STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

GRETCHEN WHITMER
GOVERNOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

Sunny Crest Youth Ranch,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 21-000671

Sunfield Township,
Respondent.

Presiding Judge
Patricia L. Halm[1]

ORDER DENYING RESPONDENT'S MOTION FOR DIRECTED VERDICT

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Sunny Crest Youth Ranch, filed this appeal disputing Respondent's (Sunfield Township) denial of its request for an exemption from property taxes under MCL 211.7o for the subject property for the 2021, 2022, and 2023 tax years.[2] A hearing was held in this matter on May 11, 2023. Jason C. Long, Esq., appeared on behalf of Petitioner. Donovan J. Visser, Esq., appeared on behalf of Respondent.

Based on the evidence (i.e., testimony and admitted exhibits) and the case file, the Tribunal finds that the subject property, consisting of seven parcels of real property, is entitled to a partial property tax exemption for the 2021 tax year and a 100% exemption for the 2022 and 2023 tax years under MCL 211.7o(1). As a result, the subject property's true cash values (TCV) and assessed values (AV) remain unchanged, while the taxable values (TV) for the tax years at issue are modified as follows:

[1] The hearing held in this matter was conducted by Administrative Law Judge Peter Kopke. Mr. Kopke has since retired. As a result, after careful consideration of the transcripts, admitted evidence, briefs, and the case file, this Final Opinion and Judgment (FOJ) is rendered by the above-noted Tribunal Judge. See R 792.10106(7).

[2] Although the Petition appeals the denial of Petitioner's exemption request for the 2021 tax year, the property's assessments for the 2022 and 2023 tax years were established prior to the commencement of the hearing and, as such, those assessments were "added automatically" to this case pursuant to MCL 205.737(5)(a). See below.

Parcel Number: 010-004-300-002-07

Year	TV
2021	$5,237
2022	$0
2023	$0

Parcel Number: 010-004-300-002-08

Year	TV
2021	$4,753
2022	$0
2023	$0

Parcel Number: 010-004-300-002-09

Year	TV
2021	$5,368
2022	$0
2023	$0

Parcel Number: 010-004-300-002-10

Year	TV
2021	$5,674
2022	$0
2023	$0

Parcel Number: 010-004-300-002-11

Year	TV
2021	$1,325
2022	$0
2023	$0

Parcel Number: 010-004-300-002-12

Year	TV
2021	$6,228
2022	$0
2023	$0

Parcel Number: 010-004-300-002-13

Year	TV
2021	$22,189
2022	$0
2023	$0

PETITIONER'S CONTENTIONS

Petitioner's contentions of the subject property's TV are:

Parcel Number: 010-004-300-002-07

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-08

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-09

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-10

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-11

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-12

Years	TV
2021, 2022 & 2023	$0

Parcel Number: 010-004-300-002-13

Years	TV
2021, 2022 & 2023	$0

The subject property contains several buildings, including an office building, four residential buildings, a shop house (wood shop, metal shop, bike shop), a barn and other outbuildings, and a basketball court. As discussed below, these structures were located on leased land until October 13, 2021, at which time Petitioner acquired the land.

Petitioner contends that the subject property is entitled to a property tax exemption under MCL 211.7o, which provides 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.

In support of this contention, Petitioner presented the testimony of Ronald Coppess. Mr. Coppess testified that he and his wife cofounded Petitioner in 2006. Mr. Coppess further testified that Petitioner is a non-profit corporation with 501(c)(3) status. As described by Mr. Coppess, the subject property's mission is "to help boys, at that time ten to eighteen [years of age], to grow physically, mentally, and spiritually, and learn vocational skills and get their education and get their hands dirty, learn how to work. It was a working ranch."[3] Mr. Coppess explained that the facility contains 30 beds and housed approximately 30 boys.[4]

According to Mr. Coppess, Petitioner financed the subject property's structures through various fundraising activities and funding sources. Mr. Coppess testified that Petitioner owned these structures even though they were located on land leased from Ronald L. Coppess & Ellyn K. Coppess, and Charles R. Coppess & Kathleen Coppess pursuant to a Residential & Land Lease entered into on April 1, 2007.[5] This testimony is corroborated by the First Amendment to Residential & Land Lease, dated July 1, 2015,[6] which provides that the Lessee (Petitioner) may construct any buildings, improvements, and fixtures necessary to engage in its permitted use. Additionally, "[a]ll buildings, improvements and fixtures constructed or installed on the demised premises are and shall remain the sole property of the Lessee . . . ."[7] Further, the "Memorandum of Lease, effective April 12, 2016, provides that "[t]he Lease entitles the Lessee to ownership of any and all buildings and improvements located on the Property."[8] Mr. Coppess explained that Petitioner acquired the underlying land on October 13, 2021.[9]

Mr. Coppess testified that Petitioner was licensed by the State of Michigan to operate a child caring institution,[10] with the State of Michigan paying Petitioner for the children's care.[11] However, in May 2020, the State revoked this license.[12] As of the date of the hearing, Petitioner remained unlicensed and was operating as a private facility. Mr. Coppess explained that as of the Tax Days[13] at issue, he was no longer involved in Petitioner's activities and had no knowledge of what occurred at the subject property.

