McLaren Health Care Corporation,
Petitioner,

v

Grand Blanc Township,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-003955

Presiding Judge
Patricia L. Halm

FINAL OPINION AND JUDGMENT

The Tribunal issued a Proposed Opinion and Judgment (POJ) on November 28, 2022. The POJ states, in pertinent part, "[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal in writing, by mail or by electronic filing, if available, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions)."

On December 16, 2022, Respondent filed exceptions to the POJ. In the exceptions, Respondent argues that a hearing officer is not permitted to issue a POJ in the Entire Tribunal division because the authority for the officer to hear cases is exclusive to the Small Claims division under MCL 205.761. Respondent further contends that the POJ ignores the previous instructions from a Tribunal Member to consider whether the entire property is used for the purposes for which Petitioner is incorporated or for public-health purposes. Respondent contends that the use of the property by certain entities that are not included under Petitioner's operating articles, and which are not nonprofit charitable institutions, is in violation of MCL 211.7o, *Wexford Medical Group v Cadillac*,[1] and other authority. With respect to the POJ, Respondent contends that it misrepresents Respondent's position, that it wholly failed to consider MCL 211.7r and is not based on competent evidence.

On December 29, 2022, Petitioner filed a response to Respondent's exceptions. In the response, Petitioner states that Respondent has not established good cause to justify modifying the POJ or granting a rehearing. Petitioner contends that the hearing was properly conducted by a hearing officer under MCL 205.726. Petitioner contends that there is a differentiated evidentiary burden between the July 2021 Order after the filing of Motions for Summary Disposition and the POJ issues after a hearing. Petitioner contends that the POJ correctly found that Petitioner's activities constitute a charitable purpose as a whole. Petitioner contends that the exceptions simply repeat Respondent's arguments from the hearing.

[1] *Wexford Medical Group v City of Cadillac*, 474 Mich 192 (2006).

The Tribunal has considered the exceptions, the response, and the case file and finds that the Administrative Law Judge properly considered the testimony and evidence submitted in rendering the POJ. Moreover, consideration of this matter by a hearing officer in the Entire Tribunal division was both legal and appropriate under MCL 205.726, and Respondent's reliance on MCL 205.761 as control for a case in the Entire Tribunal division is not appropriate.

Further, Petitioner's response correctly contends that the Tribunal applies a different evidentiary standard to a motion for summary disposition than it does after a hearing has been conducted. In this case, both parties filed Motions for Summary Disposition under MCR 2.116(C)(10). An order granting summary disposition under MCR 2.116(C)(10) may be granted if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law.[2] By contrast, the POJ was based upon a weighing of facts by an adjudicator after a hearing at which both parties were permitted to present evidence in support of their own facts and to rebut each other's evidentiary admissions.[3]

The remaining arguments raised in the exceptions were previously raised by Respondent. The Tribunal is satisfied that the POJ appropriately applies the *Wexford* factors to the Petitioner's exemption claim and is fully satisfied that the portion of the subject property not used by a nonprofit charitable institution is incidental. The POJ analysis with respect to MCL 211.7o and MCL 211.7r is full adopted.

Respondent also claims that the POJ errs in stating that it stipulated to use of the property as charitable. The POJ in fact states that the parties agreed that Petitioner itself is a nonprofit charitable institution, which is supported by page 66 of the transcript. Respondent's arguments were fully recognized in the POJ and found wanting as Petitioner met the burden of proof.

Given the above, Respondent has failed to show good cause to justify modifying the POJ or granting a rehearing.[4] As such, the Tribunal adopts the POJ as the Tribunal's final decision in this case.[5] The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

Parcel Nos. 12-28-200-034 and 12-81-481-081 shall be granted a 100% exemption under MCL 211.7o and MCL 211.7r for the 2019, 2020, and 2021 tax years.

The property's taxable value (TV), as established by the Board of Review for the tax year at issue, is as follows:

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[2] See *Quinto v Cross and Peters Co*, 451 Mich 358 (1996).
[3] "The weight given to the evidence is within the discretion of the Tax Tribunal." See *President Inn Properties, LLC v City of Grand Rapids*, 291 Mich App 625, 633 (2011).
[4] See MCL 205.762.
[5] See MCL 205.726.

Parcel Number: 12-28-200-034

Year	TV
2019	$7,125,604
2020	$7,223,300
2021	$7,324,426

Parcel Number: 12-81-481-018

Year	TV
2019	$60,000
2020	$1,405,800
2021	$1,223,400

The property's TV, for the tax year at issue, shall be as follows:

Parcel Number: 12-28-200-034

Year	TV
2019	$0
2020	$0
2021	$0

Parcel Number: 12-81-481-018

Year	TV
2019	$0
2020	$0
2021	$0

IT IS SO ORDERED.

IT IS 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 exemption within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization.[6] 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

[6] See MCL 205.755.

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, 2017, through June 30, 2018, at the rate of 5.15%, (ii) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (iii) after December 31, 2018, through June 30, 2019, at the rate of 5.9%, (iv) after June 30, 2019, through December 31, 2019, at the rate of 6.39%, (v) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (vi) after June 30, 2020, through December 31, 2020, at the rate of 5.63%, (vii) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, (viii) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, and (ix) after December 31, 2022, through June 30, 2023, at the rate of 5.65%.

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 Patricia L. Haem

Entered: March 15, 2023
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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

McLaren Health Care Corporation,
Petitioner,

v

Grand Blanc Township,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-003955

Presiding Judge
Peter M. Kopke

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

Petitioner filed this appeal claiming that Parcel Nos. 12-28-200-034 and 12-81-481-081 were exempt from ad valorem taxation under MCL 211.7o and 211.7r for the 2019, 2020, and 2021 tax years.[1] Henry Andries, Esq., and Jay R. LaBarge, Esq. represented Petitioner. David L. Lattie, Esq. represented Respondent.

A hearing was conducted on December 14, 2021.[2] Petitioner's witness was Gregory Lane, Executive Vice President, and Chief Administrative Officer.

[1] The property's assessments for the 2020 and 2021 were established prior to the conducting of the hearing and, as such, those assessments have been "added automatically to the petition," as provided by MCL 205.737(5)(a). As for the 2018 tax year, Petitioner's September 3, 2020 Prehearing Statement provided, in pertinent part, that "[n]ote that in the event this Tribunal determines a qualified error was made by Respondent in 2019 with respect to the denial of Petitioner's application for exemption, then Petitioner is contending the 2018 TCV, AV/SEV, and TV should also be adjusted to $0 – Exempt, pursuant to MCL 211.53b, for the 2019 tax year and immediately preceding (2018) tax year." The Tribunal did, however, issue an Order on November 14, 2019, dismissing Petitioner's exemption appeal for the 2018 tax year and no motion was filed requesting the reconsideration of that Order. Further, Petitioner did not protest or request an exemption from Respondent's 2019 July or December Board of Review and the Tribunal has no authority to grant an exemption under MCL 211.53b for the 2018 tax year absent such a protest or request. Further, the Tribunal has no "equitable powers" that would allow it to waive statutory requirements or filing deadlines. See *Electronic Data Sys Corp v Flint Twp*, 253 Mich App 538, 547-548; 656 NW2d 215 (2002).

