West Michigan Annual Conference of the United Methodist Church,
Petitioner,

v

City of Grand Rapids,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-001186

Presiding Judge
Steven M. Bieda

ORDER DENYING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

ORDER DENYING PETITIONER'S MOTION TO STRIKE

ORDER GRANTING PETITIONER AND RESPONDENT LEAVE TO FILE SUPPLEMENTAL RESPONSES

ORDER GRANTING SUMMARY DISPOSITION IN FAVOR OF PETITIONER PURSUANT TO MCR 2.116 (I)(2)

FINAL OPINION AND JUDGMENT

INTRODUCTION

Petitioner filed this appeal on May 24, 2019, disputing Respondent's denial of its claim for exemption from ad valorem property taxation as a parsonage for the 2019 tax year pursuant to MCL 211.7s.

On November 6, 2019, Respondent filed a motion for summary disposition. In the motion, which was filed pursuant to MCR 2.116(C)(10), Respondent contends that it is entitled to judgment as a matter of law because there are no genuine issues of material fact with respect to Petitioner's eligibility for the claimed exemption.

Petitioner filed a response in opposition to Respondent's motion on November 26, 2019.

Respondent filed a supplemental brief in support of its Motion for Summary Disposition on December 9, 2019.

On December 20, 2019, Petitioner filed a motion to strike Respondent's supplemental brief. In the motion, Petitioner states that Respondent filed a supplemental brief to its Motion for Summary Disposition in violation of MCR 2.116, which states that "no

additional or supplemental briefs may be filed without leave of the court. The supplemental brief should be stricken or in the alternative, allow Petitioner to respond.

Respondent has not filed a response to Petitioner's Motion to Strike.

RESPONDENT'S CONTENTIONS

Respondent does not dispute that Petitioner is a religious society, that Petitioner owns the property at issue, that the property is occupied by Rev. Dr. Margie R. Crawford, or that Dr. Crawford is an ordained minister. Respondent contends, however, that the subject property is not entitled to exemption from ad valorem property taxation pursuant MCL 211.7s because Dr. Crawford is not assigned to a specific congregation and she does not have a congregation that would associate themselves with her as their minister. As such, the property cannot be considered a "parsonage" as defined by the Court of Appeals' holding in *St John's Evangelical Lutheran Church v City of Bay City*.[1] Further, the warranty deed for the subject property does not contain the parsonage language required by Petitioner's own Book of Discipline.

PETITIONER'S CONTENTIONS

Petitioner contends that the subject property is entitled to exemption from ad valorem property taxation pursuant to the exemption set forth in MCL 211.7s because the exact argument set forth by Respondent was rejected by the Tribunal in *Michigan Conference Ass'n of Seventh-Day Adventists v Delta Twp*.[2] The Tribunal has consistently held that where the organizational structure of the church involves various state-wide divisions, a parsonage may encompass not only a particular local congregation, but also the regional district or subdivision of the Church. Further, the language of the deed is of no relevance in determining whether the subject property is a parsonage. Petitioner contends that it is entitled to summary disposition under MCR 2.116(I)(2).

STANDARD OF REVIEW

There is no specific Tribunal rule governing motions for summary disposition, thus the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such motions.[3]

A. *Motions for Summary Disposition under MCR 2.116(C)(10).*

MCR 2.116(C)(10) provides for summary disposition when "there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as

[1] *St John's Evangelical Lutheran Church v City of Bay City*, 114 Mich App 616; 319 NW2d 378 (1982).
[2] *Michigan Conference Ass'n of Seventh-Day Adventists v Delta Twp*, 5 MTTR 99 (issued Mar 25, 1987, Docket No. 77655-77661).
[3] See TTR 215.

a matter of law."[4] The Michigan Supreme Court has provided the following explanation of MCR 2.116(C)(10):