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[3] Transcript (T) at 13.
[4] T at 58.
[5] P6.
[6] P7.
[7] P7 at ¶ 1.D.
[8] P29 at ¶ A.2.
[9] T at 735.
[10] T at 56.
[11] T at 58.
[12] T at 57.
[13] Pursuant to MCL 211.2(2), "[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 . . . ." Thus, in this case, given that the tax years under appeal are 2021, 2022, and 2023, the respective Tax Days are December 31, 2020, December 31, 2021, and December 31, 2022.

However, Mr. Coppess is of the belief that the age range of the boys cared for by Petitioner changed from 10 to 17 years of age to 18 to 24 years of age.

Petitioner's next witness was Kenneth Evans. Mr. Evans testified that he is currently Petitioner's Executive Director. Mr. Evans began his tenure with Petitioner in September 2019, at which point he was a house manager. At that time, Petitioner had a "child caring institution license."[14] Mr. Evans described Petitioner's sole mission and purpose as serving young boys by providing education, vocational training, and training in independent living skills. According to Mr. Evans, residents were selected on a first-come, first-served basis. Petitioner only declined to serve potential residents if they required a higher level of care than they could provide.

Mr. Evans described the housing structures located on the subject property as containing office space for a clinician or therapist, in addition to housing the boys. The house manager would oversee the day-to-day operations, with volunteers working with the boys to develop independent living skills. Additionally, the boys were scheduled throughout the day to spend time in the shops and the barn caring for the animals. Mr. Evans also described an area of the property that contained a greenhouse. Mr. Evans testified that this property was used to teach the boys about gardening and how to bale hay for the horses.

In its closing argument, Petitioner argued that, pursuant to the Memorandum of Lease, Petitioner owns the improvements located on the subject property. Petitioner further argued that pursuant to MCL 211.7o, the statute does not differentiate between real and personal property; both are exempt if they meet the statutory requirements.

Petitioner acknowledged that its operations changed from Sunny Crest Ranch to TimberCreek; however, Petitioner argued that it remained a nonprofit charitable organization.

> We don't have operations other than the ranch operation. The ranch never operated in any kind of discriminatory way. It took kids on a first come, first served basis. It did limit itself to boys, but there's authority that that's consistent with Michigan law . . . that's okay to target a population like that. That doesn't mean you're discriminatory.[15]

Petitioner also argued that it is a charitable organization under *Wexford Medical Group v City of Cadillac.*[16] Specifically, Petitioner argued that under *Wexford*, a charitable organization:

> [B]rings the peoples' hearts and minds under the influence of education or religion or release people of disease or helps establish themselves for life

[14] T at 56.
[15] T at 244.
[16] *Wexford Medical Group v City of Cadillac*, 474 Mich 192; 713 NW2d 734 (2006).

> and I think . . . really is where Sunny Crest slash TimberCreek fits in, because it was taking young boys who were disadvantaged in many ways and trying to give them the support to learn to live independently and as productive members of society who could take care of themselves . . . .[17]

Petitioner also acknowledged that the number of boys served fluctuated during the period at issue. However, Petitioner argued that this did not mean that the property wasn't occupied. According to Petitioner, the property was ramping up to become TimberCreek and Petitioner was making necessary changes to the houses.

As for its lack of licensure, Petitioner argued that there is nothing in the statute that requires an organization to be licensed. Petitioner cites *Rose Hill Center Inc v Holly Township*,[18] in support of this argument. As for the zoning issues raised by Respondent (see below), Petitioner argued that the statute doesn't require compliance with zoning requirements. Instead, Petitioner argued that "the township had other remedies if it wasn't happy with the ranch operating . . . by the township's arguments contrary to zoning. It could have issued a zoning ticket."[19]

Finally, during closing arguments, Petitioner cited several other cases believed to be applicable in this case, specifically *McFarlan Home v City of Flint*,[20] *Detroit Rescue Mission v City of Detroit,*[21] and *Congregation Yagdil Torah v City of Southfield*.[22]

Petitioner's Admitted Exhibits

The following exhibits were admitted into evidence:

P1: Articles of Incorporation of Sunny Crest Youth Ranch, dated December 19, 2006.
P4: Bylaws of Sunny Crest Youth Ranch, Inc., dated March 8, 2007.
P5: Internal Revenue Service Letter regarding 501(c)(3) determination, dated February 13, 2013.
P6: Residential & Land Lease, dated April 1, 2007.
P7: First Amendment to Residential & Land Lease, dated July 1, 2015.
P13: Certificate of Occupancy, 13053 Sunny Crest Lane, dated November 30, 2016.
P14: Affordable Housing Program Agreement for Rental Project, FHL Bank, dated November 14, 2012.
P18: TimberCreek Ranch Independent Living Program Statement.
P20: TimberCreek Ranch – What We Do.
P27: Survey, dated August 24, 2020.

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[17] T at 245.
[18] *Rose Hill Center Inc v Holly Township*, 224 Mich App 28; 568 NW2d 332 (1997).
[19] T at 248.
[20] *McFarlan Home v City of Flint*, 105 Mich App 728; 307 NW2d 712 (1981).
[21] The Tribunal was unable to locate a decision with this name.
[22] *Congregation Yagdil Torah v City of Southfield*, unpublished per curiam opinion of the Court of Appeals, issued July 22, 2014 (Docket No. 413735).