[2] The Tribunal issued an Order on July 21, 2021, denying Respondent's February 16, 2021 Motion for Summary Disposition and Petitioner's February 19, 2021 Motion for Summary Disposition. In the Order, the Tribunal stated that:

> Although Petitioner is correct in its claim that the Tribunal must examine its "activities as a whole," said examination relates to whether Petitioner is a charitable institution. More importantly, the Tribunal is also required to examine the occupancy or use of the property to determine its eligibility for either requested examination. Unfortunately, the information provided is . . . currently insufficient for either party to meet its burden of supporting their

Respondent's witnesses were Dulcee Ranta, Assessing Director, and Danyelle Herington, Assessing Deputy Director.[3]

Based on the evidence (i.e., testimony and admitted exhibits) and the case file,[4] the Tribunal finds that properties are exempt MCL 211.7o for the 2019, 2020, 2021, and 2022 tax years. As a result, the properties' true cash value (TCV), state equalized value (SEV), and taxable value (TV) for the tax years at issue are as follows:

Parcel Number	Year	TCV	SEV	TV
12-28-200-034	2019	N/A	N/A	$0.00
12-28-200-034	2020	N/A	N/A	$0.00
12-28-200-034	2021	N/A	N/A	$0.00

Parcel Number	Year	TCV	SEV	TV
12-81-481-018	2019	N/A	N/A	$0.00
12-81-481-018	2020	N/A	N/A	$0.00
12-81-481-018	2021	N/A	N/A	$0.00

> respective claims because the general statements do not establish, for example, what specific research or training was conducted on the property or, more importantly, whether the entire property is used for the purposes for which Petitioner is incorporated or for public health purposes. In that regard, Petitioner claims that there is no executed lease in place for a portion of the subject but admitted that it discussed leasing a portion of the property to another entity, which raises unaddressed questions with respect to how each portion of the building was being used for the tax years at issue. As such, there are outstanding issues of material fact that must be resolved prior to the rendering of any decision in this case. Further, the case involves the granting of an exemption for multiple tax years and none of the documentation provided describes what activities occurred at the property during each tax year at issue. Finally, the parties also failed to address recent caselaw that may be pertinent to the disposition of this case. Specifically, the occupation of a property for purposes of MCL 211.7o has recently been addressed by the Court of Appeals *in Calvin Theological Seminary v City of Grand Rapids* and *Salvation Army v Addison Township*. Those opinions are unpublished and, as a result, not "precedentially binding." Nevertheless, "a court may . . . consider such opinions for their instructive or persuasive value."

[3] Ms. Ranta was offered and admitted without objection as an expert for assessing practices. See TR at 100-107.

[4] Petitioner's Exhibit No. 7, 4, and 1 were offered and admitted without objection. See Transcript ("TR") at 18-22, 28-30, and 51-52. Petitioner's Exhibit No. 3 was offered and admitted without objection but with a concern expressed by Mr. Lattie that the exhibit is "a part of an audit from September 30th, 2020 and 2019, and I would appreciate the complete document." See TR at 22-28. Petitioner's Exhibit No. 6 was offered and admitted without objection. See TR at 36. Subsequent testimony did, however, raise questions with respect to the accuracy of Exhibit No. 6 (i.e., the subject's floor plan) for the tax years at issue and Respondent moved to strike the exhibit. Although the motion was denied, the Tribunal did indicate that the exhibit would receive the weight it deserves. See TR at 37-49. Petitioner's Exhibit Nos. 2 and 5 were not offered and Respondent did not offer any exhibits.

FINDINGS OF FACT

The following facts were proven by a preponderance of the evidence (i.e., testimony and admitted exhibits) and concern only the evidence and inferences found to be significantly relevant to the legal issues involved:[5]

1. Parcel No. 12-28-200-034 (Parcel 034) is commercial real property located at 3373 Regency Park Drive, Grand Blanc, MI in Genesee County and Parcel No. 12-81-481-018 (Parcel 018) is commercial personal property located on Parcel No. 12-28-200-034.
2. The properties' TCV, assessed value (AV), and TV, as established by Respondent's Board of Review, are:[6]

Parcel Number	Year	TCV	AV	TV
12-28-200-034	2019	$14,438,400	$7,219,200	$7,125,604
12-28-200-034	2020	$14,446,600	$7,223,300	$7,223,300
12-28-200-034	2021	$18,856,000	$9,428,000	$7,324,426

Parcel Number	Year	TCV	AV	TV
12-81-481-018	2019	$120,000	$60,000	$60,000
12-81-481-018	2020	$2,811,600	$1,405,800	$1,405,800
12-81-481-018	2021	$2,446,800	$1,223,400	$1,223,400

3. The properties were owned by Petitioner for the tax years at issue.
4. The parties stipulated that Petitioner is a non-profit charitable institution.[7]
5. The subject's office building houses hospital departments, all of which perform essential hospital functions for Petitioner's integrated health system or member hospitals located throughout the State including Genesee County.

ISSUES AND CONCLUSIONS OF LAW

MCL 211.7o and 211.7r are tax exemption statutes, and, as such, the Tribunal is required to "strictly construe" that statute "in favor of the taxing authority."[8] That does not, however, mean that the Tribunal "should give a strained construction which is

[5] The Tribunal has not addressed every piece of evidence or every inference that might lead to conflicting conclusions and has rejected evidence contrary to these findings. In that regard, both parties indicated that they had stipulated to certain facts and that the stipulation would be provided to the Tribunal "either during the proceeding or following the proceeding." See TR at 7 and 10. **No such stipulation was, however, filed with or otherwise provided to the Tribunal**.
[6] See the January 19, 2021, Prehearing Summary. See also TR at 122.
[7] See TR at 62-64 and 66.
[8] See *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 664–65; 378 NW2d 737 (1985).

adverse to the Legislature's intent."[9] In that regard, MCL 211.7o(1) provides, in pertinent part, that:

> 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.