> MCR 2.116 is modeled in part on Rule 56(e) of the Federal Rules of Civil Procedure . . . [T]he initial burden of production is on the moving party, and the moving party may satisfy the burden in one of two ways.
>
> First, the moving party may submit affirmative evidence that negates an essential element of the nonmoving party's claim. Second, the moving party may demonstrate to the court that the nonmoving party's evidence is insufficient to establish an essential element of the nonmoving party's claim. If the nonmoving party cannot muster sufficient evidence to make out its claim, a trial would be useless and the moving party is entitled to summary judgment as a matter of law.
> In reviewing a motion for summary disposition brought under MCR 2.116(C)(10), a trial court considers affidavits, pleadings, depositions, admissions, and documentary evidence filed in the action or submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion. A trial court may grant a motion for summary disposition under MCR 2.116(C)(10) if the affidavits or other documentary evidence show that there is no genuine issue in respect to any material fact, and the moving party is entitled to judgment as a matter of law. MCR 2.116(C)(10), (G)(4).
>
> In presenting a motion for summary disposition, the moving party has the initial burden of supporting its position by affidavits, depositions, admissions, or other documentary evidence. The burden then shifts to the 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.[5]

"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."[6] 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."[7] "Instead, the court's task is to review the record evidence, and all

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[4] *Id*.
[5] *Quinto v Cross and Peters Co*, 451 Mich 358, 361-363; 547 NW2d 314 (1996) (citations omitted).
[6] *West v General Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).
[7] *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, 161; 516 NW2d 475 (1994).

reasonable inferences therefrom, and decide whether a genuine issue of any material fact exists to warrant a trial."[8]

B. *Motions for Summary Disposition under MCR 2.116(I)(2)*

MCR 2.116(I)(2) provides for summary disposition when "it appears to the court that the opposing party, rather than the moving party, is entitled to judgment."[9]

CONCLUSIONS OF LAW

As a preliminary matter, the Tribunal notes that Respondent filed a supplemental brief that in substance is really a response to Petitioner's response to its Motion for Summary Disposition. TTR 225 states that "pleading on motions shall be limited to the motion and a brief in support of the motion and a single response to the motion and a brief in support of the response. A brief in support of a motion or response, if any, shall be filed concurrently with the motion or response."[10] Respondent did not file a motion requesting leave to file this response and the filing is therefore improper. Nevertheless, the Tribunal finds that granting both parties leave to file and accepting the submitted supplemental responses will better facilitate the efficient administration of justice than granting Petitioner's Motion to Strike.

The Tribunal has carefully considered Respondent's Motion under MCR 2.116 (C)(10) and finds that granting the motion is not warranted. 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."[11] Thus, there can be no dispute that the property under appeal, but for any exemption afforded it, is subject to taxation under this Act. "Exemption statutes are subject to a rule of strict construction in favor of the taxing authority,"[12] 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."[13] Nonprofit religious and educational organizations, nonprofit charitable institutions, parsonages, and houses of public worship have all been recognized as exempt classes.[14]

MCL 211.7s unconditionally exempts from ad valorem property taxation "houses of public worship, with the land on which they stand, the furniture therein and all rights in the pews, and any parsonage owned by a religious society of this state and occupied as a parsonage."[15] In the instant appeal, Respondent does not dispute that Petitioner is a

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[8] *Id.*
[9] *Id*. See also *Washburn v Michailoff*, 240 Mich App 669; 613 NW2d 405 (2000).
[10] TTR 225(6).
[11] MCL 211.1.
[12] *Huron Residential Services for Youth, Inc v Pittsfield Charter Twp*, 152 Mich App 54, 58; 393 NW2d 568 (1986).
[13] *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 494-495; 644 NW2d 47 (2002).
[14] See Article 9, Section 4 of the Michigan Constitution; MCL 211.7o; and MCL 211.7s.
[15] *Id*.

religious society, that Petitioner owns the property at issue, that the property is occupied by Rev. Dr. Margie R. Crawford, or that Dr. Crawford is an ordained minister. Respondent contends, however, that the subject property is not entitled to exemption as a parsonage under MCL 211.7s because Dr. Crawford is not assigned to a specific congregation and she does not have a congregation that would associate themselves with her as their minister. Respondent relies specifically on the fact that Dr. Drawford is employed as a district superintendent with no identifiable church or responsible for the needs of a particular congregation. In support of its argument, Respondent relies primarily on the Court of Appeals' holding in *St John's Evangelical Lutheran Church v City of Bay City*.[16] Respondent contends that the Court in that case defined a "parsonage" as "a residence of the pastor or his assistants who are ordained teaching ministers for a particular congregation."[17] The Tribunal finds, however, that the Court of Appeals adopted no such definition of "parsonage" in the *St Johns* case. While the Court in that case did hold that "the parsonage exemption *applies* to a residence of the pastor or his assistants who are ordained teaching ministers for a particular congregation,"[18] it specifically stated that it agreed with the definition set forth in *St Matthews Church*.[19] In *St Matthews Church*, the Court held that "the exemption applies to any church owned house occupied by a minister ordained in that church."[20] In arriving at this determination, the Court relied on the language of the statute and the definition set forth by the Michigan Supreme Court in *St Joseph's Church v City of Detroit*.[21] In *St Joseph's Church*, the Supreme Court held that