P28: Survey, recorded September 23, 2015.
P29: Memorandum of Lease, dated April 12, 2016.
P45: Quit Claim Deed, dated October 13, 2021, for Parcel Nos. 010-004-300-002-07 through 13.
P51: TimberCreek Ranch Resident Program and Housing Agreement
P52: Emails with MDHHS Representatives.
P55: Kellogg Foundation Letter, dated July 27, 2007.
P64: Occupancy by month.
P86: Resident Case Information – 2021 and 2022.

RESPONDENT'S CONTENTIONS

The subject property's TVs as established by Respondent's Board of Review (BOR) for the tax years at issue are[23]:

Parcel Number: 010-004-300-002-07

Year	TV
2021	$56,922
2022	$95,200
2023	$99,960

Parcel Number: 010-004-300-002-08

Year	TV
2021	$96,998
2022	$156,900
2023	$164,745

Parcel Number: 010-004-300-002-09

Year	TV
2021	$121,989
2022	$196,100
2023	$205,905

Parcel Number: 010-004-300-002-10

Year	TV
2021	$138,397
2022	$215,800
2023	$226,590

[23] Pursuant to the Tribunal's Order Requiring Information, Respondent submitted the subject property's 2022 and 2023 property record cards from which taxable value information was obtained.

Parcel Number: 010-004-300-002-11

Year	TV
2021	$1,325
2022	$7,600
2023	$7,600

Parcel Number: 010-004-300-002-12

Year	TV
2021	$141,553
2022	$220,700
2023	$231,735

Parcel Number: 010-004-300-002-13

Year	TV
2021	$55,472
2022	$87,600
2023	$91,980

During its opening argument, Respondent moved for a directed verdict, arguing that Petitioner did not meet its burden of proof in establishing entitlement to a property tax exemption under MCL 211.7o for the 2021 tax year. This motion is addressed below.

Respondent's first witness was Brandy Miller. Ms. Miller is the code enforcement officer for Eaton County. Ms. Miller testified that she worked with Mr. Coppess on obtaining Petitioner's conditional use permit. According to Ms. Miller, the conditional use permit was granted in 2007. Petitioner applied to change the permit's conditions in 2015 and 2019. On June 2, 2020, the permit was revoked.[24] Ms. Miller explained that because the permit was revoked, Petitioner could no longer legally operate. Petitioner did not appeal this determination and has not submitted any further applications.

Respondent's next witness was Detective Troy Gardner. Detective Gardner was questioned as to the extent various Eaton County agencies were called to respond to the subject property. Detective Gardner testified that when the subject property was known as Sunny Crest, the number of calls and responses to the subject property was taxing on Eaton County. Since the property has transitioned, the number of calls have decreased.

Next, Respondent called Brian DeVos as a witness. Mr. DeVos has a master's degree in social work, and was employed as Petitioner's Executive Director from June 2018 through May 2020. Mr. DeVos testified that one of the conditions of Petitioner's conditional use permit was that it maintain a license with the State of Michigan.[25] Mr.

[24] T at 179.
[25] T at 196.

DeVos further testified that Petitioner lost that license after he left his position as Executive Director. When asked whether Petitioner provided an independent living situation or a dependent living situation, Mr. DeVos indicated that it was a dependent living situation. Mr. DeVos also explained that while some residents were private pay, most of the boys staying at the subject property were wards of the State of Michigan and their costs were paid for by the State. Respondent's next witness was Glen Rairigh. Mr. Rairigh testified that Sunfield Township requested that he serve as an advisor, liaison, and trainer for Petitioner. Mr. Rairigh testified that he was never an employee of Petitioner and that he received no compensation for his work. Mr. Rairigh assisted Petitioner in preparing the paperwork for Petitioner's State license as a child caring institution and he gave them guidance on the responsibilities of a child caring institution.

Respondent's next witness was Richard Zemla, Jr. Mr. Zemla is the assessor for Sunfield Township. Mr. Zemla testified that he began working for Respondent in 2017 or 2018. Mr. Zemla explained that at that time the State Tax Commission had ordered a complete reappraisal of the township's property and that as part of that project, he inspected the subject property. According to Mr. Zemla, when he inspected the subject property, the property record card reflected that there was one house, an office, and a barn located on the property and that the remainder of the buildings had been omitted. Mr. Zemla further testified that to his knowledge, Petitioner had not filed any personal property statements.

Mr. Zemla was questioned about Petitioner's 2019 exemption request. Mr. Zemla explained that the exemption application was incomplete. Eventually, the application was denied because Petitioner did not verify that it owned the subject property. Mr. Zemla was also questioned about the land split that occurred in 2020. Mr. Zemla verified that the initial parcel of land was split into seven individual parcels.

Respondent's final witness was Robert Piercefield. Mr. Piercefield testified that he volunteered at the subject property from approximately 2016 until the property closed in 2020. Mr. Piercefield further testified that during that time, there were approximately 28 boys housed in four houses. Mr. Piercefield described the activities at the subject property as caring for animals, including horses, goats, and sheep, in addition to woodworking and other shop-type activities. Mr. Piercefield considered Petitioner's services to be important and valuable.

During its closing argument, Respondent argued that improvements, such as the subject property's homes, are part of the realty and are not personal property.