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[9] See *Inter Co-op Council v Dep't of Treasury*, 257 Mich App 219, 223; 668 NW2d 181 (2003) citing *Cowen v Dep't of Treasury,* 204 Mich App 428, 431; 516 NW2d 511 (1994), which provides, in pertinent part, "[w]hile tax-exemption statutes are strictly construed in favor of the government, **they are to be interpreted according to ordinary rules of statutory construction**." [Emphasis added.] In that regard, see also *TOMRA of North Amercia, Inc v Dep't of Treasury*, 505 Mich 333, 343-344; 952 NW2d 384 (2020), which provides, in pertinent part:

> We take this opportunity to clarify that because the canon requiring strict construction of tax exemptions does not help reveal the semantic content of a statute, it is a canon of last resort. That is, courts should employ it only "when an act's language, after analysis and subjection to the ordinary rules of interpretation, presents ambiguity." In the present case, the canon is inapplicable because, as we explain below, the statutes are unambiguous: their ordinary meaning is discernible by reading the text in its immediate context and with the aid of appropriate canons of interpretation.

See also *Spartan Stores, Inc v City of Grand Rapids*, 307 Mich App 565, 569; 861 NW2d 347 (2014), which provides, in pertinent part:

> The primary goal of statutory interpretation "is to discern and give effect to the intent of the Legislature." *Lafarge Midwest, Inc v Detroit,* 290 Mich App 240, 246; 801 NW2d 629 (2010). "When ascertaining the Legislature's intent, a reviewing court should focus first on the plain language of the statute in question . . . ." *Fisher Sand & Gravel Co v Neal A Sweebe, Inc,* 494 Mich 543, 560; 837 NW2d 244 (2013) (citations omitted). The contested portions of a statute "must be read in relation to the statute as a whole and work in mutual agreement." *US Fidelity & Guarantee Co v Michigan Catastrophic Claims Ass'n (On Rehearing),* 484 Mich 1, 13; 795 NW2d 101 (2009).

Further, see *Spartan Stores*, *supra* at 574-75, which also provides, in pertinent part, "[i]f a term used in a statute is undefined, a court may look to a dictionary for interpretative assistance. *Klooster v City of Charlevoix,* 488 Mich 289, 304; 795 NW2d 578 (2011)" and *In re Certified Question from United States Court of Appeals for Ninth Circuit* (*Deacon v Pandora Media, Inc*), 499 Mich 477, 484-85; 885 NW2d 628 (2016) citing *Cain v Waste Mgt, Inc (After Remand),* 472 Mich 236, 247; 697 NW2d 130 (2005), which provides, in pertinent part:

> "When considering the meaning of a nonlegal word or phrase that is not defined in a statute, resort to a lay dictionary is appropriate." *Wesche v Mecosta Co Rd Comm,* 480 Mich 75, 84; 746 NW2d 847 (2008). In this regard, it is best to consult a dictionary from the era in which the legislation was enacted. See *Cain v Waste Mgt, Inc (After Remand),* 472 Mich 236, 247; 697 NW2d 130 (2005) ("Because the statute itself does not define 'loss,' . . . we must ascertain the original meaning the word 'loss' had when the statute was enacted in 1912.")[] Because the PPPA was enacted in 1988, we consult dictionaries from that era to define those words. Furthermore, because those words are used as verbs in the statute, we identify the definitions of those words as verbs.

MCL 211.7o(3) also provides, in pertinent part, that:

> Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

While MCL 211.7r(1) provides, in pertinent part, that:

> The real estate and building of a clinic erected, financed, occupied, and operated by a nonprofit corporation or by the trustees of health and welfare funds is exempt from taxation under this act, if the funds of the corporation or the trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families.

Finally, the requested exemption is an established class of exemption and, as a result, Petitioner is required to establish the property's entitlement to that exemption by a preponderance of the evidence.[10]

Here, Petitioner claims that:

> "An issue . . . [in] this hearing is whether the petitioner is exempt under the charitable institution exemption. In determining that exemption, the Tribunal or the petitioner has to meet three requirements. The building is owned or occupied by the petitioner. **That's not in dispute**. **I think that's undisputed**.

[10] See *ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).

Number two, the exemption . . . must be [claimed by] a nonprofitable charitable institution. Certainly, at a minimum we maintain the evidence shows that, at a minimal, by preponderance of the evidence, that **McLaren is a 501(c)(3) nonprofit institution, and it's a charitable institution, as defined by the factors set forth by the Michigan Supreme Court in Wexford**.

On that point, as to whether McLaren is a charitable institution is a three-prong test.

I'd like to point out that an opinion and order that this court previously issued in summary disposition, **the respondent township did not dispute the petitioner satisfied the first two elements of the three-prong test that the Tribunal must apply to the facts in this case**. And the Tribunal, in the opinion and order, quoted directly from the respondent's motion dated February 16th. Quote: The township does not dispute that the subject property is owned and occupied by a nonprofit charitable institution. End quote . . . .

And with respect to the charitable activities that are performed by the organization, it's the analysis of the organization as a whole the evidence has shown, as demonstrated by the testimony of Mr. Lane, and the community benefit noted by the consolidated financial statement related to charitable care that the entity provides, and the amounts that McLaren subsidizes in unreimbursed care for government programs is substantial and significant. And the township made reference to the operating income around 148 million dollars from McLaren. **The unreimbursed care and the charity care cost that McLaren subsidizes far exceeds that amount, and that operating income is reinvested back into the system for the benefit of the hospital system as a whole, including facilities and for all purposes as testified to by Mr. Lane**.[11]

So moving on to the third prong is the issue becomes whether the building is owned and occupied by the claimants for the purposes of which it was incorporated. The cases that have interpreted the facility requirement applied a broad standard to that, **and those cases have indicated it's not really the use of the property that controls but the purpose behind the use**. And the issue becomes whether the use is necessary to further the purposes for which the charitable institution was incorporated.

The petitioner maintains that there can be no doubt, let alone a preponderance of the evidence, that the use of the property and the functions that are performed at the property are furtherance of the

[11] See TR at 97-98.

purposes for which this charitable institution was incorporated, mainly, to provide medical care and community health benefits and health care in the community, not to mention health education, scientific, and other aspects.

All aspects, **the functions that are performed at the subject property are performed solely, exclusively for the McLaren enterprise, and those include administrative, accounting, financing, research, training, the clinical assistance, and all the items that Mr. Lane testified to**.[12] Those items are integral to the operation of this integrated health care network, and they are performed solely in furtherance of the purpose of McLaren, as set forth in those articles. And those articles are set forth in Article II of the restated articles of incorporation, including to operate exclusively for the benefit and the functions involved to carry out the purposes of the hospital subsidiaries. To operate, manage and support such facilities and services providing care and treatment for injured, disabled, aging, and indigent purposes . . . .

To establish, maintain, operate, support, and carry out activities and services designed to advance or support the provisions of effective and efficient health care services.[13] And others, as delineated in that article.

McLaren, at this location, doesn't operate for any other entity. **It operates for the hospitals that it serves and the integrated health systems that it manages, carries on and supports and operates out of the centralized location**.[14] And, therefore, its use of the property is in

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[12] See TR at 16-17.

[13] See Petitioner's Exhibit No. 1 and TR at 51-58, which provides that:

> JUDGE KOPKE: So do I understand your testimony, Mr. Lane, that research activities and clinical trials are performed on the property?
> THE WITNESS: The actual clinical trials are done in the patient care setting. Establishing the protocols for those clinical trials, negotiating the agreements with the sponsors of those clinical trials are directed and managed out of this building.
> JUDGE KOPKE: What about the research activity, sir?
> THE WITNESS:· Same thing.

See also TR at 58-65, which provides that:

> Q: And as part of your administrative duties, do you also engage in any legal, what you call legal tasks for McLaren?
> A: I oversee the legal functions, yes.
> Q: Okay. Did you help write the restated articles of incorporation?
> A: Yes, I did.

[14] See TR at 17-22, which provides that:

> Q: Okay. And does McLaren at the, which would be location of the subject parcel, which has been described as a headquarters, does McLaren manage and support those activities that are

performed within that health care system? Do they manage and support those within the building at the subject parcel?
A: Yes, we do.

See also Petitioner's Exhibit 7 and TR at 30-35, which provides that:

Q: Yes. So, Mr. Lane, what is the overall function of the work activities at the -- what is the purpose of the work that's conducted at the headquarters at the subject property?
A: Overall, the work is to support all of our operating entities and subsidiaries. And I think that just a quick brief history of how we got here, I think, would be very helpful in this regard. McLaren Health Care Corporation has grown by way of acquisition over the last 20 plus years. And several years ago, as we began to grow, we had what I call corporate departments.· Those are departments that are within that building today. We had corporate departments scattered throughout Genesee County in approximately seven different locations. That was inefficient, there was duplication of resources, and we made the business decision to look to find a building where we could house all of the corporate departments within one location.

We spent a number of different -- we spent a number of years looking at many different locations. It was always our goal to try and stay in Genesee County. This is a Genesee County based entity. Quite frankly, it came down to two locations, building a new building here, or we had a very good deal to move into Oakland County. But this company was started in Flint, it is Genesee County based. We made the decision to expend the money to build the building.

The biggest reason for that, as I said, was to be able to take the various corporate departments that operate to support all of our subsidiaries and put them under one roof. **It resulted in an economies of scale, much better management, and there was some significant savings**.

If you take a look at the integrated health care delivery system and go back to '18, '19, today, it doesn't matter. **It's totally ineffective to have all of the support functions that are needed for hospitals, ambulatory centers, physician groups, you name it, throughout a health care delivery system**. **It's incredibly ineffective to have those within each of those separate locations**.

So as a result, what we have done is we've strengthened the corporate departments to help support and to help manage all of the operating entities. And so we have moved the number of corporate departments into this building to do so.

JUDGE KOPKE:· Mr. Lane, were those separate locations in hospitals or were they in other office buildings?
THE WITNESS: I would say that 90 percent of them were in other office buildings. We -- it was sort of -- when we needed to expand, we tried to find whatever space we could. And so, as an example, accounts payable, which is completely located in this building now, **we had some accounts payable in the hospitals**. We outgrew the space, so those were moved in here. **So it was a combination of both**. I would say more they were in other office buildings than they were in the hospitals . . . .

Q: Thank you, Your Honor. Does McLaren, at the headquarters, perform work that's unrelated to the management and support of the hospital systems? Stated another way, do they do anything else that's not from McLaren?
A: **No, everything we do is in furtherance of the mission of McLaren Health Care Corporation**.

furtherance of and necessary, but for the incidental, it is more than necessary, it's in furtherance and integral to the operation of the system, which in turn provide numerous benefits to people in the community on a clinical basis and on a community health care basis.

In the court's opinion and order regarding summary disposition, the court encouraged the parties to look at cases that have looked at this issue regarding the occupancy of a building for purposes in which an entity was organized. One such case was the Calvary Seminary case that was referenced by the court. That case involved 11 off-campus housing buildings that w[ere] unrelated to the primary purpose of the seminary education services that were performed at other properties. And they're applying the same -- looking at the same criteria, the three-part test.

The court of appeals held, even though the services or function or the use of an off-campus property did not involve education or seminary education, **they were still necessary, incidental to the purposes of organization** that are set forth in the articles of incorporation. That's the same analysis that should be performed here.

Even though McLaren doesn't treat patients or perform treatment at the centralized headquarters, the activity that it performs there, which is extensive in many departments, is performed solely to maximize further and carry out the overall mission of the organization in the patient care that's treated at these hospitals for the benefit of the community and patients.

So I think the same analysis applies here to this case. Again, those cases that look at this issue, whether the parcel is occupied solely for the purposes for which it was incorporated, the inquiry is whether the use is in furtherance of the purposes. It's not merely the use of the property that controls, but whether that use is necessary to further the purposes. And certainly in the middle of my preponderance of the evidence, there can be no doubt that it is. **Without these services that are performed at the**

Q: Okay. There's been -- let me rephrase that. I'll rephrase that. In terms of -- you used the word corporate, a corporate department and corporate works such as accounts payable.
A: Yes.
Q: Are there other departments at the headquarters that are not administrative or office related, to your knowledge? For example, is there any clinical work done at the building?
A: **No, there's no clinical work done here**.
Q: Okay. What about, does McLaren perform any training at the facility?
A: Yes.

[Emphasis added.]

See further TR at 37-44 and 49-51.

subject property, it would have serious affects on the overall health care system.

So applying that standard and looking at the three-part exemption and the real issue that's issue, we feel that based on the documentary evidence that's been submitted to the Tribunal, and the testimony of Mr. Lane, that the petitioners, by a preponderance of the evidence, that it is exempt from taxation by 211.7o."[15]

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[15] See Petitioner's Closing Statement at TR at 125-131. See also Petitioner's Opening Statement at TR 7-9, which provides that:

". . . in this property tax dispute, Petitioner McLaren Health Care Corporation applied for property tax exemption pursuant to MCL 211.7o, the charitable institution exemption, and MCL 2.11.7r, the medical clinical exemption, for a 24 plus acre parcel it purchases, owns and occupies in Grand Blanc Township, and upon which is built and operates a building to oversee, manage, and support its fully integrated nonprofit hospital and medical provider health care system.

The petitioner applied for an exemption application in 2019. In fact, there was an issue before the Tribunal in 2019, 2020, and 2021. 2020 and 2021 were added to this pending appeal for the 2019 tax year.

According to the respondent, in a denial of the exemption, they indicated that the properties were not exempt under the charitable institution exemption, because it was not clear whether the activities performed at the property were for a charitable purpose.

The petitioner maintains that the evidence will show by a preponderance of the evidence that the purpose of the functions that are performed at the parcel . . . will demonstrate that the property is occupied solely for the purposes for . . . which the petition[ing] entity was organized.

Under the relevant analysis, the three-prong analysis, there's no dispute that the petitioner owns and occupies the subject parcel. There's no dispute that the petitioner is not a nonprofit charitable institution. The issue before the Tribunal becomes, under the third prong, whether the subject parcel is used solely for the purposes of which the entity was organized pursuant to the articles of incorporation.

In determining whether the . . . organization occupies this property is largely governed by the purposes set forth in the articles of organization. And the pertinent question is whether the property is occupied in furtherance of and for the purposes for which it was incorporated, it's not merely the use of the property that controls, but the purpose behind the use.

It is the petitioner's position that the evidence will demonstrate by a preponderance of the evidence, which is the burden the petitioner bears in this case, that . . . McLaren occupies the building and other property solely in furtherance of and for the purposes for which it was incorporated for the tax years at issue.

Those purposes are set forth in Article II, Sections A through I, McLaren's Articles of Incorporation."

[Emphasis added.]

As for Respondent, Respondent claims that:

"I submit the testimony we received and also the comments made by brother counsel in his closing. I think that we've determined, **I believe, that they have not met and didn't even really try to meet their burden as to whether or not they're entitled to the medical exempt on the subject property**. The testimony shows, by all accounts, there's no medical treatment that occurs there. It's not a hospital. It's not a clinic. And also we submitted some testimony that the general public can't go get a COVID test or a shot there as well.[16] So I think they fail on their exemption regarding a medical facility.

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[16] See TR 121-124, which provides that:

Q: Have you had any interactions with the personnel or staff at the subject site?
A: Yes, one person did ask what we were doing on-site yesterday, and I informed her we were updating our pictures for our records, and I did ask if there was any testing or public allowed in the building.
Q: What was the answer?
A: No testing is being allowed there, nor is the public allowed, just the employees of that building and their other entities.

See also TR at 110-112 and 118-120, which provides that:

Q: Yes. Now, you were present for Mr. Lane's testimony, correct?
A: Yes.
Q: Okay. And with respect to the activities that he indicated were performed at the site, is it fair to say that those activities, **even though no medical care or patient treatment is performed at the site**, the activities that Mr. Lane testified to are in furtherance of the functions that are performed by the hospital facilities; is that a fair characterization?
A: I am having a real difficult time with my wi-fi. I really apologize. Can you please repeat that?
Q: Yes, I'll do my best.
A: Sorry.
Q: No problem. No, no, no problem. So with respect to the activities that Mr. Lane testified were conducted at the site, is it fair to say that was it your understanding that those activities, **even though they didn't involve patient treatment or medical care**, were conducted in furtherance of the hospital system's objective?
A: **Yes**, **it would have been the hospital's objective**, but that wasn't made clear until after today's testimony on some of the items and procedures that were being followed there. But it's still -- it was hard to tell from the file what exactly was taking place there.
Q: Okay. And did Mr. Lane's testimony shed some more light on the specific activities that are conducted at the headquarters?
A: **It actually made me question whether or not they qualify for the exemption even more**, **after the explanation of the activities taking place**.
Q: **Is that because patient care isn't performed at the facility**?
A: **Or any medical testing, treatments, and patient care**.

> Onto the issue of what McLaren, the articles of incorporation and whether or not they conduct nonprofit charitable activity on the site, that is something that is a lot different and requires a fair amount of careful review of the articles of incorporation, restated articles from McLaren. **Because, in my opinion, those articles offer McLaren the tremendous opportunity to engage in ordinary business activities, whether they be -- whether they actually make money or not make money**. They allow them to potentially also be charitable activities.
>
> We heard testimony that is, frankly, stunning in the amount of economic activity that occurs throughout the McLaren Health Care System. We heard about subsidiaries that are involved in partnerships with publicly traded corporations. We heard testimony about health insurance providers that may or may not have a charitable element to their business. We heard testimony about what I consider to be more convention operations under the articles, and that is the overseeing of specific medical treatment centers identified in the articles that provide medical care for people at those facilities.
>
> The medical care at those facilities, for the most part, and federal mandate notwithstanding, when someone walks into your emergency room, whether you're public, private, or charitable, you have to provide a basic element of service to them. So whether you can be a for-profit hospital and still be required to provide medical service to people who walk into your building. And I think Mr. Lane described that as a federal requirement.
>
> You also heard that there are requirements for federal and state programs insurance wise that require a certain element of allowing care or making the care available to those who may not be able to afford it or for those who may be able to only pay a portion or be the beneficiaries of a not 100 percent reimbursement for services. I think in the for-profit world that would be considered an account receivable, and it would be written off as unrecoverable.
>
> In the nonprofit charitable world, particularly in this case, that's called charity. That is a willing participant of McLaren's health providers to provide care in exchange for reimbursement, and the goal is to obtain 100 percent reimbursement. We now we know that doesn't happen. In fact, McLaren . . .

[Emphasis added.]

See also TR at 19, 28-29, and 73-76.

> And again, the figures that I'm referring to are in Petitioner's Exhibit Number 3, and the auditor called that a community benefit. And those numbers are broken out into what's most interesting to me, the first item is charity care cost. And there are numbers that are reflected in 2019 and 2020. And my understanding of Mr. Lane's testimony was that was services provided where they received no reimbursement.[17]
>
> Again, in the private world that would be just called essentially an unrecoverable amount for services that were provided. In my opinion, that is the statement of the charity that's identified in the articles of incorporation. Because in the articles of incorporation, the word charity is actually only mentioned in item H. But it's also referred to in item B, when they say that they will provide treatment for sick, injured, disabled, aging, or indigent persons. And I think that those figures represent the treatment for indigent persons.
>
> Further -- well, let me stop there. That treatment occurred at McLaren's health provider facilities. **None of them are in Grand Blanc Township, and none of those treatments were administered at the subject property**.[18] If their charitable activity is to provide medical treatment for indigent people, then that is where the charity occurs. The charity occurs at McLaren Hospital in Flint. It occurs in all of the other hospitals identified, McLaren Bay Region, Caro, Lapeer, Macomb, Oakland, Central Michigan, Port Huron, the thumb, and there are three others at least.
>
> Judge, **that's where the charity takes place**, because that's where the – **that's where the purposes of the articles of incorporation are carried**

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[17] See TR at 65-73.

[18] See TR at 103, which provides that:

> Q: Well, let's get right to the heart of the matter. In addition to reviewing the documents contained in the township's files and being familiar with the property and hearing the testimony today, what's your opinion regarding McLaren's eligibility for an exemption under 211.7o?
> A: After having reviewed the file, it seemed that their main articles of incorporation stated that it would be utilized as charitable and providing medical health care for indigent individuals. I don't feel that that is actually taking place on the subject property.
> Q: And that's one of the required elements to qualify for that exemption; is that correct?
> A: Correct.

See also TR at 104, which provides that:

> Q: What are some of the activities that have to take place for a property to be exempt under 211.7o?
> A: Well, if you read the statute, it is requiring that they would be tax exempt in providing charitable services, but also it would have to follow the rules of incorporation. And based on their application, they're using it as their headquarters, and I didn't feel that that met the requirements as laid out in 211.7o.

out. The purposes of the articles of incorporation didn't envision a medical malpractice insurance company in the Cayman Islands. It envisioned medical treatment for those identified facilities. And narrowing that review for the exemption for this property down, **there's no dispute that those charitable acts occurred elsewhere**.

I believe that the primary purpose of McLaren Health Care is, again, to oversee a nearly complete system of health care related businesses. I don't necessarily believe that the majority of activity that takes place on that site is directly related to caring for indigent persons. **I think the majority of activity, while important, is not -- does not fall under the charitable exemption as anticipated by MCL 7o**. I think that that's a requirement identified in Wexford.

I also, when I read Wexford, **I'm struck by the analysis of other jurisdictions and their definition of charity**, because that's really what – I mean, the statute's pretty clear, as far as statutory interpretation is concerned. We know what charity is, and we know what nonprofit business activity is, too. When we talk about charity, we talk about a gift to someone or the gifting of a service with no expectation of anything in return.

One of the jurisdictions talked about the public purpose of charity is to not only to help people, their minds and spirits, but also to lessen the burden on government. And the reason you would want to incentivize people to lessen the burden on government is, first of all, they get -- their lives would be improved, **but the responsibility and the cost to government would be reduced**. **That's not what's happening here**. What's happening here, in my opinion, is that McLaren is engaged in a very complicated, very successful corporation operation. They are claiming, despite having somewhere either between a 5.1 billion dollar budget each year, or a six billion dollar budget, that they should be exempt from paying property taxes to Genesee County and Grand Blanc Township.· **And, Judge, that's not lessening the burden on Genesee County or Grand Blanc Township, it's increasing the burden**.[19]

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[19] See TR at 76-93, which provides that:

> JUDGE KOPKE: What is it that you're seeking to elicit from his testimony, Mr. Lattie?
> MR. LATTIE: I want to find out -- so McLaren eventually chose Grand Blanc County to locate its facilities here. I want to find out what specifically the benefit to locating in Grand Blanc versus Oakland County was.
> JUDGE KOPKE: That may be of interest to you. It's not really of interest to me. I'm more concerned if the property is entitled to exemption for the tax years at issue.
> MR. LATTIE:· Well, understand, Judge --
> JUDGE KOPKE: I mean, how is that information relevant to my, you know, rendering a decision with respect to that issue?

> We saw the footprint for this building. **We know that it was built by them**. It had an approximate seven million dollar value when it was completed. It has meeting rooms. It has a cafe. It has a workout room. **It is essentially an executive suite for a very large sophisticated corporation**. That is so far removed from providing health care to indigent people at McLaren Hospital in the city of Flint as you can get.
>
> Judge, I know you're an expert in this area. I know that we've got the benefit of the doubt as far as the narrowly construing of exemptions. **I know that you know that petitioners have to prove beyond a reasonable doubt that this occurred**. But I think if you spend some time considering the articles of incorporation and all the things that they could have done that were charitable that they don't do, I think you'll find that at this particular location they're not entitled to either exemption under the statute."[20]

> MR. LATTIE: Because, Judge, one of things that happened in Grand Blanc Township is we lost a very valuable piece of commercial real estate **for the location of this nonprofit charitable institution**. I want to try to measure the benefit to Grand Blanc Township or the Grand Blanc community versus the loss.
> JUDGE KOPKE:· Again, whether there was a loss of a commercial piece of property because they bought the property and built their headquarters there, how does that help me render a decision as to whether or not the property is exempt from taxation for 2019, 2020 and 2021?
> MR. LATTIE: All right. Let me rephrase the question, Judge.
> JUDGE KOPKE: You haven't answered my question. How does that information help me? It may help you in understanding what the respondent loss, but what does that do for me?
> MR. LATTIE: Judge, when we talk about the benefit to the community from a nonprofit charitable institution, that should be measured also against the burden to the hosting community. So, Judge, I just want to get a background.· And I'll move on to why did you pick Grand Blanc Township? What was it about this location that interested you or that you chose?
> JUDGE KOPKE: So you're saying that the standard that I need to apply is based upon the benefit to the community, is that what you're telling me? So if there's [no] benefit to community, I ought to deny the exemption, is that what you're arguing?
> MR. LATTIE:· No, Judge, I'm not. I'm arguing that when we talk about -- and we'll be arguing about case law later on. When we talk about the charitable benefit to the community, there's also – there's an element that a charity will assist or relieve the burden of government. So I wanted -- I need to illustrate to the court the benefit that McLaren provides to the general community, and also folks in Indiana, versus the burden to Grand Blanc Township. **Because my point is**, **they're not relieving the burdens of government by having an office building in Grand Blanc Township**.
>
> [Emphasis added.]

[20] See Respondent's Closing Statement at TR 131-138. See also Respondent's Opening Statement at TR 10-14, which provides that:

> " . . . all of the things that Mr. Andries has said regarding the process is true. We did receive an application for exemptions. We did deny those exemptions.
>
> I want to give you a little, just briefly a little bit of background of this building and its setting in Grand Blanc Township, because we're very familiar with McLaren in Grand

Blanc Township and Genesee County, most folks are. The reason for that is for a long time, and possibly even continuing to today, there are three main hospitals in Genesee County, and McLaren is one of them. And McLaren Hospital is still very important to the City of Flint.

St. Joseph Hospital was in the City of Flint, but then they changed their name and became, for a while Genesys, and now they're Ascension Hospital. And they have a hospital that's located approximately a half mile from McLaren rural headquarters. And the point that I'm making with that little bit of background is that, when we met with McLaren about their coming to Grand Blanc Township, we had to do a number of things from a land use perspective. We had to rezone a piece of property that was located in a commercial development just off I-75. And we had to accommodate the proposed office use for this building, because McLaren came in and proposed to build it on this particular site.

In the process of developing it, they needed a number of accommodations. They needed a variance for its use. And it's currently zoned office. And they applied for that use variance and received it for that rezoning. They also needed some variances because the property borders on some established residential property. And Grand Blanc Township granted that variance.

They also needed some relief under our Woodlands Protection Ordinance where we set up a process where you preserve trees. And if you don't preserve the trees we've identified, then you have to pay into a tree fund. They did not preserve the trees consistent with the ordinance, and instead incurred approximately a $40,000 assessment that we waived for them to accommodate them.

Judge, **the point of this is that they were able to move forward with a $2,000,000 property purchase**. And the building we assessed, I think, as far as value maybe in 2017, was approximately a $7,000,000 office building. This office is – you'll hear testimony that this office is essentially the second most expensive office or commercial property regarding and concerning offices in the township. And throughout the review of the application for a charitable exemption and a medical exemption, **we knew right away what this building was and what McLaren was going to use it for. Because they said what they were going to use it for. It's an office**.

Administrative activity occurs in this building under the McLaren Health Care Corporation umbrella. And we knew it wasn't a medical facility. We knew it wasn't a clinic or a hospital, because we have those here. And so we then had to figure out whether or not they were entitled to the charitable exemption.

Judge, when we think about McLaren Hospital, again here in Grand Blanc and Genesee County, we think of McLaren Hospital when we think about McLaren. We believe that McLaren's charitable purpose is to operate health care facilities, hospitals, clinics, and to provide treatment for people. There is a mention in the articles of incorporation about treating indigent people. There's been discussion about McLaren, essentially, taking the deficits of the amounts received for reimbursement and consider it to be charitable contributions.

Judge, **our line of thinking is that McLaren's primary purpose, primary charitable purpose is to provide health care to people**. And the one thing you'll see in the stipulated facts, and in the application even from McLaren, is that there is no medical treatment that occurs on the subject site. **All that happens on the subject site is office**

[Emphasis added.]

Here, Respondent has not made any claims or raised any arguments regarding Petitioner's ownership and occupancy or use of the subject real or personal property. Rather, Respondent acknowledged that Petitioner purchased the real property and erected a building on the property that is used by Petitioner as an office for administrative activities. As such, the Tribunal finds there is no genuine issue of material fact regarding Petitioner's ownership or occupancy or use of either the real or personal property at issue.[21]

As for the remaining issues and the parties' conflicting claims (i.e., three-prong test, purpose behind the use, engage in ordinary business activities, etc.), the record indicates that the parties may have stipulated that Petitioner is a non-profit charitable institution and that Respondent concerns relate to Petitioner's failure to lessen Respondent's burdens of government by having an office building in Grand Blanc Township when Petitioner's charitable activities are not conducted on the property at issue but occur in locations outside of the Township. Said concern is, however, short-sighted, as the Tribunal is required to consider if Petitioner'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."[22] [Emphasis added.] More specifically, the focus is on Petitioner's activities as a whole and not on the activities conducted at the subject property. Further, the focus is also on whether

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> **work**. **It's administrative**. **And it's all done, in our opinion, to benefit its medical facilities, which are not located in Grand Blanc Township**. And so all of the efforts that go on there go to facilitate the providing of treatment and, to some extent, **that's where the charitable element comes in**, for other people at other locations.
>
> This building is an opulent office building, and we don't believe they're entitled to the exemption for the medical purpose or the charitable exemption either. And, Judge, we will, throughout the course of the proceeding, hope to kind of flesh out the activities that occur at this site, and also we'll offer some background through Grand Blanc Township and our tax situation and what went into the reasoning behind our decision to deny the exemption."
>
> [Emphasis added.]

[21] See also the July 21, 2021 Order denying the parties' separate motions for summary disposition.
[22] See *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 673; 378 NW2d 737 (1985).

Petitioner's activities, if charitable, benefit the "general public" and not merely the residents of the Township. Nevertheless, the Court in *Wexford Medical Group v Cadillac* found that the above-definition of charity "sufficiently encapsulates, without adding language to the statute, what a claimant must show to be granted a tax exemption as a charitable institution . . . ."[23] The Court further held:

> In light of this definition, certain factors come into play when determining whether an institution is a "charitable institution under MCL 211.7o and MCL 211.9(a). Among them are the following:
>
> (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.[24]

Under the **six-factor** *Wexford* test used to determine if Petitioner qualifies as a charitable institution, Respondent claims, despite the purported stipulation, that Petitioner fails under factor 4 and possibly factors 5 and 6. Because Respondent has not presented any arguments regarding factors 1, 2, or 3, the Tribunal is satisfied that there is no genuine issue of material fact that relates to those factors and that Petitioner is, based on its review of the record, a non-profit institution organized chiefly for charity

[23] See *Wexford Medical Group v Cadillac*, 474 Mich 192, 214; 713 NW2d 734 (2006).
[24] *Id*. at 214-215.

that is provided on a non-discriminatory basis.[25] Thus, the Tribunal will limit its analysis to the factors under dispute.

Under factor 4 Respondent claims, as indicated above, that Petitioner does not engage in charitable activities on the subject property and that Petitioner's charitable activities outside of the Township do not lessen Respondent's burden of government. This argument requires the Tribunal to examine the definition of a charity. In *Retirement Homes v Sylvan Twp,* the Michigan Supreme Court set fort the following definition of "charity:"

> [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 the 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 the government.[26] [Emphasis added.]

When examining Petitioner's charitable activities as a whole, said activities, although performed outside of the Township (i.e., "[i]t occurs in all of the other hospitals identified"), are supported by the activities undertaken at the subject property, and benefit an indefinite number of persons or the general public throughout the State, which includes, but is not limited to, Genesee County and Township residents that seek services from Petitioner's medical facilities located in Genesee County or elsewhere in the State. As such, the Tribunal is satisfied that Petitioner meets the fourth *Wexford* factor.

Next, Respondent seems to claim, despite the purported stipulation, that Petitioner fails to establish that the amount charged for their services does not exceed what is needed for successful maintenance. In support of this argument, Respondent claims that Petitioner's articles of incorporation "offer McLaren the tremendous

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[25] In that regard, see *McLaren Regional Medical Center v City of Owosso*, 275 Mich App 401; 738 NW2d 777 (2007). See also Petitioner's Exhibit 1 (i.e., "[t]o operate exclusively for the benefit of, to perform the functions of, and to carry out the purposes of McLaren Regional Medical Center, a Michigan nonprofit corporation . . . ." and "[t]o engage in charitable, scientific, educational and research activities designed to promote the health of the public in a manner consistent with the Corporation's exemption from income tax under Code Section 501(c)(3) and its exemption from property tax under the charitable and public health exemptions."

[26] See *Retirement Homes v Sylvan Twp*, 416 Mich 340, 348-349; 330 NW2d 682 (1982).

opportunity to engage in ordinary business activities, whether they be -- whether they actually make money or not make money."[27] The Court held in *Wexford* that "[a] charitable institution can have a net gain – it is what the institution does with the gain that is relevant."[28] As outlined in Petitioners' evidence, "operating income is reinvested back into the system for the benefit of the hospital system as a whole, including facilities and for all purposes as testified to by Mr. Lane."[29] Further, by virtue of having 501(c)(3) tax exempt status from the Internal Revenue Service (IRS), Petitioner is bound by the requirements of the Internal Revenue Code (IRC). Most applicable to the present case, IRC 501(r)(5) sets limitations on the charges permitted for hospitals with 501(c)(3) tax exempt status, which Petitioners are required to abide by. As such, the Tribunal is satisfied that Petitioner meets the requirements of the fifth *Wexford* factor.

As it relates to the sixth *Wexford* factor, Respondent contends that Petitioners fail to prove that their overall nature is charitable. The Tribunal disagrees. Respondent confuses the issue as it relates to this factor, stating that:

> We heard testimony that is, frankly, stunning in the amount of economic activity that occurs throughout the McLaren Health Care System. We heard about subsidiaries that are involved in partnerships with publicly traded corporations. We heard testimony about health insurance providers that may or may not have a charitable element to their business. We heard testimony about what I consider to be more convention operations under the articles, and that is the overseeing of specific medical treatment centers identified in the articles that provide medical care for people at those facilities. The medical care at those facilities, for the most part, and federal mandate notwithstanding, when someone walks into your emergency room, whether you're public, private, or charitable, you have to provide a basic element of service to them. So whether you can be a for-profit hospital and still be required to provide medical service to people who walk into your building. And I think Mr. Lane described that as a federal requirement. You also heard that there are requirements for federal and state programs insurance wise that require a certain element of allowing care or making the care available to those who may not be able to afford it or for those who may be able to only pay a portion or be the beneficiaries of a not 100 percent reimbursement for services. **I think**

[27] See Respondent's Closing Statement at TR at 131-132.
[28] See *Wexford*, supra at 217-218
[29] See Petitioner's Closing Statement and Mr. Lane's testimony at TR 127 and 97-98.

> **in the for-profit world that would be considered an account receivable, and it would be written off as unrecoverable**.
>
> **In the nonprofit charitable world**, particularly in this case, **that's called charity**. That is a willing participant of McLaren's health providers to provide care in exchange for reimbursement, **and the goal is to obtain 100 percent reimbursement**. We now we know that doesn't happen.[30]
>
> [Emphasis added.]

More specifically, the first clause of this factor outlines that "[a] 'charitable institution' need not meet any monetary threshold of charity to merit the charitable institution exemption."[31] Here, as in *Wexford*, Petitioner provides, notwithstanding Respondent's claim, free and reduced healthcare services to an indefinite number of people. As such, the Tribunal is satisfied that Petitioner has established that their overall nature is charitable, as required under the sixth *Wexford* factor.

Finally, the subject property is being used by Petitioner to house hospital departments, all of which perform essential hospital functions, and would be located within primary hospital buildings if not being performed at the subject property. In *Hospital Purchasing Service of Michigan v City of Hastings*,[32] the Court granted tax-exempt status to a non-profit corporation that performed purchasing activities and storage of supplies for member hospitals, stating that:

> No one suggests that the purchasing department of any such member hospital should be singled out and subject to taxation. It is common knowledge that, as medical care has become increasingly more sophisticated, costs have risen sharply. **We think it would be unwise to interpret the statutory provisions under scrutiny here so as to conclude that what is free from taxation when accomplished by hospitals individually, is suddenly subject to taxation when hospitals act in concert**. Such an interpretation could have the effect of impeding and penalizing an imaginative effort designed to reduce the cost of hospital care. [Emphasis added.]

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[30] See Respondent's Closing Statement at TR 132-133. See also TR at 65-73.
[31] See *Wexford*, *supra* at 215.
[32] See *Hospital Purchasing Service of Michigan v City of Hastings*, 11 Mich App 500, 506; 161 NW2d 759 (1968).

Given the above, the Tribunal also finds that the holding in *Hospital Purchasing* applies and, as such, is further convinced that the subject property is being occupied solely for the charitable purposes for which Petitioner is incorporated.

As a result, the Tribunal finds that Petitioner has shown by a preponderance of the evidence that they meet the criteria of a charitable institution as required by MCL 211.7o and thus are entitled to tax exempt status. As provided by MCL 211.7o, both the real and personal property at issue in this appeal are exempt from taxation for the 2019, 2020, and 2021 tax years.[33] As for Petitioner's claims MCL 211.7r, the Tribunal's conclusion that Petitioner's real and personal property is entitled to exemption as a charitable institution under MCL 211.7o, renders further analysis of that claim superfluous.

Based on the findings of fact and conclusions of law, the property's TCV, SEV and TV for the tax years at issue are as indicated in the Proposed Judgment Section of this Proposed Opinion and Judgment (POJ).

JUDGMENT

This is a proposed decision and not a final decision.[34] As such, no action should be taken based on this decision.

After the expiration of the time period for the opposing party to file a response to the exceptions, the Tribunal will review the case file, including the POJ and all exceptions and responses, if any, and:

1. Issue a Final Opinion and Judgment (FOJ) adopting the POJ as the final decision.
2. Issue an FOJ modifying the POJ and adopting the Modified POJ as the final decision.
3. Issue an Order vacating the POJ and ordering a rehearing or such other action as is necessary and appropriate.

[33] See MCL 205.737(5)(a).
[34] See MCL 205.726.

EXCEPTIONS

This POJ was prepared by the Michigan Office of Administrative Hearings and Rules. The parties have 20 days from the below "Date Entered by Tribunal" to notify the Tribunal and the opposing party in writing, by mail or by electronic filing, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions). Exceptions are limited to the evidence submitted prior to or at the hearing and any matter addressed in the POJ. There is no fee for filing exceptions.

The opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions.[35]

A copy of a party's written exceptions or response must be sent by mail or electronic service, if agreed upon by the parties, to the opposing party and proof must be submitted to the Tribunal that the exceptions or response were served on the opposing party.

Exceptions and responses filed by *facsimile* will not be considered.

Entered: November 28, 2022 By Peter M. Koglie
PMK/jk

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

[35] See MCL 205.762(2) and TTR 289(1) and (2).