director in operating Petitioner's intern program. He did not know what percentages for 2019. Coakley contends the nearby residence is necessary to offset the 14-hour days and to ensure the safety of the Activities Manager. He contends that several things lead to

fluidity in the schedule of the Activities Manager. Petitioner's rules, set by the committee that sets job descriptions, require the Activities Manager to live on-site.

Coakley contends the 2015 purchase of the subject benefitted Petitioner both by adding to its reserve of natural lands for the camp but also by allowing Petitioner to move the Activities Manager out of the campers' quarters and into the subject property. Prior to 2015, Brockway and his family lived on the main portion of the campsite, at the Superior Building. The house required renovations after purchase prior to Brockway and his family occupying it. Coakley states the building previously used by Brockway and his family is now lodging for Petitioner's guests. He contends it is not a suitable residence for one of the four employees required to live at the property.

Coakley stated that he and his family also live in one of Petitioner's residential structures. He contends this type of nearby living is necessary for the collaborative nature of the four individuals assigned to manage the various duties of operating the camp. Coakley contends the performance of this job and the other on-site staff positions is they encompass the lifestyles of the people performing the jobs. He states that team performance is affected when someone is unavailable. He states that living at the camp is necessary because the job description requires him to live at the camp and that the proximity of the key employees allowed them to back up one another.

Coakley stated that the camp did not have any problem with the Activities Manager's availability in 2019. He did not recall any incidents in 2019 wherein having the Activities Manager live another mile from the property would have been a concern.

On re-direct examination, Coakley stated that "x's" on the evidence appear to be entered errantly. He stated that the four people living and working on the camp is due to

Petitioner's policy. He stated that these designated workers have always been required to live at the camp, even before residences were purchased for them. Coakley does not believe Petitioner would allow one of these workers to purchase a property outside the radius of the camp.

On re-cross examination, Coakley contends the requirement to live on camp is derived from the requirement benefit portion of the job description. He stated that the four employees who are required to live at the camp are exempt employees and therefore do not have a set work schedule.

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property does not qualify for a Charitable Organization exemption under MCL 211.7o(1) because it is not occupied by Petitioner solely for the purposes stated in Petitioner's Articles of Incorporation.

RESPONDENT'S ADMITTED EXHIBITS

R-1 MCL 211.7o Nonprofit charitable institution; exemption; definitions

R-2 Petitioner's Answers to First request for Admissions

R-3 *Elias Bros. Restaurants v Treasury Dept*. 452 Mich. 144 (1996)

R-4 *Great Lakes Guardians v Twp. Of Sims*, 2015 Mich. App. Lexis 1359

R-6 *Oakwood Hospital Corp. v Michigan State Tax Com*. 374 Mich. 524 (1965)

R-7 *Gull Lake Bible Conference v Ross* 351 Mich. 269 (1958)

R-8 *Pentecostal Church of God v City of Detroit,* 2004 Mich. App. Leis 2650

RESPONDENT'S WITNESSES

None.

FINDINGS OF FACT

The Tribunal's Findings of Fact concern only evidence and inferences found to be significantly relevant to the legal issues involved; the Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusion and has rejected evidence contrary to those findings.

1. The subject property is located at 905 Army Road, Addison Township, Oakland County.
2. Petitioner owns the subject property.
3. Petitioner occupies the subject property as part of its operation of the camp.
4. Petitioner is a nonprofit institution.
5. Petitioner is organized to engage in charitable, educational, missionary, philanthropic, and religious work.
6. Petitioner does not offer its charity on a discriminatory basis.
7. Petitioner is a Christian organization and brings people under the influence of religion.
8. Petitioner charges some persons for use of the camp but only to the extent necessary to cover the cost of operating the camp.
9. The subject property housed Petitioner's Activities Manager and his family during the tax years at issue.
10. Petitioner provides Christian education at the camp.

11. It is necessary for the operation of the camp that the activities director live in close proximity of the camp.

12. The camp was used in 2019 in the same manner and for the same purpose supporting Petitioner's stated missing as it was in 2018.

CONCLUSIONS OF LAW

The General Property Tax Act provides that "all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation."[1] "Exemption statutes are subject to a rule of strict construction in favor of the taxing authority."[2] It is also well-settled that a petitioner seeking a tax exemption bears the burden of proving, by a preponderance of the evidence, that it is entitled to the exemption.[3] MCL 211.7*o*(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.