> There's nothing in the testimony which would have led an assessor or anyone else to believe that the improvements to the realty were somehow separated from the realty. As a matter of course, this is why they become improvements and become real property when affixed to the land,

> because they cannot easily be removed. They are no longer personality. They have become reality once affixed to the property.[26]

In support of this argument, Respondent cites *Arena Associates Inc v City of Rochester Hills*.[27]

In addition to arguing that Petitioner did not own the subject property as of December 31, 2020, Respondent argued that Petitioner did not file an exemption application with Respondent for the 2021 tax year. Respondent also appears to argue that Petitioner did not file a Property Transfer Affidavit which would have triggered an uncapping event in 2022.

According to Respondent, once Petitioner lost its license and its conditional use permit, it was no longer able "to operate that property in a use that would conform with the requirements of the exemption. So they can't legally use the property for the nonprofit mission."[28] Respondent also argued that the dramatic change in the subject property's use, resulting from the shift from Sunny Crest Youth Ranch to TimberCreek Ranch, meant that the property was no longer being legally used and, in fact, was being used "outside of what the articles of nonprofit incorporation allow for the organization to do."[29] Finally, Respondent argues that there is no evidence that any boys actually lived at the subject property as of December 31, 2020.

RESPONDENT'S EXHIBITS

The following exhibits were admitted into evidence:

R6: 2021 Notice of Assessment.
R11: Warranty Deed, recorded August 23, 2011.
R12: Warranty Deed, recorded December 31, 1992.
R13: Quit Claim Deed, recorded September 10, 2020.
R14: Quit Claim Deed, recorded October 18, 2021.
R37: Notice of Intent to Revoke License.
R53: Petitioner's 2016 Return of Organization Exempt from Income Tax, Form 990.
R54: Petitioner's 2017 Return of Organization Exempt from Income Tax, Form 990.
R55: Petitioner's 2018 Return of Organization Exempt from Income Tax, Form 990.
R86: General Case Information – 9 pages.

PROCEDURAL MATTER

At discussed, at the outset of Respondent's opening statement, Respondent moved for a directed verdict. Specifically, Respondent argued that Petitioner did not

[26] T at 252.
[27] *Arena Associates Inc v City of Rochester Hills*, MTT Docket No. 310577.
[28] T at 254.
[29] T at 255-256.

meet its burden of proof to show that as of the 2021 Tax Day[30], being December 31, 2020, the subject property was owned and occupied by Petitioner for its intended use, as the subject property "was owned by the brothers Coppesses and their wives on tax day . . . ."[31] Respondent made the same motion for the subsequent tax years.

Respondent also argued that:

> There were no additional applications that were submitted. We have a change in PPNs. We have changes in legal descriptions. No follow-up was done requesting exemptions from the assessor, and then, of course, you know, we have a substantial change in the use of the property in 2021, which doesn't fit in with the organization's charter, and, therefore, the property – although ownership at that point in time had changed, the use of the property wasn't consistent with the organization's mission, and for those reasons I would request that the Court enter a verdict on behalf of respondents.[32]

Without asking for a response from Petitioner, the Presiding Judge stated that while he had some concerns about Petitioner's evidence, he was not inclined to grant Respondent's Motion. Although not articulated in the transcript, that "inclination" was based on a finding that Petitioner, through the submission of testimony and admitted exhibits, had at the very least met its burden of going forward with evidence.

Upon further consideration, the Tribunal finds that while Respondent's Motion was captioned as a Motion for Directed Verdict, it was, in fact, a Motion for Involuntary Dismissal. In *2 Crooked Creek LLC v Cass County Treasurer*,[33] the Court explained that:

> [W]hen a trial court, sitting as the finder of fact, is asked to direct a verdict, the motion is actually one for involuntary dismissal. In fact, even when the parties and the lower court erroneously categorize a motion as one for directed verdict, we will review as one for involuntary dismissal.[34]

The Court further explained that:

> Both motions for a directed verdict under MCR 2.516 and motions for involuntary dismissal under MCR 2.504(B) test the factual support for a claim. However, a motion for a directed verdict requires all factual disputes to be resolved in favor of the nonmoving party and does not permit any

[30] MCL 211.2(2).
[31] T at 164.
[32] *Id*.
[33] *2 Crooked Creek LLC v Cass County Treasurer,* 329 Mich App 22; 941 NW2d 88 (2019).
[34] *Id*. at 42. (citations omitted.)

> credibility determinations. "In contrast, a motion for involuntary dismissal calls upon the trial judge to exercise his function as trier of fact, weigh the evidence, pass upon the credibility of witnesses and select between conflicting inferences. Plaintiff is not given the advantage of the most favorable interpretation of the evidence."[35]

"The involuntary dismissal of an action is appropriate where the trial court, when sitting as the finder of fact, is satisfied at the close of the plaintiff's evidence that 'on the facts and the law the plaintiff has shown *no right to relief*.'"[36] (Emphasis added.)

In this case, the issue is whether Petitioner is entitled to a property tax exemption under MCL 211.7o. As discussed below, it is Petitioner's burden of proof to establish that it qualifies for the exemption "This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party."[37]

Thus, in deciding whether to grant Respondent's Motion for Involuntary Dismissal, it must first be determined whether Petitioner met its burden of going forward with the evidence. Unfortunately, there is no bright line test in this regard.[38] Given this, a review of relevant case law is in order.

