Fossores,
Petitioner,

v

City of Jackson,
Respondent.

MICHIGAN TAX TRIBUNAL

MTT Docket No. 23-000609

Presiding Judge
Patricia L. Halm

ORDER DENYING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(8)

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION UNDER MCR 2.116(C)(10)

FINAL OPINION AND JUDGMENT

INTRODUCTION

The dispositive legal question in this case is whether the subject property qualifies for a property tax exemption for the 2023 tax year under MCL 211.7s as a house of public worship. The subject property is located at 505 Wildwood Avenue, Jackson, Michigan, and is known as Parcel No. 2-005700000. While the subject property is classified as commercial, it contains a residential structure that is listed on the National Register of Historic Places.[1] According to Airbnb, the subject property is available to rent as a vacation rental. The structure contains 8,000 square feet with 9 bedrooms, 2 full bathrooms, 3 half bathrooms, and multiple living spaces. Other amenities include:

> OUTDOOR LIVING: Patio, bistro lighting, patio furniture, front porch, fire pit table, bench swing, front yard, dining area, gas grill
> INDOOR LIVING: Smart TV, gas fireplaces, piano, original hardwood flooring, dining tables, books, board games, chalkboards, game area w/ ping pong table & arcade cabinet w/ game console, home gym w/ machines, exotic art
> KITCHEN: Dishwasher, microwave, Keurig & drip coffee makers, wine fridge, water filter, toaster, countertop oven, cooking basics, dishware & flatware, pans, baking utensils, olive oil & spices, spatulas, oven mitts
> GENERAL: Free WiFi (high speed), central heating & air conditioning,

[1] Respondent's motion at 5, citing "Stunning Historic Home w/ Original Features! - Houses for Rent in Jackson, Michigan, United States - Airbnb (last accessed November 7, 2023)."

linens & towels, keyless entry
FAQ: Stairs required to enter & access all bedrooms, 2 exterior security cameras (facing out)
PARKING: Parking lot (ample spaces)[2]

Fossores (Petitioner) acquired the subject property on January 14, 2019. Thereafter, the City of Jackson (Respondent) exempted the subject property from property taxes under MCL 211.7s. However, as explained below, in 2023, Respondent revoked the exemption and placed the property back on the tax roll. Petitioner appealed the denial to the Tribunal on April 14, 2023.

On November 30, 2023, Respondent filed a Motion for Summary Disposition pursuant to MCR 2.116(C)(8) and (C)(10). Specifically, Respondent contends that it is entitled to summary disposition as the subject property is advertised and available online as a commercial vacation rental. As a result, the property is predominantly used as a housing rental and not for religious purposes as required under MCL 211.7s.

On December 1, 2023, Petitioner filed a Motion for Summary Disposition pursuant to MCR 2.116(C)(10), arguing that as an organization whose purpose is to provide "coaching, training, and resources that cultivate the undifferentiated wholeness of work, art, and faith,"[3] the subject property qualifies for a property tax exemption under MCL 211.7s as its predominate use is for religious services and the teaching of religious truths and beliefs.

On January 5, 2024, the parties filed briefs in response to the opposing party's Motion for Summary Disposition.

The Tribunal has reviewed the motions, the responses, and the evidence submitted and finds that Petitioner's Motion for Summary Disposition must be denied. The Tribunal further finds that Respondent's Motion for Summary Disposition under MCR 2.116(C)(8) must be denied, while its Motion for Summary Disposition under MCR 2.116(C)(10) shall be granted.

RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

Respondent contends that the subject property does not qualify for a property tax exemption under MCL 211.7s because it is not used predominantly for religious purposes. Respondent acknowledged that the subject property was previously granted an exemption but changed its position in this regard in December 2022, when, through a local media report about an incident at the subject property, Respondent's assessor became aware that the subject property was "being utilized as a commercial income producing vacation rental property."[4] Once it was determined that the subject property

[2] *Id*.
[3] Petitioner's motion at 2.
[4] Respondent's motion at 5 and 6.

was being offered commercially, independent of religious services, Respondent denied Petitioner's tax exemption under MCL 211.7s.

In support of its Motion for Summary Disposition, Respondent submitted evidence that the subject property was listed on various vacation rental websites.[5] The listings indicate a price point of $496 per night with a two-night minimum stay. The listings further indicate an availability spanning September through December 2022.[6] A review of the Airbnb website indicates that the subject property is available for rent by the public and has been rented through November 2024. Respondent argues that the fact that the subject property remains available for rent further proves that it is used as an income-producing commercial rental. Although Petitioner is adamant that the subject property is "predominantly used" for religious services, Respondent's motion indicates that the subject property is available for vacation rental purposes "249 out of 365 days – 68% of the time."[7] Respondent argues that the subject property cannot be "predominantly used" for religious purposes and at the same time offered to the general public as an income-producing commercial vacation rental.[8]

According to Petitioner's discovery responses, Petitioner began advertising the subject property as an income-producing vacation rental on August 26, 2022.[9] However, Petitioner did not provide any evidence pertaining to rental income generated in 2022. Respondent asserts that by failing to produce any financial documents (i.e. tax records, booking confirmations, rental ledgers, etc.) related to the subject property, Petitioner has not proven by a preponderance of evidence that it is entitled to an exemption.

