Ionia Community Library,
Petitioner,

v

City of Ionia,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 22-002857

Presiding Judge
Steven M. Bieda

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT

INTRODUCTION

On September 2, 2022, Respondent filed a motion requesting that the Tribunal enter summary judgment in its favor in the above-captioned case. Respondent contends that Petitioner has not pled and cannot prove that it satisfied all the required elements to entitle it to an exemption for the 2021 tax year, pursuant to MCL 211.7m. More specifically, Respondent contends that the taxable status of property is determined as of December 31 of the preceding year, at which time Petitioner did not own the subject property.

On September 23, 2022, Petitioner filed a response to the motion. Petitioner contends that the subject property is exempt from taxation beginning the year of acquisition.

The Tribunal has reviewed the motion, response, and the evidence submitted and finds that granting Respondent's Motion for Summary Disposition is warranted at this time.

RESPONDENT'S CONTENTIONS

In support of its Motion, Respondent contends that Petitioner has failed to allege sufficient facts to establish a *prima facie* case entitling it to an exemption under MCL 211.7m for the 2021 tax year. Respondent contends that the taxable status of real and personal property for a tax year is determined as of December 31 of the immediately preceding year, which is considered the tax day,[1] and Petitioner has not alleged that it owned, or was under contract to acquire, the subject property on the relevant tax day. As such, Respondent contends that Petitioner failed to allege a necessary element of a claim for an exemption under MCL 211.7m.

PETITIONER'S CONTENTIONS

In support of its response, Petitioner contends that it is undisputed that the subject property complies with the requirements of MCL 211.7m. Petitioner contends that ownership the year prior to acquisition is not included in the plain language of MCL 211.7m, and further that the recording requirement of MCL 211.7m indicates an immediacy of the exemption. Petitioner contends that MCL 211.7m, not MCL 211.2 controls as the more specific statute in determining whether the subject property is entitled to an exemption for the 2021 tax year.

STANDARD OF REVIEW

There is no specific Tribunal rule governing motions for summary disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court (MCR) in

[1] MCL 211.2(2).

rendering a decision on such motions.[2] In this case, Respondent moves for summary disposition under MCR 2.116(C)(8).

Motions under MCR 2.116(C)(8) are appropriate when "[t]he opposing party has failed to state a claim on which relief can be granted." The Court of Appeals has held that:

> A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of a complaint. Under this subrule "[a]ll well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant." When reviewing such a motion, a court must base its decision on the pleadings alone. In a contract-based action, however, the contract attached to the pleading is considered part of the pleading. Summary disposition is appropriate under MCR 2.116(C)(8) "if no factual development could possibly justify recovery." [3]

CONCLUSIONS OF LAW

The Tribunal has carefully considered Respondent's Motion under MCR 2.116 (C)(8) and finds that granting Respondent's Motion is warranted.

The parties agree that Petitioner acquired the subject property pursuant to a donation agreement on April 12, 2021.[4] Respondent subsequently levied summer and winter taxes against the subject property. The parties also both agree that the subject property is exempt from taxation for the 2022 tax year under MCL 211.7m.[5] MCL 211.7m, in its entirety, states:

> Property owned by, or being acquired pursuant to, an installment purchase agreement by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity comprised solely of, or which is wholly owned

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[2] See TTR 215.
[3] *Liggett Restaurant Group, Inc v City of Pontiac*, 260 Mich App 127, 133; 676 NW2 633 (2003) (citations omitted).
[4] See Donation Agreement (attached as Exhibit A to petition) and Warranty Deed (attached as Exhibit C to petition), both dated April 12, 2021.
[5] See correspondence dated February 24, 2022 (attached as Exhibit 7 to petition).

> by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state and is used to carry out a public purpose itself or on behalf of a political subdivision or a combination is exempt from taxation under this act. Parks shall be open to the public generally. This exemption shall not apply to property acquired after July 19, 1966, unless a deed or other memorandum of conveyance is recorded in the county where the property is located before December 31 of the year of acquisition, or the local assessing officer is notified by registered mail of the acquisition before December 31 of the year of acquisition.

Here, Petitioner contends that the plain language of MCL 211.7m, and more specifically the requirement that a deed or other memorandum of conveyance must be recorded in the county where the property is located before December 31 of the year of acquisition indicates immediacy of the exemption. Petitioner further contends that MCL 211.7m, not MCL 211.2(2) should apply in determining when the subject property was entitled to the exemption.

To address Petitioner's arguments, the Tribunal must engage in a statutory interpretation analysis. In doing so, the Tribunal follows several well-established principals of statutory interpretation:

> The paramount rule of statutory interpretation is that we are to effect the intent of the Legislature. To do so, we begin with the statute's language. If the statute's language is clear and unambiguous, we assume that the Legislature intended its plain meaning, and we enforce the statute as written. In reviewing the statute's language, every word should be given meaning, and we should avoid a construction that would render any part of the statute surplusage or nugatory.[6]

A statute is ambiguous when it "is equally susceptible to more than a single meaning."[7] The statute must be read "in relation to the statute as a whole and [to] work

[6] *Wickens v Oakwood Healthcare Sys*, 465 Mich 53, 60; 631 NW2d 686 (2001) (citation omitted).
[7] *Klida v Braman*, 278 Mich App 60, 65; 748 NW2d 244 (2008).

in mutual agreement with the remainder of the statute."[8] As such, an overview of the requirements of the General Property Tax Act (GPTA) is appropriate.