In *Eastwick Square Townhouse Cooperative v City of Roseville*,[39] the Tribunal barred the petitioner from utilizing the income-capitalization approach set forth in its valuation disclosure. However, the Tribunal gave the petitioner another opportunity to present evidence to prove that the property has been over assessed. After the petitioner failed to submit additional valuation evidence, the Tribunal held that "Petitioner's evidence is insufficient to meet its primary burden to go forward with competent evidence to establish the true cash value of the subject property and that Petitioner cannot meet the ultimate burden of persuasion as required by MCL 205.737(3)." With this, the Tribunal granted the respondent's Motion to Dismiss. Ultimately, the dismissal was upheld.

In *Jones & Laughlin*, the petitioner submitted an appraisal of the property at issue. The Tribunal held that the "petitioner did not present sufficient evidence to allow it to make an independent determination of true cash value and that petitioner therefore

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[35] *Id*. at 41-42. (quotation marks and citations omitted).
[36] *Begola Services Inc v Wild Bros*, 210 Mich App 636, 639; 534 NW2d 217 (1995).
[37] *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 354-355; 483 NW2d 416 (1992).
[38] There is guidance in other areas of the law. For example, see *Meagher v Wayne State University*, 222 Mich App 700; 565 NW2d 401 (1997), a case involving age discrimination and a motion for directed verdict.
[39] *Eastwick Square Townhouse Cooperative v City of Roseville*, unpublished per curiam opinion of the Court of Appeals, issued August 12, 2024 (Docket No. 309538). The Tribunal recognizes that while unpublished opinions of the Court of Appeals are not binding precedent, they may be considered instructive or persuasive authority. See *Paris Meadows, LLC v City of Kentwood*, 287 Mich App 136, 145, fn 3; 783 NW2d 133 (2010). In this case, the Tribunal finds the Court's decision instructive.

had failed to meet its burden of proof."[40] Ultimately, the Tribunal accepted the respondent's value, "apparently for the reason that petitioner had not met its burden of proof."[41] In reversing the Tribunal's decision, the Court held that:

> The tribunal further erred in failing to make an independent determination of the true cash value of the property. The tribunal apparently believed that no such determination was necessary after it concluded that petitioner had failed to meet its burden of proof and dismissed petitioner's appeal. The tribunal correctly noted that the burden of proof was on petitioner, M.C.L. § 205.737(3); M.S.A. § 7.650(37)(3). This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing, and (2) the burden of going forward with the evidence, which may shift to the opposing party. The tribunal's decision, however, seems analogous to the entry of a directed verdict upon the failure of a plaintiff's proofs. To the extent this analogy may be accurate in this case, the entry of judgment against petitioner for its failure to provide *sufficient* evidence was erroneous because, while petitioner may not have met its burden of persuasion, it did meet its burden of going forward with evidence.[42] (Emphasis added.)

Thus, *Eastwick Square* and *Jones & Laughlin* are examples of the parameters to use in determining whether a petitioner has met its burden of going forward with the evidence. On the one hand, the petitioner in *Eastwick Square* presented no credible or reliable evidence of the property's TCV. On the other hand, the petitioner in *Jones & Laughlin* presented *sufficient* evidence to meet its burden of going forward with the evidence, but not enough to meet its burden of persuasion.

In *Great Lakes Division of National Steel v City of Ecorse, et al,*[43] Respondent River Rouge contended that the Tribunal "erred in failing to consider the option of dismissal for failure of any party to meet its burden of proof."[44] The Court explained that "River Rouge's arguments on appeal largely concern the reliability and weight of the evidence . . . ."[45] Ultimately, the Court held that the petitioner met its burden of going forward with the evidence.

In *President Inn Properties LLC v City of Grand Rapids*,[46] the Court held that "[e]ven on the failure of a party's evidence that a property's assessed valuation is lower than that on the rolls, the burden of going forward with the evidence may shift to the

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[40] *Jones & Laughlin* at 352.
[41] *Id*.
[42] *Id*. at 354-355.
[43] *Great Lakes Division of National Steel v City of Ecorse, et al,* 227 Mich App 379; 576 NW2d 667 (1998).
[44] *Id*. at 408.
[45] *Id*. at 410.
[46] *President Inn Properties LLC v City of Grand Rapids,* 291 Mich App 625; 806 NW2d 342 (2011).

opposing party."[47] Thus, under *President Inn*, a petitioner does not even have to establish that the property is over-assessed to meet its burden of going forward with the evidence.

Having reviewed the transcript and the evidence admitted during the hearing, the Tribunal finds that Petitioner provided sufficient evidence to meet its burden of going forward with the evidence. Specifically, as it pertains to ownership of the subject property, Petitioner submitted the Residential & Land Lease, the First Amendment to the lease, and the Memorandum of Lease. Therefore, even without giving Petitioner the advantage of the most favorable interpretation of the evidence, the Tribunal cannot find that Petitioner has shown no right to relief. The Tribunal agrees with the Presiding Judge's ruling – Respondent's Motion is denied.

The Tribunal notes that pursuant to the April 7, 2022 Scheduling Order, on June 30, 2022, each party filed a Motion for Summary Disposition. On January 13, 2023, the Tribunal issued an Order denying each motion in part because "there is a genuine issue of material fact relative to Petitioner's ownership of all the buildings, improvements, and fixtures as of December 31, 2020."