Respondent also contends that the subject property does not contain any "offices or meeting rooms specific to Petitioner's religious mission."[10] While the subject property is lacking any "sanctuary, pulpit, or conference rooms," the property offers multiple bedrooms and bathrooms, and has "a ping-pong table; arcade cabinet with game console; home gym with machines; wine fridge; coffee maker; kitchen; and outdoor patio area with barbeque grill," all items indicative of a vacation property.[11]

Accordingly, because Petitioner has not shown that it is entitled to an exemption under MCL 211.7s, Respondent requests that the subject properly be "placed on the ad valorem property tax roll like all other commercial rental properties within the City."[12] Respondent asks that the Tribunal grant summary disposition in its favor pursuant to

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[5] *Id.* Exhibit 6.
[6] *Id.* Exhibit 8.
[7] *Id*. at 9.
[8] Respondent relies on *Michigan Christian Campus Ministries, Inc v Mount Pleasant,* 110 Mich App 787; 314 NW2d 482 (1981), and *Institute in Basic Life Principles v Watersmeet Township,* 217 Mich App 7; 551 NW2d 7 (1996), to conclude that, based on its availability and advertisement, the subject property's predominate use is as a vacation rental to the general public.
[9] Respondent's motion, Exhibit 8.
[10] *Id*. at 11.
[11] *Id*.
[12] *Id*. at 7.

MCR 2.116(C)(8) and (C)(10), and deny Petitioner's request for a tax exemption under MCL 211.7s.

Respondent submitted the following exhibits in support of its motion:

Exhibit 1: Petitioner's August 16, 2018 Internal Revenue Service letter, granting it an exemption under 501(C)(3).
Exhibit 2: Petitioner's Articles of Incorporation, signed October 7, 2013.
Exhibit 3: Trustee's Deed, dated January 18, 2019, transferring the subject property to Petitioner.
Exhibit 4: Assignment of Leases and Rents, dated August 3, 2021.
Exhibit 5: M Live Article, dated December 28, 2022, including photographs.
Exhibit 6: Vacation rental platform postings from Airbnb and Evolve, indicating the subject property's rental availability.
Exhibit 7: Photographs of the subject property.
Exhibit 8: Petitioner's Answers to Respondent's First Set of Interrogatories and Request for Production of Documents, dated August 7, 2023.
Exhibit 9: Reviews of the subject property on Airbnb.

PETITIONER'S RESPONSE

In its response, Petitioner argues that MCL 211.7s requires consideration of how the property is predominantly "used," meaning that speculation regarding the subject property's future use is not permissible. Petitioner argues that if future use is considered, every church would be subject to taxation as it would be possible for churches to be "rented" for more weddings and funerals than church services. Moreover, Respondent's claim that the subject property does not offer a sanctuary or pulpit is unfounded. Respondent's lack of information does not mean that the amenities do not exist.

In response to Respondent's arguments regarding lack of financial evidence, Petitioner argues that it "is a church run by a pastor, not an accounting firm run by a CPA . . . ."[13] According to Petitioner, Respondent failed to word its requests for production properly and failed to follow up on Petitioner's responses.[14] Petitioner states that there is no paper-based documentation because revenue generated from renting the subject property was deposited directly into Petitioner's bank account and reported on Petitioner's tax return. Petitioner contends that its earnings from religious retreats was more than five times greater than what Petitioner earned as a vacation rental.[15] Similarly, its earnings from teaching and counseling were more than ten times greater than what it earned as a vacation rental.[16]

[13] Petitioner's response at 2.
[14] *Id*.
[15] *Id*.
[16] *Id*.

Finally, in response to Respondent's argument regarding the lack of a sanctuary, etc., Petitioner argues that several affidavits were submitted in support of Petitioner's motion. These affidavits were signed by people who have conducted or attended religious services, conferences or retreats at the subject property. Petitioner requests that after considering all the evidence, the Tribunal dismiss Respondent's motion.

Petitioner submitted the following exhibits in support of its response:

Exhibit 1: Petitioner's 2022 tax forms.
Exhibit 2: Affidavit of Lonny Bumgardner, dated December 29, 2023.

PETITIONER'S MOTION FOR SUMMARY DISPOSITION

Petitioner is a Michigan domestic nonprofit corporation, established in 2013 by Rev. Dr. David M. McDonald. Petitioner is also a 501(C)(3) organization whose purpose is to provide "coaching, training, and resources that cultivate the undifferentiated wholeness of work, art, and faith."[17] Petitioner purchased the subject property, referred to as the "Chapter House," in January 2019. After extensively renovating the subject property, it was first used in August 2019 by Petitioner to host pastors from across the United States. According to Petitioner, the subject property "has been in continuous use since that time as the venue for religious activities consistent with the purpose of the organization."[18] In August 2022, Petitioner began renting the subject property to the general public.

In its motion, Petitioner indicates it uses the subject property in a multitude of ways. Petitioner contends that in addition to hosting spiritual retreats:

- In 2022, we hosted 3 retreats for laypeople/parishioners, totaling 9 days
- In 2022, we hosted 7 private retreats for churches, seminaries, and other religious non-profits totaling 31 days
- In 2022, we hosted 11 retreats for clergy totaling 46 days

Additionally, the Chapter House is in use weekly:

- As the office of Dr. David McDonald, where he accepts coaching and counseling clients from among clergy (both locally and non-locally), an average of 22 hours per week
- As the teaching center of Fossores, where classes and seminars are held both in person and virtually ("virtually" meaning David McDonald is present at the property but other participants engage remotely), an average of 13 hours per week

[17] Petitioner's motion at 2.
[18] *Id*.