> a parsonage may be defined as a house in which a minister of the gospel resides. In its ecclesiastical sense the word was 'glebe (or land) and house' belonging to a parish appropriated to the maintenance of the incumbent, or settled pastor of a church; but its modern general signification is in the sense of its being the residence of a parson, and it may be with land or without it.

As recognized in *St. Matthews Church*, the Supreme Court's definition is broad. It stated very simply that a parsonage is nothing more than "a house in which a minister of the gospel resides." After discussing various dictionary definitions, the *St John's* Court did state that

> This requirement that a 'parsonage' be construed as a residence of an ordained minister (rabbi, priest, etc.) who is responsible for the religious needs of the congregation seems to have been implicitly adopted by this Court in *Congregation B'nai Jacob v Oak Park*, 102 Mich App 724, 302 NW2d 296 (1981), where this Court held that there could be more than one 'parsonage' per congregation or church. In applying that conclusion

[16] *St John's*, 114 Mich App 616.
[17] *Id. at* 624–25.
[18] *Id.* (emphasis added).
[19] *Id.* at 625.
[20] *Saint Matthew Lutheran Church v Delhi Twp*, 76 Mich App 597, 599; 257 NW2d 183 (1977).
[21] *St Joseph's Church v City of Detroit*, 189 Mich 408, 413; 55 NW 588 (1915).

> to the facts of that case and in allowing the exemption sought by the congregation involved therein, the Court put great emphasis on the fact that the rabbis involved therein were each equally responsible for the religious needs of the congregation.[22]

The Tribunal notes, however, that the "congregation" reference in *Congregation B'nai Jacob v Oak Park* [23] was a reference to the religious society itself and not to one specific group, church, or location. Significantly, the Court of Appeals stated that "the issue raised by this case is whether more than one parsonage per 'religious society' may be exempted."[24] The confusion appears to arise out of the fact that the word "congregation" was in the title of the religious society petitioning in that case and the terms were used interchangeably throughout the opinion. Consequently, the Tribunal finds that even under ***St John's***, the minister need only be responsible for the religious needs of the religious society as a whole.

Admittedly, there has been some conflict in case law both at the Tribunal and at the Court of Appeals since the issuance of the ***St John's*** opinion, with several cases discussing and seemingly incorporating the "congregation" requirement. All of these cases are factually and legally distinct from the instant appeal, however, including *First Baptist Church of Tecumseh v City of Tecumseh* [25] and *Prophetic Word Ministries, Inc v City of Saugatuck*,[26] both of which are cited by Respondent in its supplemental brief. The exemption in *First Baptist* was sought for a property occupied by a retired pastor and *Prophetic Word* involved a pastor that was responsible for the religious needs of those attending services at the petitioner's church as well as other leaders of the ministry. The Court of Appeals' opinion in *Prophetic Word* is also unpublished and therefore not binding upon this Tribunal.[27] Moreover, the Tribunal agrees with its