FINDINGS OF FACT

The following facts were proven by a preponderance of the evidence and concern only the evidence and inferences found to be significantly relevant to the legal issues involved:

1. The subject property is located in Eaton County.
2. The subject property contains the following seven parcels of property:
    a. Parcel No. 010-004-300-002-07. The property is located at 13014 Sunny Crest Lane and contains 1.220 acres of land and a house built in 2005. Pursuant to R13, this parcel is known as Parcel A.
    b. Parcel No. 010-004-300-002-08. This property is located at 13064 Sunny Crest Lane and contains .94 acres of land and a house and garage built in 2005. Pursuant to R13, this parcel is known as Parcel B.
    c. Parce No. 010-004-300-002-09. This property is located at 13094 Sunny Crest Lane and contains 1.17 acres of land and a house and garage built in 2009. Pursuant to R13, this parcel is known as Parcel C.
    d. Parcel No. 010-004-300-002-01. This property is located at 13097 Sunny Crest Lane and contains 1.2 acres of land and a house and garage built in 2018. Pursuant to R13, this parcel is known as Parcel D.
    e. Parcel No. 010-004-300-002-11. This property is located on Sunny Crest Lane with no specific address. This property does not contain a structure and consists solely of .87 acres of land. Pursuant to R13, this parcel is known as Parcel E.

[47] *Id*. at 640.

f. Parcel No. 010-004-300-002-12. This property is located at 13053 Sunny Crest Lane and contains 1.78 acres of land and a house and garage built in 2016. Pursuant to R13, this parcel is known as Parcel F.
g. Parcel No. 010-004-300-002-13. This property is located on Sunny Crest Lane with no specific address. This property contains 10.48 acres of land, four farm buildings and a hoop greenhouse. Pursuant to R13, this parcel is known as Parcel G.

3. Petitioner owned the subject property's improvements for the tax years at issue.
4. Petitioner acquired the land on October 13, 2021.
5. Petitioner is incorporated as a Michigan Nonprofit Corporation.
6. Pursuant to Petitioner's Articles of Incorporation, Petitioner is "organized and operated for the purpose of helping teens in crisis."
7. In 2007, Petitioner received a conditional use permit for the purpose of housing and providing services to disadvantaged male teens.
8. One of the conditions of the conditional use permit was that Petitioner maintain a license from the State of Michigan.
9. On or about February 24, 2009, Petitioner was licensed by the State of Michigan to operate a child caring institution. Pursuant to this license, Petitioner was permitted to operate a 30-bed child caring institution for males between 10 and 17 years of age (i.e., prior targeted population).[48]
10. On May 20, 2020, Petitioner was notified by the State of the intent to revoke its license. Petitioner did not contest this action and the revocation became final 30 days later.
11. On June 2, 2020, Petitioner's conditional use permit was revoked.
12. Thereafter, Petitioner changed the name of its program to "TimberCreek Ranch Independent Living." Petitioner also changed its operations, now gearing its services to males 18-24 years of age (i.e., newly targeted population). This change required changes to the services being provided and a reconfiguration of the property to promote independent living by the newly targeted population versus supervised dependent living by the prior targeted population.

CONCLUSIONS OF LAW

"A proceeding before the tribunal is original and independent and is considered de novo."[49] "Except as otherwise provided in this section or by law, for an assessment dispute as to the valuation or *exemption* of property, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (6)."[50] (emphasis added.) However, MCL 205.735a(4)(a) provides that:

> For an assessment dispute as to the valuation or exemption of property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as *commercial real property*, industrial real property, or

[48] R37.
[49] MCL 205.735a(2).
[50] MCL 205.735a(3).

> developmental real property, the assessment may be protested before the board of review *or appealed directly to the tribunal* without protest before the board of review as provided in subsection (6). (emphasis added.)

As provided in subsection (6):

> The jurisdiction of the tribunal in an assessment dispute as to property classified under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, as *commercial real property*, industrial real property, developmental real property, commercial personal property, industrial personal property, or utility personal property is invoked by a party in interest, as petitioner, filing a written petition on or before May 31 of the tax year involved."[51] (emphasis added.)

A review of the 2021 Notices of Assessment, Taxable Valuation, and Property Classification issued by Respondent for each of the seven parcels of property under appeal indicates that the subject property is classified as commercial. As such, Petitioner was not required to first protest the exemption before Respondent's BOR. Moreover, Petitioner filed its petition on April 21, 2021, before the May 31, 2021 deadline. Therefore, Petitioner properly invoked the Tribunal's jurisdiction for the 2021 tax year. As for the subsequent tax years, being tax years 2022 and 2023:

> A motion to amend a petition to add subsequent years is not necessary in the following circumstances:
>
> (a) If the tribunal has jurisdiction over a petition alleging that the property is exempt from taxation, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.[52]

Therefore, the Tribunal finds that it has jurisdiction to consider Petitioner's exemption appeal for the 2021, 2022, and 2023 tax years.