Additionally, the Chapter House is used intermittently:

- For meetings of the board of directors of the organization monthly
- For religious services open to the public on a quarterly basis
- For religious services open [to] the public on a seasonal basis, i.e., daily during Holy Week (the week leading up to Easter)
- For other concerts or events of a religious nature, open to the public, on an intermittent basis
- For fundraising events that support the operations of the organization, both open to the public and those for which a fee is required, on an intermittent basis.[19]

According to Petitioner, in 2022, the subject property was rented for private use six days. In 2023, as of November 30, 2023, the number of days increased to 32.[20] During that same time, the number of days the subject property was used for religious retreats increased from 40 to 86,[21] and the number of days it was used for other religious purposes increased to 189 days. Thus, the subject property was used for religious purposes 81.7% of the time from January 1, 2023, through November 30, 2023, and used for nonreligious purposes 10.2% of the time.[22]

Petitioner asserts that there are no genuine issues of material fact as to its use of the subject property. Therefore, Petitioner is entitled to summary disposition as a matter of law in accordance with MCR 2.116(C)(10).

Petitioner submitted the following exhibits in support of its motion:

Exhibit 1:	Respondent's Answer to Petitioner's First Set of Discovery Requests, dated June 13, 2022.
Exhibit 2:	Letter from the City Attorney's Office, dated July 6, 2023.
Exhibit 3:	Petitioner's Answers to Respondent's First Set of Interrogatories and Request for Production of Documents, dated August 7, 2023.
Exhibit 4:	Affidavit of Ryan L. Phillips, dated December 1, 2023.
Exhibit 5:	Affidavit of Daniel Schultz, dated November 30, 2023.
Exhibit 6:	Affidavit of Kelly Heath, dated December 1, 2023.
Exhibit 7:	Affidavit of Dallas Flippin, dated December 1, 2023.
Exhibit 8:	Affidavit of Greg Gallagher PhD, dated December 1, 2023.
Exhibit 9:	Affidavit of Joshua Kirchmeier, dated November 30, 2023.

[19] *Id*. at 5-6.
[20] *Id*. at 6.
[21] The Tribunal notes that Petitioner's motion indicates that the subject property was used for religious retreats 84 days in 2022. However, Petitioner's response to Respondent's interrogatory #4 indicates 86 days.
[22] *Id*.

RESPONDENT'S RESPONSE

In its response, Respondent describes the subject property as a residence, "primarily designed, furnished, and utilized for residential purposes."[23] And although the subject property is residential in nature, it is not a parsonage, nor is it used "predominantly for 'religious services' such as a church, sanctuary, or worship hall."[24]

Respondent argues that Petitioner acknowledges in its motion that the subject property is listed "for rent as an income producing vacation property, unrelated to any religious use."[25] According to Respondent, as of January 2, 2024, the subject property was "vacant and available as a vacation rental 60.27% of the year (220 out of 365 days) in 2024."[26] Respondent disagrees with Petitioner's argument that making the subject property available to rent on a vacation rental platform does not negate the fact that the property is "predominantly used" for religious activities because the property is not booked every day it is offered for rent. "If the Property is vacant and available to be booked by the public at least 60% of the calendar year as a vacation rental, it is predominantly a vacation rental."[27] Respondent argues that the nature of the subject property does not change just because it may not be booked by the general public every day that it is offered and available for rent. By way of example, consider a motel that offers all its rooms for rent but has zero occupancy because of poor management. The motel is still used as a motel by its owner.

Respondent further argues that renting the subject property as a vacation rental for non-religious activities is inconsistent with Petitioner's Articles of Incorporation. According to Petitioner's website, of the 29 retreats offered in 2024, 18 were open to the public, with topics that were not specific to any one religion or religious society.[28] "Retreat topics include public speaking, overcoming adversity, happiness, teams, craftsmanship, writing, songwriting, design and experience."[29] Respondent contends that Petitioner's argument that church buildings are often rented for religious ceremonies, such as a wedding, is misplaced as churches "don't advertise their pulpits or parsonage for rent by the public as a vacation getaway on commercial websites . . . ."[30]

Respondent points to the police report from the December 2022 incident involving damage to the subject property as an indication of how Petitioner actually views the subject property. According to the report, Petitioner's founder, Rev. Dr. David McDonald, referred to the subject property as "an AirBnB," and advised the police officer that an Airbnb guest had rented the subject property for December 24-25, and

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[23] Respondent's reply brief at 2.
[24] *Id*.
[25] *Id*. at 1.
[26] *Id*. at 1-2.
[27] *Id*. at 3.
[28] *Id*. at 2-3.
[29] *Id*.
[30] *Id*. at 4.

had "trashed" the property. Tellingly, Rev. Dr. McDonald did not describe the subject property as a parsonage or a building used for religious services.

Finally, Respondent addressed an affidavit submitted in support of Petitioner's motion. This affidavit is signed by Petitioner's representative in this matter, Ryan L. Phillips, who is a "stated fact witness and member of Petitioner's board of directors."[31] In accordance with MRPC 3.7(a), Respondent questions whether Petitioner's representative can or should continue to represent Petitioner in the instant appeal.

Respondent submitted the following exhibits in support of its response:

Exhibit 1: Vacation rental platform postings, indicating the subject property's availability.
Exhibit 2: Flyer advertising the subject properties events.[32]
Exhibit 3: December 2022 Police Report.

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.[33] In this case, both parties move for summary disposition under MCR 2.116(C)(10), and Respondent additionally moves for summary disposition under MCR 2.1116(C)(8).