The Michigan standard for a charitable exemption is more rigorous than the federal standard. The fact that a petitioner may qualify for tax exempt status under federal law (i.e., Section 501(c)(3) of the Internal Revenue Code) creates no presumption in favor of an exemption from property taxes.[4] In *Wexford Med Group v*

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[1] MCL 211.1.
[2] *Huron Residential Servs for Youth, Inc v Pittsfield Charter Twp*, 152 Mich App 54,58; 393 NW2d 568 (1986).
[3] See *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 492; 644 NW2d 47 (2002).
[4] See *Ladies Literary Club v City of Grand Rapids*, 409 Mich 748, 753 n 1; 298 NW2d 422 (1980); see also *American Concrete Institute v State Tax Comm*, 12 Mich App 595, 606; 163 NW2d 508 (1968), which states, "The Institute's exemption from Michigan ad valorem tax is not determinable by its qualification as an organization exempt from income tax under section 501(c)(3) of the internal revenue code of 1954, but by the much more strict provisions of the Michigan general property tax act . . . ."

Cadillac,[5] the Supreme Court presented the test for determining if an organization is a charitable one under MCL 211.7*o* and stated:

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.

The parties have previously appeared before the Tribunal to contest the same issues. In *The Salvation Army v Addison Township*, MOAHR Docket Nos. 18-003822, 18-003823, 18-003824, and 18-003825, consolidated, (the prior case), the Tribunal found that several parcels under appeal for tax year 2018 were exempt from taxes under MCL 211.7o(1). That case commenced on August 17, 2018, and after the conducting of discovery, a hearing was scheduled and held on January 6, 2020. On March 3, 2020, the Tribunal issued a Final Opinion and Judgment (FOJ) in that case finding in favor of Petitioner. Respondent filed a claim of appeal to the Michigan Court of Appeals, which issued a decision on June 17, 2021, affirming in part, vacating in part, and remanding to the Tribunal. The Tribunal thereafter issued a FOJ on remand in accordance with the Court of Appeals decision on July 28, 2021. No appeal was filed from that order.

Certain issues raised by the parties and decided by the Tribunal and Court of Appeals during the prior case are therefore beyond the scope of the Tribunal's review in this case under the doctrine of collateral estoppel.

[5] *Wexford Med Group v Cadillac*, 474 Mich 192, 203; 713 NW2d 734 (2006).

> Collateral estoppel bars relitigation of an issue in a new action arising between the same parties or their privies when the earlier proceeding resulted in a valid final judgment and the issue in question was actually and necessarily determined in that prior proceeding. . . . The doctrine bars relitigation of issues when the parties had a full and fair opportunity to litigate those issues in an earlier action.[6]

The prior case involved only tax year 2018, but no evidence or testimony indicated that Petitioner's articles of incorporation, Christian mission, overall charitable purposes, or use of the camp differed from 2018 to 2019. Because the parties have previously litigated Petitioner's exemption eligibility under MCL 211.7o(1), including a full and fair hearing followed by Tribunal and appellate decisions, the Tribunal finds that the doctrine of collateral estoppel shall apply to the finding that Petitioner is a nonprofit charitable institution under the meaning of MCL 211.7o(1).

The parties do not dispute that Petitioner owns the subject property, and the finding is supported by testimony. It is also undisputed that Petitioner occupies the subject property. It is undisputed that the occupancy for the tax years at issue included both the housing of Petitioner's full-time employee and the employee's family as well as storage and other occasional business related to Petitioner's stated nonprofit charitable purpose.

The remaining issue, and the one disputed by the parties at the hearing, is whether the buildings and other property thereon were occupied by Petitioner solely for

[6] *Leahy v Orion Twp*, 269 Mich App 527, 530 (2006).

the purposes for which Petitioner is incorporated. In determining the prior case, the Court of Appeals found that, based upon prior appellate decisions, it is not the mere residential use of a property that controls "but the purpose behind the residential use, i.e., whether such residential use is necessary to further the purposes for which the charitable institution was incorporated."[7] Further, "the property need not be exclusively used for its charitable purposes; incidental residential use of property where such use is necessary to further the charitable purposes for which the institution was incorporated does not defeat the exemption."[8]