The GPTA provides that all real and personal property "within the jurisdiction of this state, not expressly exempted, shall be subject to taxation,"[9] and that all property is to be assessed annually.[10] Following assessment, the supervisor of the local unit of government must then prepare a tax roll.[11] The GPTA further sets forth requirements for the March Board of Review, which is required to meet subsequent to the preparation of the roll to "examine and review the assessment roll."[12] As outlined in MCL 211.29(3), the assessment roll shall be reviewed according to the facts existing on the tax day.[13]

Reading the plain language of MCL 211.7m, the Tribunal finds that it is not "susceptible to more than one meaning."[14] More specifically, there is no provision included in MCL 211.7m that indicates an intention that by complying with the requirements to obtain the exemption that it was meant to supersede the general provision of MCL 211.2(2) which provides that taxable status is determined on the relevant tax day. The recording requirement of MCL 211.7m does not determine when a property is entitled to the exemption, but rather whether or not the property is entitled to the exemption. As such, recording the deed in the county where the property is located does not result in the removal of the property from the tax roll for the year of acquisition. If the statute was intended to determine the date that the exemption applies, the

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[8] *Tomra of North America, Inc v Dep't of Treasury*, 325 Mich App 289, 300; 926 NW2d 259 (2018) (quotation marks and citation omitted; alteration in original).
[9] MCL 211.1.
[10] MCL 211.10(1) and MCL 211.42.
[11] MCL 211.42.
[12] MCL MCL 211.29(1).
[13] Tax Day is December 31 of the immediately preceding year. See MCL 211.2(3).
[14] *Kilda*, 278 Mich App at 65.

legislature would have provided specific language as such. Accordingly, MCL 211.7m does not address when property is removed from the tax roll.

The Tribunal must consider other statutory sections to determine when the taxable value of the property is removed from the tax roll. MCL 211.2(2) states that "[t]he taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day. . . ." Further, MCL 211.2(3) provides for the adjustment of taxes when "real property is acquired for public purposes by purchase or condemnation." Petitioner contends that following MCL 211.2(2) would render the recording requirement of MCL 211.7m nugatory, and that MCL 211.2(3) does not apply, as neither party asserts that the subject property was acquired by purchase or condemnation. The Tribunal finds, however, that these statutory provisions are useful in ascertaining legislative intent.

Specifically, MCL 211.2(3) addresses the acquisition of property for a public purpose, and rather than indicating an immediate exemption, holds that "the public agency is also responsible for all general property taxes levied on or after the date title passes and before the property is removed from the tax rolls." Additionally, MCL 221.29(3), which governs the actions of the Board of Review, states that "[t]he board shall not add to the roll property not subject to taxation on tax day, and the board shall not remove from the roll property subject to taxation on that day regardless of a change in the taxable status of the property since that day." Reading the relevant provisions together,[15] the Tribunal concludes that MCL 211.2(2) and (3), MCL 211.7m, and MCL

[15] *Tomra of North America, Inc*, 325 Mich App at 300.

211.29(3) provide a clear indication of the Legislature's intent that a public agency be responsible for taxes already levied when it acquires the property, i.e., "taxes levied within the preceding 12 months," along with taxes levied after the date of acquisition but before the property is removed from the tax roll. Petitioner's interpretation of the meaning of MCL 211.7m would render the final provision of MCL 211.2(3) nugatory. Specifically, if the property was removed from the tax rolls the instant a deed was recorded, there could never be any taxes accrued "on or after the date title passes and before the property is removed from the tax rolls" because those events would occur simultaneously. Further, though Petitioner argues that MCL 211.7m should control as the more specific statute, this argument is in error, as MCL 211.7m is in fact silent as to when property is removed from the tax roll.

The Tribunal's interpretation of the relevant statutory provisions is further supported by the relevant case law. In *Lake State Assoc, Inc v City of Luna Pier*, the Tribunal held that "the exemption is determined as of tax day, December 31, the preceding year, and remains so until the next December 31 for the next year."[16] Further, in *Detroit Symphony Orchestra, Inc v City of Detroit*, the Tribunal found that because Petitioner, the Detroit Symphony Orchestra, did not own the subject property on the relevant tax day of December 31, 2009, Petitioner did not meet the ownership requirement to claim an exemption for the 2010 tax year.[17] Although not precedentially binding,[18] the Tribunal finds the aforementioned cases to be persuasive authority, both

[16] *Lake State Assoc, Inc v City of Luna Pier*, Docket No. 17085 (June 27, 1980).
[17] *Detroit Symphony Orchestra, Inc v City of Detroit*, Docket No. 409615, 2011 WL 3241812 (July 7, 2011).
[18] See MCR 7.215(J)(1); *American Axle & Mfg, Inc v City of Hamtramck*, 461 Mich 352, 373; 604 NW2d 330 (2000).

in support of the conclusion that the relevant date for determining whether a property is exempt is December 31 of the preceding year, and that property is not removed from the roll until the following December 31. These holdings further support the Tribunal's interpretation of the GPTA as a whole, which requires that property taxes are paid for the remainder of the year of acquisition. Because Respondent, rather than Petitioner, is entitled to judgment as a matter of law, summary disposition under MCR 2.116(C)(8) is appropriate.

JUDGMENT

IT IS ORDERED that Respondent's Motion for Summary Disposition under MCR 2.116(C)(8) is GRANTED.

This Final Opinion and Judgment resolves the last pending claim and closes the 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 _____

Entered: October 26, 2022
jkk

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