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

> A motion for summary disposition under MCR 2.116(C)(8) tests the legal sufficiency of a complaint. Under this subrule "[a]ll well-pleaded factual allegations are accepted as true and construed in a light most favorable to the nonmovant." When reviewing such a motion, a court must base its decision on the pleadings alone. In a contract-based action, however, the contract attached to the pleading is considered part of the pleading. Summary disposition is appropriate under MCR 2.116(C)(8) "if no factual development could possibly justify recovery." [34]

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

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[31] *Id*.
[32] The Tribunal notes that this document relates to events held during 2024, not 2023, and as such shall be given no weight.
[33] See TTR 201.
[34] *Liggett Restaurant Group, Inc v City of Pontiac*, 260 Mich App 127, 133; 676 NW2 633 (2003) (citations omitted).

judgment as a matter of law."[35] In *Quinto v Cross and Peters Co*,[36] the Michigan Supreme Court 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.
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> 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).
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> 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 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.[37]

"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."[38] 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."[39] "Instead, the court's task is to review the record evidence, and

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[35] *Id*.
[36] *Quinto v Cross and Peters Co*, 451 Mich 358; 547 NW2d 314 (1996) (citations omitted).
[37] *Id*. at 361-363. (Citations omitted.)
[38] *West v General Motors Corp*, 469 Mich 177; 665 NW2d 468 (2003).
[39] *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; 516 NW2d 475 (1994).

all reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial."[40]

Summary disposition under MCR 2.116(I)(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."[41] Thus, under this rule the court may render judgment in favor of the opposing party.

CONCLUSIONS OF LAW

The General Property Tax Act (GPTA)[42] provides "[t]hat all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation."[43] "The 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 . . . ."[44] "When a taxpayer seeks [a tax] exemption, that taxpayer has the burden of proving entitlement to it by a preponderance of the evidence."[45] "Preponderance of the evidence" is defined as:

> The greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.[46]

In this case, Petitioner seeks a property tax exemption under MCL 211.7s, which states:

> Houses of public worship, with the land on which they stand, the furniture therein and all the 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.

Thus, the statute's first sentence exempts the following: houses of public worship, the land on which a house of public worship stands, furniture and pews in a house of public worship, and a parsonage owned and occupied as a parsonage by a religious society. Petitioner does not contend that subject property is a parsonage,

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[40] *Id.*
[41] See also *Washburn v Michailoff*, 240 Mich App 669; 613 NW2d 405 (2000).
[42] MCL 211.1 *et seq*.
[43] MCL 211.1.
[44] MCL 211.2(2).
[45] *Church v Township of Forester*, unpublished per curiam opinion of the Court of Appeals, issued September 30, 2024 (Docket No. 366944), at *3, citing *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).
[46] *Black's Law Dictionary* (12th ed).

therefore it must be determined whether the property otherwise qualifies as a "house of public worship." Under the statute, buildings and other facilities are a "house of public worship" if they are (1) owned by a religious society, and (2) used predominantly for (a) religious services, or (b) teaching the religious truths and beliefs of the society.

There is no dispute that Petitioner owns the subject property.[47] Therefore, the next question is whether Petitioner is a "religious society." As discussed, Respondent denied Petitioner's exemption request due to Petitioner's use of the subject property and not because of Petitioner's status as a religious society. Also, Respondent did not contest Petitioner's status as a religious society in its motion or response. However, proceedings before the Tribunal are "original and independent and [are] considered de novo."[48] According to *Black's Law Dictionary*:

> When a court engages in **de novo** review of a legal issue, it makes an independent determination without deference to any earlier analysis about the matter. It is treated as if no previous decision had been made: there is no presumption of the correctness or validity of any prior finding, recommendation, or conclusion.[49]

Thus, notwithstanding the reason why Respondent denied the exemption, the Tribunal must make an independent determination regarding Petitioner's eligibility for the exemption. In other words, the Tribunal's de novo review requires Petitioner to prove by a preponderance of the evidence that it meets *every* element of the exemption.

MCL 211.7s does not define "religious society." "When the Legislature does not define terms in a statute, courts may consult a dictionary to learn their 'common and approved usage.'"[50] "Religious society" is defined as "a church, congregation, or other religious society of persons professing or adhering to a religion or religious faith."[51]

In *Institute in Basic Life Principles,* the Court recognized that the statute does not define the term "religious society," and explained that "the usage of the term in the second quoted sentence suggests that the *key test* is whether an organization or association engages in *teaching* religious truths and beliefs."[52] The Court held "that an association or organization qualifies as a 'religious society' for purposes of the house of public worship tax exemption if its *predominant* purpose and practice include teaching religious truths and beliefs."[53] To determine the petitioner's predominant purpose and practice, the Court considered the petitioner's purpose as set forth in its Certificate of Incorporation and bylaws, as well as its actions in furtherance of that purpose.

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[47] While Petitioner did not submit evidence that it owns the subject property, such evidence was provided as part of Respondent's motion. See Exhibit 3.
[48] MCL 205.735a(2).
[49] *Black's Law Dictionary* (12th ed). (Emphasis in original.)
[50] *Alvan Motor Freight v Department of Treasury*, 281 Mich App 35, 43; 761 NW2d 269 (2008). See also MCL 8.3a.
[51] *Law Insider* online dictionary, https://lawinsider.co/dictionary, (assessed September 26, 2025).
[52] *Institute in Basic Life Principles, Inc,* 217 Mich App at 14. (Emphasis added.)
[53] *Id*. (Emphasis added.)