Although Respondent contests the underlying utility, it was undisputed that Petitioner requires the person holding the Activities Manager position to live on site. The testimony from Petitioner's witnesses establishes several Activities Manager duties to support the finding that the housing is more than an employee benefit. With respect to Turner, he testified that the position may sometimes be asked to be available a little bit in the morning, a little in the afternoon, and a little in the evening.[9] Turner testified that, for example, this position may be called to supervise the rope course at day and at night, sometimes as late as 10 p.m.[10] Turner stated that the Activities Manager needs to be available whenever children are present to comply with state licensing requirements and with Petitioner's Safe from Harm policy.[11] With respect to Coakley, he testified to a large number of activities hosted at the camp and overseen by the

[7] *The Salvation Army v Addison Township*, unpublished per curiam decision of the Michigan Court of Appeals (Docket No. 353210), issued March 25, 2021, at p 9.
[8] *Id.* at 10.
[9] Tr. at p. 50.
[10] Tr. at p. 49-50.
[11] Tr. at p. 50, 56.

Activities Manager.[12] Coakley stated that the Activities Manager is primarily responsible for safety during the conducting of activities done throughout the day and evening, including activities with safety risk such as zip lines, campfires, archery, and pontoon boats.[13] Coakley stated that midnight zips are frequent.[14] Alternatively, early-morning arrival by 6 or 6:30 a.m. to prepare for a 7:30 activity start is also required.[15] Coakley stated that the summer camp schedule offers few breaks and involves the Activities Manager working from early morning to late at night supervising about 50 staff members, with activities as early as 7 a.m. or as late as 10 p.m., plus supervisor duties at night.[16] Coakley also discussed how the position must be trained under Petitioner's Safe From Harm policy, which he described as being designed to keep kids and vulnerable adults safe.[17] The Activities Manager is also responsible for complying with certain state licensing requirements for camps.[18] Petitioner's failure to properly support the assertions with appropriate documentary evidence does not necessarily undercut the validity of the assertions made by the witnesses. The Tribunal finds that these unrebutted findings demonstrate, as claimed by Petitioner, Petitioner's need to have a person or people in close proximity to the camp, for long periods of time in a given day, and for weeks including almost every day for months at a time, and which person or people must ensure compliance with state regulations and Petitioner's internal safety policies.

[12] Tr. at p. 69-72.
[13] Tr. at p. 72-74, 78.
[14] Tr. at p. 73.
[15] Tr. at p. 81.
[16] Tr. at p. 83-84.
[17] Tr. at p. 86.
[18] Tr. at p. 88.

Respondent did not rebut any of the specific above contentions noted by Petitioner's witnesses. Instead, Respondent's argument is that Petitioner's agents could still perform these job duties if they lived within a short distance of the camp rather than at it or adjacent to it. Petitioner's witness contested this assertion because the requirement exists in the job description for the Activities Manager position.[19] The supporting documentation was not submitted, but Coakley's testimony was credible and unrebutted. Petitioner demonstrated a rational basis for requiring its Activities Manager to live within close proximity of the camp, both for overseeing the conducting of camp activities as described above as well as coordinating with other key camp staff to ensure coverage of duties and proper maintenance of Petitioner's camp.[20] It is generally recognized that there is no barrier, in the context of employment law, to employers discriminating with respect to a worker's geographic location.[21] The fore going evidence establishes a reasonable basis for Petitioner to require the Activities Manager to reside at or near the camp. As a result, Petitioner has met its burden of proof to demonstrate that its use of the subject property is necessary to further the purposes for which it was incorporated.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner qualifies for the charitable exemption, under MCL 211.7o(1), at the subject property for the tax years at issue.

[19] Tr. at p. 122.
[20] Tr. at p. 120-121.
[21] MCL 24.275.

JUDGMENT

IT IS ORDERED that the property's TV for the tax years at issue are MODIFIED as set forth in the Introduction section of this 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 Final Opinion and Judgment within 20 days of the entry of the 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 within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and 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, 2013,

through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, and (xi) after December 31, 2020, through June 30, 2022, at the rate of 4.25%.

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

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a

principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee. You are required to serve a copy of the motion on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion. Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By Christine Schauer

Entered: April 27, 2022
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PROOF OF SERVICE

I certify that a copy of the foregoing was sent on the entry date indicated above to the parties or their attorneys or authorized representatives, if any, utilizing either the mailing or email addresses on file, as provide by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk