



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

Woodside Bible Church,  
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 21-002948

Forester Township,  
Respondent.

Presiding Judge  
Jason C. Grinnell

ORDER DENYING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

ORDER GRANTING SUMMARY DISPOSITION IN FAVOR OF RESPONDENT

FINAL OPINION AND JUDGMENT

**INTRODUCTION**

This case involves an appeal of Respondent's denial of Petitioner's claim for exemption from ad valorem property taxation for the 2021 and 2022 tax years under MCL 211.7s. An appeal for 2023 is automatically included pursuant to MCL 205.737(5)(a). The subject property, which Petitioner refers to as The Lodge, was purchased by Petitioner in 2016 and includes: a 13,500 square foot former personal residence, remodeled into a large gathering place featuring a great room, meeting spaces, a dining room, and 12 separate bedrooms with private bathrooms; a 3,500 square foot pole barn; and a 625 square foot garage.

The Tribunal issued a Scheduling Order on February 2, 2023, establishing dates for Petitioner and Respondent to file motions and briefs for summary disposition. On March 31, 2023, Petitioner filed a motion requesting that the Tribunal enter summary judgment in its favor in the above-captioned case pursuant to MCR 2.116(C)(10). On April 21, 2023, Respondent filed a brief in response to the Motion requesting dismissal of the appeal.

The Tribunal has reviewed the Motion, response, and the evidence submitted and finds that denying Petitioner's Motion for Summary Disposition and granting summary disposition in favor of Respondent, under MCR 2.116(I)(2) is warranted.

**PETITIONER'S CONTENTIONS**

In support of its Motion, Petitioner contends that the subject property was purchased and remodeled for use as a ministry retreat center, serving all of Petitioner's 14 church

campuses. Petitioner was granted an exemption from tax for the 2017, 2018, 2019, and 2020 tax years and contends that its use of the subject property has not changed. More specifically, Petitioner contends that the subject property is and has always been used exclusively by Petitioner as a ministry retreat center, and therefore qualifies for an exemption from property tax under MCL 211.7s. Despite Petitioner's consistent usage of the property, Respondent terminated the exemption due to the property being rented out. Verbal communication from Respondent indicated that the denial was based on the belief that the property was being used as a wedding venue. Petitioner has never held weddings at the subject property and contends that it has been used exclusively for religious purposes, consistent with the terms of the statute. While Petitioner accepted user fees from short-term users to defray food and lodging expenses, the property is not financially profitable for Petitioner. Despite the financial losses, Petitioner has continued to support the missions of the subject property, encouraged by the stories of lives changed and restored through the programs and time spent in prayer, study, and reflection. The ministry retreat center and the surrounding grounds have continuously accomplished several ministry purposes in a setting away from the hustle and bustle of everyday life, including biblically based marriage retreats, church leadership development, and pastor development and encouragement. Petitioner was not able to utilize the property from March 2020 through May 2021 due to the COVID pandemic and Petitioner's adherence to governmental restrictions.

### **RESPONDENT'S CONTENTIONS**

In support of its response, Respondent contends that as the subject property is not predominantly used for religious services or the teaching of religious truths and beliefs, it is not entitled to an exemption under MCL 211.7s. The plain language of MCL 211.7s makes clear that to qualify for an exemption the property at issue must 1) be owned by a religious society and 2) be used as a parsonage or be used predominantly for teaching the religious truths and beliefs of the society. The record shows that the property was predominantly used for other purposes by other organizations. In addition, the property sat vacant for the first five months of 2021, past the time of mandated government shutdowns. Respondent contends that Petitioner could have held religious services while maintaining social distancing. Additionally, the majority of retreats held at the subject property were held by other organizations than Petitioner. A review of itineraries reflective of retreats offered at the subject property supports the conclusion that the teaching of religious truths and beliefs is not a predominate purpose of the retreats. While a few hours of each day may have been reserved for prayer and religious discussion, the majority of time spent at the subject property was used to partake in other activities, such as crafting, socializing, playing games, etc. Connection, unity, race reconciliation efforts, playing golf, and planning were a few of the identified purposes of the retreats held at the subject property. None of the itineraries identified religious services or the teaching of religious truths or beliefs as its purpose. In addition, Petitioner identified no religious teaching materials used and/or distributed at the subject property.

Respondent contends that exemption statutes are to be strictly construed in favor of the taxing authority<sup>1</sup> and Petitioner is required to prove its entitlement to its requested property tax exemption by a preponderance of the evidence<sup>2</sup>.

### 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 in rendering a decision on such motions.<sup>3</sup> In this case, Petitioner moves for summary disposition under MCR 2.116(C)(10) and the Tribunal relies on MCR 2.116(C)(10) and MCR 2.116(I)(2).

MCR 2.116(C)(10) provides for summary disposition when “there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law.”<sup>4</sup> The Michigan Supreme Court, in *Quinto v Cross and Peters Co*,<sup>5</sup> provided the following explanation of MCR 2.116(C)(10):

MCR 2.116 is modeled in part on Rule 56(e) of the Federal Rules of Civil Procedure . . . [T]he initial burden of production is on the moving party, and the moving party may satisfy the burden in one of two ways.

First, the moving party may submit affirmative evidence that negates an essential element of the nonmoving party's claim. Second, the moving party may demonstrate to the court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. If the nonmoving party cannot muster sufficient evidence to make out its claim, a trial would be useless and the moving party is entitled to summary judgment as a matter of law.

In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) 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. MCR 2.116(C)(10), (G)(4).

In presenting a motion for summary disposition, the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the

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<sup>1</sup> *Mich United Conservation Clubs v Lansing Twp*, 423 Mich 661; 378 NW2d 737 (1985).

<sup>2</sup> *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002).

<sup>3</sup> See TTR 215.

<sup>4</sup> *Id.*

<sup>5</sup> *Quinto v Cross and Peters Co*, 451 Mich 358 (1996) (citations omitted).

opposing party to establish that a genuine issue of disputed fact exists. Where the burden of proof at trial on a dispositive issue rests on a nonmoving party, the nonmoving party may not rely on mere allegations or denials in pleadings, but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists. If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.<sup>6</sup>

“A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ.”<sup>7</sup> In evaluating whether a factual dispute exists to warrant trial, “the court is not permitted to assess credibility or to determine facts on a motion for summary judgment.”<sup>8</sup> “Instead, the court’s task is to review the record evidence, and all reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial.”<sup>9</sup>

Summary disposition under MCR 2.116(1)(2) is appropriate “[i]f it appears to the court that the opposing party, rather than the moving party, is entitled to judgment as a matter of law.”<sup>10</sup> Thus, under this rule the court may render judgment in favor of the opposing party.

### CONCLUSIONS OF LAW

The Tribunal has carefully considered Petitioner’s Motion under MCR 2.116 (C)(10) and finds that denying Petitioner’s Motion and granting Summary Disposition in favor of Respondent is warranted. The General Property Tax Act (GPTA) provides “[t]hat all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation.”<sup>11</sup> Petitioner appears to imply that because it was previously granted the exemption, Respondent now has the burden of proving why the exemption was denied. However, as Respondent indicated, each tax year encompasses a different eligibility date and requires independent consideration irrespective of whether an exemption had been granted in a prior year.<sup>12</sup> Because Petitioner is attempting to establish membership in an already exempt class, it is Petitioner’s burden of proof to establish by a preponderance of the evidence that it is entitled to each exemption.<sup>13</sup> In addition, tax exemptions are construed in favor of the taxing authority.<sup>14</sup>

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<sup>6</sup> *Id.* at 361-363. (Citations omitted.)

<sup>7</sup> *West v General Motors Corp*, 469 Mich 177 (2003).

<sup>8</sup> *Cline v Allstate Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued June 21, 2018 (Docket No. 336299) citing *Skinner v Square D Co*, 445 Mich 153 (1994).

<sup>9</sup> *Id.*

<sup>10</sup> See also *Washburn v Michailoff*, 240 Mich App 669; 613 NW2d 405 (2000).

<sup>11</sup> MCL 211.1 *et seq.*

<sup>12</sup> See MCL 211.2(2) and *Salvation Army v Addison Twp*, unpublished curiam opinion of the Court of Appeals, issued March 25, 2021 (Docket No. 353210)

<sup>13</sup> *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).

<sup>14</sup> See *Mich United Conservation Clubs*.

Petitioner filed this appeal specifically under MCL 211.7s, which states:

“[h]ouses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and any parsonage owned by a religious society of this state and occupied as a parsonage are exempt from taxation under this act. Houses of public worship includes buildings or other facilities owned by a religious society and used predominantly for religious services or for teaching the religious truths and beliefs of the society.”

Petitioner does not contend that the subject property is a parsonage and there is no dispute that Petitioner is a religious society. Rather, the issue here is whether the subject property is “used predominantly for religious services or for teaching the religious truths and beliefs of the society.” While Petitioner focuses on verbal communication from Respondent indicating the exemption was denied because Respondent thought Petitioner was renting out the subject property as a wedding venue, that does not appear to be at issue based on Respondent’s response to Petitioner’s Motion. Petitioner further contends that the fact that the subject property incurred losses during each of the tax years at issue indicates that the property was not rented out and therefore, establishes entitlement to the exemption.

The Tribunal finds *Self Realization Meditation Healing Centre v Charter Township of Bath*<sup>15</sup> relevant as the property in that case was also a retreat center. The Court of Appeals used the following two-pronged approach to determine if the property was being used predominantly for religious services or for teaching the religious truths and beliefs of the society: 1) whether the predominate purpose and practice include teaching religious truths and beliefs, and 2) whether the entire property was used in a manner consistent with the purposes of owning the institution. The Court in that case reviewed the society’s brochure for the property and determined that it was predominantly used for teaching yoga and meditation and as a bed and breakfast rather than the teaching of religious truths and beliefs of the society.

In this case, the evidence indicates that very little actual teaching of religious truths and beliefs occurs at the subject property. Rather, it appears that the predominant function of the retreats at the property is leadership development and marriage renewal with an emphasis on rest and recreation. The brochure for The Lodge states that “all activities are planned by the group or organization hosting the retreat.” As Respondent indicated in its brief, the majority of retreats held at the subject property during 2020 and 2021 were held by organizations other than Petitioner.<sup>16</sup> Sample itineraries provided by Petitioner include more time for recreational activities such as golf, crafting, games, and general free time; with little time devoted to teaching religious truths and beliefs. These activities do not appear to be consistent with Petitioner’s mission of “helping people

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<sup>15</sup> *Self Realization Meditation Healing Centre v Charter Tp of Bath*, unpublished per curium opinion of the Court of Appeals, issued June 21, 2011 (Docket No. 297475).

<sup>16</sup> While the 2020 tax year is not at issue in this appeal, information on events held at the subject property is relevant due to the lack of information for tax year 2022.

belong to Christ, grow in Christ, and reach the world for Christ.”<sup>17</sup> Petitioner has also indicated that no religious teaching materials were used or distributed at the subject property. The totality of the evidence indicates that the subject property is used predominantly for rest, relaxation, and recreation for Petitioner’s ministerial team and other groups and not for the holding of religious services or the teaching of religious truths and beliefs. Also, neither party has provided any meaningful evidence for the Tribunal to consider for the 2022 or 2023 tax years. Thus, the Tribunal finds that Petitioner has failed to meet its burden of proving its entitlement to the exemption under MCL 211.7s for the subject property for the 2021, 2022, and 2023 tax years.

### **JUDGMENT**

IT IS ORDERED that Petitioner’s Motion for Summary Disposition is DENIED.

IT IS FURTHER ORDERED that summary disposition is GRANTED in favor of Respondent under MCR 2.116(I)(2).

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

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<sup>17</sup> Petitioner’s Response to Respondent’s First Interrogatories.

for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.

By 

Entered: June 1, 2023

sm/jcg

**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