The General Property Tax Act (GPTA) provides that "all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation."[53] Thus, there can be no dispute that the subject property is subject to taxation unless expressly exempted. In determining whether a property is exempt, "[e]xemption

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[51] MCL 205.735a(6).
[52] MCL 205.737(5).
[53] MCL 211.1.

statutes are subject to a rule of strict construction in favor of the taxing authority,"[54] and taxpayers bear the burden of proving entitlement to an exemption. "[T]he preponderance of the evidence standard applies when a petitioner attempts to establish membership in an already exempt class."[55] Nonprofit religious and educational organizations, nonprofit charitable institutions, parsonages, and houses of public worship have all been recognized as exempt classes.[56]

As previously discussed, the burden of proof is broken down into two components. In *Jones & Laughlin,* the Michigan Court of Appeals held that:

> The tribunal correctly noted that the burden of proof was on petitioner, MCL § 205.737(3); MSA § 7.650(37)(3). **This burden encompasses two separate concepts**: (1) the burden of persuasion, which does not shift during the course of the hearing, **and** (2) **the burden of going forward with the evidence**, **which may shift to the opposing party**.[57]

Here, Petitioner contends that the subject property is exempt from ad valorem taxation because Petitioner is a charitable institution under MCL 211.7o(1), which provides 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.[58]

In other words, to qualify for a charitable institution exemption under MCL 211.7o(1), a taxpayer must satisfy the following three elements:

> (1) the real estate must be owned and occupied by the exemption claimant;
> (2) the exemption claimant must be a nonprofit charitable institution; and
> (3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated.[59]

As for the first element, although there were disputed issues relating to ownership, Petitioner had, as evidenced by the documentation submitted and testimony provided, an ownership interest in the subject property's improvements as of December 31, 2020. As such, Petitioner satisfies the first element relative to ownership of the

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[54] *Huron Residential Services for Youth, Inc v Pittsfield Charter Twp*, 152 Mich App 54, 58; 393 NW2d 568 (1986).
[55] *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).
[56] Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and MCL 211.7s.
[57] *Id*. at 354. (Emphasis added.)
[58] MCL 211.7o(1).
[59] *Wexford* at 203.

improvements for the 2021 tax year. Additionally, as of October 13, 2021, Petitioner owned both the subject property's improvements and the underlying land. Therefore, Petitioner satisfies the first element relative to both ownership of the improvements and land for the 2022 and 2023 tax years.

With respect to the third element, the subject property was, prior to the removal of Petitioner's licensure, occupied by the prior targeted population during a portion of the 2020 tax year. However, due to the loss of Petitioner's license and the conditional use permit, there is an unresolved discrepancy as to when the newly targeted population began to occupy the subject property. This discrepancy is due to Mr. Evan's testimony regarding the accuracy of Petitioner's records and the indication by those records that members of the newly targeted population did not start living at the property until after December 31, 2020.

Nevertheless, there was unrebutted testimony regarding the change in Petitioner's mission and the needed "ramping up" of the property to get it ready for young men living independently versus dependently. In that regard, MCL 211.53d(2) provides that:

> For taxes levied after December 31, 1997, the assessment roll for each tax year shall be corrected to reflect that improvements to real property assessed on that tax roll as partially completed new construction and the land on which the improvements are located are exempt from the collection of taxes under this act if the improvements and the land on which the improvements are located are determined to be exempt from taxes collected under this act on tax day in the year construction of the improvements was completed and the property was put to use.

Thus, MCL 211.53d(2) provides an exemption for the 2021 tax year given the necessary refiguration of the property (i.e., construction) to get the property ready for the newly targeted population during 2021 if the property is determined to be exempt from taxation on December 31, 2021.

Respondent argues that Petitioner cannot be deemed to occupy the subject property solely for the purposes for which it was incorporated when it has both lost its license to operate as a child caring institution and its conditional use permit. However, pursuant to its Articles of Incorporation, Petitioner's stated purpose, that it "is organized and operated for the purpose of helping teens in crisis" is so broad that it cannot be said that the help is such that it would require Petitioner to possess a license to achieve its mission. Moreover, there is no requirement under MCL 211.7o(1) that Petitioner maintain a license to qualify as a charitable institution.[60] And while there is a question as

[60] Compare, for example, MCL 211.7o(8), which provides an exemption for nursing facilities and specifically requires licensure.

to whether Petitioner can legally operate at the subject property with the loss of its conditional use permit, this issue is outside of the Tribunal's jurisdiction.

As for the second element, in determining whether an organization is a charitable institution, the Tribunal must determine whether the organization'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."[61] In *Wexford*, the Court found that this 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."[62] The Court further found that:

> 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.[63]

Considering the six-factor *Wexford* test, Respondent contends that Petitioner fails under factors 2 and 4. Respondent did not present any arguments regarding factors 1, 3, 5, or 6. Therefore, the Tribunal is satisfied that there is no genuine issue of

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[61] *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 673; 378 NW2d 737 (1985).
[62] *Wexford* at 214.
[63] *Id*. at 214-215.

material fact as this relates to those factors, and thus will limit its analysis to the factors under dispute.[64]

Under factor 2, Respondent contends that Petitioner's mission "dramatically changed without any changes to the actual underlying articles of incorporation or bylaws of the nonprofit." This contention requires the Tribunal to examine the definition of a charity as applied to a petitioner's articles of incorporation and bylaws. In *Retirement Homes v Sylvan Twp,*[65] the Michigan Supreme Court set forth 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.[66]

Therefore, when examining an organization's eligibility for a charitable institution exemption, the Tribunal must, as indicated above, determine whether the organization'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."[67] In *McLaren Regional Medical Center v City of Owosso,*[68] the Court of Appeals looked to the petitioner's Articles of Incorporation to ascertain the reasons for which they were organized. In the instant case, Petitioner's Articles of Incorporation indicate that they are "organized and operated exclusively for charitable and educational purposes . . . ."[69] The Articles further indicate that "[t]he Sunny Crest Youth Ranch is also organized and operated for the purpose of helping teens in crisis." Although the "mission" changed in 2020 from serving young men 10 to 17 years of age to serving young men 18 to 24 years of age, the same or essentially the same services were, as indicated by the evidence, being provided to give them the support they needed to learn to live independently and as productive members of society who could take care of themselves. This is consistent with Petitioner's unchanged Articles and Bylaws. Moreover, while the range of the age group served changed, the new age group still serves male teens, albeit a different subset of teens. As such, the Tribunal is satisfied that Petitioner meets the second *Wexford* factor.

Under factor 4, Respondent contends that Petitioner failed to demonstrate that it lessens the burdens of government given the demonstrated frequent need for police,

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[64] Although Petitioner's charitable services were limited to males, this limitation is not discriminatory in nature given issues relating to the housing of both genders.
[65] *Retirement Homes v Sylvan Twp*, 416 Mich 340; 330 NW2d 682 (1982).
[66] *Id*. at 348-349. (Emphasis in original).
[67] *Michigan United Conservation Clubs*, *supra at* 673.
[68] *McLaren Reg'l Med Ctr v City of Owosso*, 275 Mich App 401; 738 NW2d 777 (2007).
[69] P-1 and P-4.

EMS, and others to respond to issues at the properties and the cost of such responses to Respondent and other governmental entities. However, this contention ignores the plain language of the statute by requiring a quantification of the costs saved by a non-governmental organization providing charitable services compared to the costs incurred by a governmental organization providing services. It appears that the need for governmental services provided to the subject property was the result of the prior targeted population and not the services provided by Petitioner or Petitioner's charitable purposes. Further, the need for such responses has, as indicated by the evidence, diminished. Therefore, the Tribunal finds that Petitioner meets the fourth *Wexford* factor.

As for Respondent's arguments that the subject property's improvements become realty when they are affixed to the land, the Tribunal notes that after December 31, 2001, "buildings and improvements exempt under section 9f or improvements assessable under subdivision (h) and located on leased real property shall be assessed as personal property."[70] Subdivision (h) provides that:

> During the tenancy of a lessee, leasehold improvements and structures installed and constructed on real property by the lessee, provided and to the extent the improvements or structures add to the true cash taxable value of the real property notwithstanding that the real property is encumbered by a lease agreement, and the value added by the improvements or structures is not otherwise included in the assessment of the real property or not otherwise assessable under subdivision (j). The cost of leasehold improvements and structures on real property shall not be the sole indicator of value. Leasehold improvements and structures assessed under this subdivision shall be assessed to the lessee.

However, this does not mean that the assessor erred in the assessment. Without a copy of the First Amendment to Residential & Land Lease[71] or the Memorandum of Lease,[72] there is no way that the assessor would have known that Petitioner owned the improvements or that they should have been assessed to Petitioner and not to Charles R Coppess *et al*. Importantly, there is no evidence that the assessor was provided copies of these documents prior to the commencement of this proceeding.

Finally, during its closing argument, Respondent argued that because there was a transfer of ownership, there was an uncapping event. The Tribunal agrees. According to the October 13, 2021 Quit Claim Deeds,[73] the subject property was transferred from Charles R. Coppess and Kathleen Coppess, and Ronald L. Coppess and Ellyn K. Coppess, to Petitioner. Pursuant to MCL 211.27a(6)(a), this was a transfer of ownership

[70] MCL 211.8(d).
[71] P7.
[72] P29.
[73] P45.

that triggered the uncapping of the subject property's 2022 TV as provided in MCL 211.27a(3).[74]

Given the above, the Tribunal finds that Petitioner has proven by a preponderance of the evidence that: (i) it owned the subject property's improvements on December 31, 2020; (ii) it owned both the subject property's improvements and land as of December 31, 2021; and (iii) it met the criteria of a charitable institution as required by MCL 211.7o. Therefore, as provided by MCL 211.7o, the subject property is partially exempt from taxation for the 2021 tax year (i.e., improvements only) and fully exempt from taxation for the 2022 and 2023 tax years (i.e., land and improvements).[75]

JUDGMENT

IT IS ORDERED that Respondent's Motion for Directed Verdict is DENIED.

IT IS FURTHER ORDERED that the subject property's TV for the tax years at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment, and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) December 31, 2019, through June 30, 2020, at the rate of 6.40%, (ii) after June 30, 2020, through December 31, 2020, at the rate of 5.63%, (iii) after December 31, 2020, through June 30, 2022, at the rate of 4.25%, (iv) after June 30, 2022, through December 31, 2022, at the rate of 4.27%, (v)

[74] The Tribunal does not find the September 3, 2020 Quit Claim Deeds (R13) qualify as a transfer of ownership as the Grantors and the Grantees are the same parties, with no change in ownership structure among them.
[75] MCL 205.737(5)(a).

after December 31, 2022, through June 30, 2023, at the rate of 5.65%, (vi) after June 30, 2023, through December 31, 2023, at the rate of 8.25%, and (vii) after December 31, 2023, through June 30, 2024, at the rate of 9.30%.

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 filing such motions is $50.00 in the Entire Tribunal. 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.

Alternatively, you may file a claim of appeal with the Michigan Court of Appeals. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal of right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." A copy of the claim of appeal must be filed with the Tribunal to certify the record on appeal. There is no certification fee.

By Patricia L. Haem

Entered: February 23, 2024

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