According to the petitioner's bylaws:

> The purposes of this Corporation as stated in its Certificate of Incorporation are to introduce youth and parents to God's basic way of life through the Gospel of the Lord Jesus Christ; to give clear instruction on how to apply God's basic principles of life as revealed in the Scriptures, to develop meetings, seminars, radio broadcasts, television productions, printed literature, teaching curriculum, books, and other forms of media, producing or otherwise obtaining same as required; and to establish, organize and operate facilities for the training of personnel to accomplish the above and for the enrichment of youth, their families, their churches, their schools and their communities.[54]

Ultimately, the Court held that the petitioner, who was not a church and did not represent a specific religious denomination, qualified as a religious society. The Court held that "[b]ecause petitioner's purpose is to teach religious principles," it fell within the definition of a religious society.[55]

In *Prophetic Word Ministries, Inc v City of Saugatuck*,[56] the Court again considered the petitioner's bylaws in determining whether the petitioner was a religious society. The Court referred to these bylaws, which "indicate that [the petitioner's] mission includes establishing churches and ministries to win over those lost to Jesus Christ, to train and ordain all aspects of ministries, to have ministry schools, and to help underprivileged people."[57]

While decided on a question of use, the Court in *Lake Louise Christian Community v Hudson Township*[58] also considered the petitioner's Articles of Incorporation. These Articles stated, in part, that the petitioner's purpose was "[t]o act as a special religious union, not being a church but having for its object the teaching of religious principles and associating together for religious work . . . ."[59]

In *Self Realization Meditation Healing Centre*, the Court also considered the petitioner's Articles of Incorporation to determine its purpose. According to these Articles, the petitioner was organized:

> [T]o provide support to the general public and to those who are suffering on any level, to assist those who seek inner knowledge and personal growth in the pursuit of peace, health and happiness through meditation, yoga and spiritual living. The corporation is organized . . . for religious, charitable,

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[54] *Id*. at 15.
[55] *Id*. at 16.
[56] *Prophetic Word Ministries, Inc v City of Saugatuck,* unpublished per curiam opinion of the Court of Appeals, issued April 17, 2014 (Docket No. 313706).
[57] *Id*. at *4.
[58] *Lake Louise Christian Community v Hudson Township,* 10 Mich App 573; 159 NW2d 573 (1968).
[59] *Id*. at 578.

scientific, literary and educational purposes.[60]

After reviewing the Articles, the Court determined that the petitioner's nature was not religious. Instead, the Court concluded that the Articles included a variety of other purposes and that the petitioner's teachings were as much philosophy as religion.

In its response to Petitioner's motion, Respondent cites Petitioner's website and materials to assert that Petitioner's teachings and practices are not specific to teaching specific religious truths and beliefs, and points to Petitioner's retreat topics which include "public speaking, overcoming adversity, happiness, teams, craftsmanship, writing, songwriting, design and experience."[61] Thus, while Respondent did not deny Petitioner's exemption for this reason, Respondent questions whether the teachings at the subject property support Petitioner's religious truths and beliefs.[62]

A review of Petitioner's Articles of Incorporation (Articles) indicate that Petitioner is organized for the purpose of providing "coaching, training, and resources that cultivate the undifferentiated wholeness of work, art, and faith."[63] The Tribunal notes that Respondent, not Petitioner, submitted Petitioner's Articles. Petitioner also failed to submit its bylaws or any other documentation that would assist in interpreting its purpose, which is vague and capable of multiple interpretations. Taking Petitioner's Articles at face value, Petitioner's purpose is to provide:

- coaching, training, and resources that cultivate the undifferentiated wholeness of *work*;
- coaching, training, and resources that cultivate the undifferentiated wholeness of *art*; and
- coaching, training, and resources that cultivate the undifferentiated wholeness of *faith*.

With work, art, and faith each representing one-third of Petitioner's purpose, it cannot be said that faith is Petitioner's predominant purpose.

Moreover, even if Petitioner's purpose is interpreted to mean that faith is somehow intertwined with work and art, Petitioner provided no evidence as to what it means by "faith." "Faith" has many definitions, one of which is the "belief in the traditional doctrines of a religion."[64] Even if it is assumed that this definition is applicable, Petitioner provided no evidence as to its faith. In its responses to

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[60] *Self Realization Meditation Healing Centre* at *1.
[61] Respondent's reply brief at 2-3; Respondent's Exhibit 2.
[62] In *Self Realization Meditation Healing Centre v Bath Township*, unpublished per curiam opinion of the Court of Appeals, issued June 21, 2011 (Docket No. 297474), the petitioner's Articles of Incorporation list the petitioner's purpose, in part, as assisting in the pursuit of "happiness through meditation, yoga and spiritual living." *Id*. at *1. The respondent argued that "to qualify as a religious organization the entity must relate to religion and not merely happy thoughts." *Id*. *6.
[63] Respondent's motion, Exhibit 2.
[64] *Merriam-Webster* Online Dictionary, https://www.merriam-webster.com/dictionary (accessed September 26, 2025).

Respondent's interrogatories, Petitioner indicated that the subject property "hosts Christian spiritual retreats,"[65] and that activities related to the Christian faith are held at the subject property. However, these responses indicate that Petitioner assists others in their faiths and that the subject property is used as a venue for Christian activities; there is no evidence that this is Petitioner's faith.

Finally, unlike the petitioner in *Institute in Basic Life*, there is no evidence that Petitioner meets the "key test" in determining whether an organization is a religious society, namely that it its "*predominant* purpose and practice include teaching religious truths and beliefs."[66] In its responses to Respondent's First Set of Interrogatories, Petitioner states that the subject property is used "[a]s the teaching center of Fossores, where classes and seminars are held both in person and virtually . . . an average of 13 hours per week."[67] Thus, even if Petitioner had provided evidence as to what these classes and seminars entailed, this is not Petitioner's predominant purpose. Moreover, MCL 211.7s requires that Petitioner teach *its* religious truths and beliefs, which again, has not been proven.

For these reasons, Petitioner failed to prove by a preponderance of the evidence that it is a religious society.

Even if Petitioner is ultimately determined to be a religious society, the subject property does not meet the second requirement of MCL 211.7s, specifically that it be used predominantly for (1) religious services, or (2) teaching Petitioner's religious truths and beliefs. Beginning with religious services, Petitioner relies on affidavits to support its contention that religious services are held at the subject property. For example, Kelly Heath's affidavit states that an "All-Saints Day" service and a "Blessing of the Animals" service took place at the subject property in 2023.[68] Dallas Flippin's affidavit indicates that he is a Pastor at the First Baptist Church in Jackson and that he held a service at the subject property in 2023 on Holy Saturday. Other than these affidavits, Petitioner submitted no evidence showing when and to what extent religious services actually occurred at the subject property. Petitioner's responses to Respondent's interrogatories indicate that "religious services are open to the public on a quarterly basis" and also on a seasonal basis.[69] However, Petitioner itself characterized the use of the subject property for these religious services as "intermittently."[70] Thus, while there is some indication that religious services have been held at the subject property, it cannot be said from Petitioner's documentary evidence that the subject property is predominantly used for this purpose. Given this, Petitioner did not meet its burden of proof in establishing that the subject property was used predominantly for religious services.

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[65] Petitioner's motion, Exhibit 3.
[66] *Institute in Basic Life* at 14.
[67] Petitioner's motion, Exhibit 3, interrogatory #4.
[68] *Id.* Exhibit 6.
[69] *Id.* Exhibit 3, interrogatory #4.
[70] *Id.*

Petitioner utilized the same documentary evidence in support of its position regarding teaching religious truths and beliefs.[71] Having considered the affidavits, the Tribunal finds that the affidavits submitted by Ryan L. Phillips, Greg Gallagher, Ph.D., and Joshua Kirchmeier do not contain any statements relating to the subject property's actual use.[72] While the remaining affidavits contain some such statements, for the most part they lack specific information and do very little to support Petitioner's position. Finally, it cannot be found that the subject property is used to teach *Petitioner's* religious truths and beliefs when Petitioner has provided no evidence as to what those religious truths and beliefs comprise. For these reasons, Petitioner has not met its burden of proof in establishing that the subject property is used predominantly for teaching Petitioner's religious truths and beliefs.

Even if Fossores' religious truths and beliefs were known, it cannot be said that the subject property is used predominantly for teaching those truths and beliefs. "Predominantly" is defined as "for the most part; mainly."[73] "Used" is the past tense of "use," which is defined in part as to "avail oneself of," or "to expend or consume by putting to use."[74] Petitioner argues that because the Legislature utilized the past tense of "use," the Tribunal must "consider the actual, historical usage of the Property, [not] engage in speculation as to [its] potential for use."[75] Petitioner argues that such speculation would not inform the Tribunal of the subject property's actual use.

To some extent, Michigan courts have agreed with Petitioner. For example, in *St. Paul's Lutheran Church v City of Riverview*,[76] the issue was whether a parcel of land upon which the petitioner intended to construct a church was exempt under MCL 211.7s. The Court held that it was not, stating that "the church is entitled to an exemption for the property only after the house of public worship is actually constructed and used for religious services or instruction."[77] However, the facts in *St. Paul's Lutheran Church* are distinguishable from the instant case as the subject property is not a vacant parcel of land.[78] Instead, there is a house located on the subject property that was constructed so long ago that it is on the National Register of Historic Places. Further, contrary to Petitioner's argument, the Tribunal needs not speculate as to the subject property's use as it is undisputed that its use changed as of August 26, 2022, when it was first offered for rent to the general public through Airbnb.

According to Petitioner, in 2022, it used the subject property to host retreats 86 days.[79] In addition, the subject property was used as Petitioner's teaching center where

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[71] *Id.* at 7.
[72] *Id.* Exhibits 4, 8, and 9.
[73] *Id*.
[74] *Merriam-Webster* Online Dictionary, https://www.merriam-webster.com/dictionary (accessed September 26, 2025).
[75] Petitioner's motion at 3.
[76] *St. Paul's Lutheran Church v City of Riverview,* 165 Mich App 155; 418 NW2d 412 (1987).
[77] *Id*. at 157.
[78] See *St. Matthew's Lutheran Church of Walled Lake v City of Wixom*, (MTT Docket No. 285077), issued June 6, 2003.
[79] Petitioner's motion, Exhibit 3, interrogatory #4.

classes and seminars were held both in person and virtually for an average of 13 hours a week.[80] Finally, Petitioner contends that Rev. Dr. McDonald used the subject property for coaching and counseling services 22 hours a week.[81] In comparison, the subject property was rented for private use for only six days.[82] Thus, if the Tribunal were to adopt Petitioner's argument that the subject property's exempt status is based on how it was "used," the subject property would be exempt for the 2023 tax year. However, Petitioner submitted no documentation to support these contentions.[83]

Petitioner argued that in 2023, there was an "overwhelming disparity in favor of use for religious as opposed to nonreligious purposes."[84] Specifically, the subject was used for religious retreats 86 days and used for other religious purposes 189 days.[85] In comparison, the subject property was rented for private use for 32 days. Petitioner contends that this equates to the subject property being used for religious purposes 81.7% of the year and for non-religious (rental) purposes 10.2% of the year.[86] However, Petitioner again failed to provide any evidence, such as booking information or rental agreements, that would support these statements.

Respondent, on the other hand, contends that the subject property is advertised as available as a short-term vacation rental the majority of the year.[87] According to Petitioner's Answers to Respondent's First Set of Interrogatories, the subject property was advertised as available for rent on Airbnb for the entire months of September, October, November, and December 2022.[88] Respondent submitted documentary evidence that supported Petitoner's answer, in addition to evidence that the subject property continued to be offered for rent via Airbnb and Evolve[89] through December 2024.[90] Importantly, Petitioner did not dispute this evidence.

While it appears from the rental website calendars submitted by Respondent that there were days the subject property was not available for rent, Petitioner offered no explanation as to whether the property was already rented on those days or whether Petitioner took the property off the market to utilize for its own purposes. Instead, Petitioner asserts that "the property was available for rent, but only on certain days; i.e.

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[80] *Id*.
[81] *Id*.
[82] *Id*. interrogatory #3.
[83] Apparently, such documentation exists as Ryan L. Phillips stated in his affidavit that he prepared the Motion for Summary Disposition based in part on "calendars and records available to the organization which both confirmed and refreshed [his] recollection of events as well as provided a basis to quantify occasions, dates, and hours asserted therein." Petitioner's motion, Exhibit 4.
[84] *Id.* at 6.
[85] The total number of days the property was used as a rental is as of November 30, 2023. It is possible that these numbers increased after the filing of the motion. *Id*.
[86] *Id.*
[87] Respondent's motion at 5-6.
[88] *Id.* Exhibit 8, interrogatory #2.
[89] According to Respondent's motion, Exhibit 6, the subject property is offered for rent through Evolve. The Tribunal takes judicial notice that Evolve manages listings "across all major booking sites," including evolve, airbnb, vrbo, Booking.com, Expedia, Google, hopper, and Homes & Villas. See https://try.evolve.com > management.
[90] Respondent's reply brief, Exhibit 1.

the property was not available for rent on all days for which an offer was made to the public."[91] In other words, Petitioner appears to assert that it publicly offered the subject property for rent on days that it never intended to rent the property.[92] Petitioner failed to explain how, after offering the subject property for rent, if the offer was accepted, it was not obligated to follow through and rent the subject property. Absent such an explanation, the Tribunal finds that Petitioner abdicated the option of using the subject property the days for which an offer was made to the public and as such, the property was not available for use by Petitioner on those days. Respondent argues that if the subject property is available for rent by the general public at least 60% of the year, its predominate purpose is as a vacation rental, regardless of whether or not the property is booked for 1% or 100% of the time it is posted for rent.[93] The Tribunal agrees.

In its motion, Petitioner appears to argue for an expansion of the statutory definition of "house of public worship." Specifically, Petitioner argues that religious "activities" should be considered in addition to religious services and teachings. Specifically, Petitioner argues that the subject property "has been in continuous use since [August 2019] as [a] venue for religious *activities* consistent with the purpose of the organization."[94] However, Petitioner provided no authority that would permit an organization's "activities," outside of those specified in the statute, to be considered. Therefore, Petitioner's activities, other than religious services and teachings, will not be considered. Even if other activities could be considered, the Tribunal finds that Petitioner's statement lacks credibility as it is contradicted by other statements made by Petitioner. For example, Petitioner states that in 2023, actual religious usage was 81.7% and nonreligious usage was 10.2%.[95] Thus, the subject property had not been used "continuously" for religious activities.

Regardless, the statute does not require that the subject property be continuously used or occupied to qualify for an exemption as a house of public worship.[96] In fact, it is likely that most houses of public worship are only occasionally occupied, for example, on that religion's day of worship, holy days, prayer gatherings, etc. It is also true that houses of public worship occasionally rent their property for "family reunion, bingo night, fish fry, weekend retreat, or similar one-off uses," as Respondent contends.[97] The difference between those situations and the instant case is that in those situations, the nature of the house of public worship remains that of a house of public worship. In the instant case, the nature of the subject property remains that of a house and must be recognized for what it is. The subject property is not a

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[91] Respondent's motion, Exhibit 8, interrogatory #2. (Emphasis added.)
[92] As an aside, the Tribunal notes that the subject property was available for rent during one of the most important Christian holidays, that being Christmas. As noted in the MLive article, the subject property was "trashed by renters over Christmas weekend," December 24-26, 2022. See Respondent's motion, Exhibit 5.
[93] Respondent's reply brief at 3.
[94] Petitioner's motion at 2. (Emphasis added.)
[95] *Id*. at 6.
[96] In *Lake Louise Christian Community*, the Court held that "'occupy' is synonymous with 'use' . . . ." *Id*. at 578.
[97] Respondent's motion at 10.

typical house of public worship or even a hall used for pancake breakfasts; it is a residential structure that when not used by Petitioner is available for use as a vacation rental.

This does not mean that the subject property could not be converted. However, there is no evidence that this has occurred. As Respondent explained, the subject property's physical characteristics include "8 bedrooms [with beds]; 5 bathrooms; a ping-pong table; arcade cabinet with game console; home gym with machines; wine fridge; coffee maker; kitchen; and outdoor patio area with barbeque grill."[98] Respondent argues that the subject property lacks structures typically associated with houses of public worship, such as sanctuaries, worship halls, offices, meeting rooms, a pulpit, pews, etc. and is not indicative of use by a religious society.[99] It appears from the numerous pictures submitted by Respondent that the subject property contains few amenities or artifacts related to religion. In other words, the subject property offers a clean slate for use as a vacation rental by the general public.

In response, Petitioner appears to argue that Respondent's assertions are based on a lack of information about the subject property's amenities and that "an appeal to a lack of information is not cogent thought."[100] However, Petitioner failed to fill this alleged gap in information by providing documentary evidence that the subject property is equipped differently than that claimed by Respondent.

Petitioner argues that the income derived from the subject property as a short-term vacation rental is minimal compared to that of its other uses. However, Petitioner failed to provide specific financial evidence that would support this claim, as the only documentation provided was a copy of Petitioner's 2022 tax return which does not specify where deposits actually came from.[101] In its response to Respondent's motion, Petitioner states that it did not provide financial information in response to Respondent interrogatories because "Respondent failed to word its requests better or – more importantly – failed to follow up on what it admits was a curious result . . . ."[102] These statements indicate Petitioner's lack of candor and are disconcerting, especially given that Petitioner admits that its responses did "not mean there is *no* documentation."[103] Furthermore, Petitioner's failure to provide these documents to Respondent does not explain its failure to submit documentation in support of this claim to the Tribunal.

Regardless, it is a property's use that must be determined and not the revenue generated from that use. The amount of revenue generated is meaningless given that revenue is a product of the amount charged for each use. Consider, for example, a hotel that has two rooms, large and small. The hotel charges $100 per night for the large room and $50 per night for the small room. The large room is rented one night,

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[98] *Id.* at 11. The Tribunal notes that the Airbnb listing indicates that there are 9 bedrooms. See Respondent's motion, Exhibit 6.
[99] *Id*. and Exhibit 7.
[100] Petitioner's response at 3.
[101] *Id.* and Exhibit 1.
[102] Petitioner's response at 2.
[103] *Id*.

while the small room is rented for two nights. As a result, while both rooms generated $100 in revenue, the small room was used twice as much.

Finally, Respondent argues that the advertisement and availability of the subject property as a vacation rental to the general public for secular purposes is contrary to Petitioner's stated purpose of "coaching, training, and resources that cultivate the undifferentiated wholeness of work, art, and faith."[104] Respondent draws comparison to traditional church buildings, which are occasionally used and rented for events such as weddings, and argues that any reliance on the notion that churches are widely available for rent is misplaced as these buildings are not advertised on commercial websites as "vacation getaways."[105] The Tribunal agrees. Moreover, weddings and funerals are typically considered religious services and would not be out of the norm in a traditional church building.

In conclusion, MCL 211.7s provides a property tax exemption for a house of public worship when the property is (1) owned by a religious society, and (2) "predominantly" used by that religious society to (a) hold religious services, or (b) teach its religious truths and beliefs. Petitioner had the burden of proof to establish by a preponderance of the evidence that it was entitled to this exemption. Petitioner failed to meet this burden as to either its status as a religious society or the subject property's use. Having determined that there are no genuine issues of material fact, Petitioner's Motion for Summary Disposition under MCR 2.116(C)(10) must be denied.

Given this, it appears to the Tribunal that Respondent, rather than Petitioner, is entitled to judgment. Therefore, the Tribunal could render judgment in favor of Respondent under MCR 2.116(I)(2). However, Respondent also filed a Motion for Summary Disposition under MCR 2.116(C)(8) and (C)(10). A motion brought under MCR 2.116(C)(8) is reviewed on the pleadings alone and is appropriate when no factual development could justify recovery.[106] Pursuant to MCR 2.110:

> (A) Definition of "Pleading." The term "pleading" includes only:
> (1) a complaint,
> (2) a cross-claim,
> (3) a counterclaim,
> (4) a third-party complaint,
> (5) an answer to a complaint, cross-claim, counterclaim, or third-party complaint, and
> (6) a reply to an answer.
> No other form of pleading is allowed.

In the Tribunal, a petition is equivalent to a complaint. Therefore, the petition filed on April 14, 2023, is reviewed to determine its legal sufficiency. Petitioner also submitted a brief in support of its petition, which is also considered. In the petition and

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[104] Respondent's reply brief at 4.
[105] *Id*.
[106] *Liggett Restaurant Group, Inc*, 260 Mich App at 133.

brief, Petitioner requests a property tax exemption under MCL 211.7s and sets forth arguments as to why it believes it is entitled to the exemption. After accepting as true Petitioner's factual allegations and construing them in the light most favorable to Petitioner, the Tribunal finds that Petitioner stated a claim on which relief could be granted. Therefore, Respondent's Motion for Summary Disposition under MCR 2.116(C)(8) is denied.

Having found that there are no genuine issues of material fact, and for the reasons discussed herein, the Tribunal finds that Respondent is entitled to judgment as a matter of law as the subject property's use and that granting Respondent's motion under MCR 2.116(C)(10) is warranted.

JUDGMENT

IT IS ORDERED that Petitioner's Motion for Summary Disposition under MCR 2.116(C)(10) is DENIED.

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

IT IS FURTHER ORDERED that Respondent's Motion for Summary Disposition under MCR 2.116(C)(10) is GRANTED.

This Final Opinion and Judgment resolves the last pending claim and closes the case.

APPEAL RIGHTS

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

A motion for reconsideration must be filed with the Tribunal with the required filing fee within 21 days from the date of entry of the final decision. Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty or disabled veterans 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.

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: October 15, 2025
kc/cs/plh

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 provided by those parties, attorneys, or authorized representatives.

By: Tribunal Clerk