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[22] *St. John's*, 114 Mich App at 624.
[23] *Congregation B'nai Jacob v Oak Park*, 102 Mich App 724; 302 NW2d 296 (1981).
[24] *Id.* at 727.
[25] *First Baptist Church of Tecumseh v City of Tecumseh*, 4 MTTR 79 (issued Oct 30, 1985, Docket No. 88923).
[26] *See Prophetic Word Ministries, Inc v City of Saugatuck*, 23 MTTR 226 (issued Nov 16, 2012, Docket No. 433250) and *Prophetic Word Ministries, Inc v City of Saugatuck*, unpublished per curiam opinion of the Court of Appeals, issued April 17, 2014 (Docket No. 313706).
[27] Respondent also cites a Washington Supreme Court case, *Pac Nw Annual Conference of United Methodist Church v Walla Walla Cty,* 82 Wash 2d 138; 508 P2d 1361 (1973). This case is admittedly not binding on the Tribunal and given the factual distinctions set forth therein, it is also unpersuasive in this matter. The statute at issue in *Pac Nw* is notably different and much narrower than the one at hand. The Washington statute provides exemption for "all churches . . . together with a parsonage" and "the area exempted . . . includes all ground covered by the church, parsonage . . . and buildings and improvements required for the maintenance and safeguarding of such property and the structures and ground necessary for street access, parking, light, and ventilation . . . ." RCW 84.36.020. The statute further provides that "the parsonage and convent need not be on land contiguous to the church property." RCW 84.36.020. The Washington Supreme Court's determination relied in large part on this very narrow definition: "The statute itself indicates a legislative awareness of the narrow definition of parsonage for it provides that a qualifying parsonage need not be on land contiguous to the church property. Had the legislature intended to adopt the broad concept of 'any clergyman's residence' it is apparent that this additional language would be unnecessary. Indeed, this slight statutory modification of the traditional definition of a parsonage buttresses our own conclusion." *Pac Nw*, 82 Wash 2d at 142. The Court also

decision in *Michigan Conference Ass'n of Seventh-Day Adventists v Delta Twp*,[28] and its determination that the *St. John's* discussion on local affiliation is non-binding dicta. The Tribunal in that case correctly noted that this question was not at issue in *St John's* and "dictum is a 'judicial comment made during the course of delivering a judicial opinion, but one that is unnecessary to the decision in the case and therefore not precedential (though it may be considered persuasive).' "[29] It was also noted in *Michigan Conference Ass'n* that "this Tribunal has consistently held that where the organizational structure of the church involves various state-wide divisions, a parsonage may encompass not only a particular local congregation, but also the regional district or subdivision of the Church."[30] Of significance was the decision in *The Salvation Army v City of Royal Oak*,[31] wherein the Tribunal stated:

> We believe [the parsonage exemption] should not be drawn so narrowly so as to limit the exemption to only the residences of those ordained clergy-persons who minister to a single local congregation. Such an arbitrary geographical requirement would appear to exalt form over substance, and would appear to favor any denomination having numerous local congregations over those who are set up on a more regional-type basis.[32]

It is notable that *The Salvation Army* was also decided after *St Johns* and it similarly concluded that the local affiliation discussion in that case was dicta. As such, and inasmuch as Petitioner filed an unrebutted affidavit establishing that Rev. Crawford is responsible for the religious needs of the religious society, the Tribunal finds that the subject property is entitled to exemption under MCL 211.7s and Petitioner is entitled to summary disposition as a matter of law pursuant to MCR 2.116(I)(2). The Tribunal agrees with Petitioner that the language of the deed is of no relevance in determining whether the subject property is a parsonage within the meaning of MCL 211.7s.

JUDGMENT

IT IS ORDERED that Respondent's Motion for Summary Disposition is DENIED.

IT IS FURTHER ORDERED that Petitioner's Motion to Strike is DENIED.

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relied on its finding that "the historical concept of a parsonage, both in the legal and factual sense, is a residence occupied by a minister who is the designated clergyman for a particular congregation and who holds regular services therefor." *Id*. at 141. The Court cited a number of other state court decisions in support of this determination, noticeably absent from which was the Michigan Supreme Court's opinion in *St Joseph's Church,* discussed above.

[28] *Michigan Conference Ass'n*, 5 MTTR 99.

[29] *Carr v City of Lansing*, 259 Mich App 376, 383–84; 674 N.W.2d 168, 172 (2003).

[30] *Michigan Conference Ass'n*, 5 MTTR 99.

[31] *The Salvation Army v City of Royal Oak*, 3 MTTR 165 (issued Dec 16, 1983, Docket No. 55296).

[32] *Id*. See also *Reformed Church in America v City of Holland*, MTT Docket No. 3698 (1975); *Salvation Army v City of Livonia*, MTT Docket No. 16996 (1979); *Detroit Annual Conference of the United Methodist Church v City of Royal Oak*, MTT Docket No. 44514 (1982); and *The Salvation Army v City of Grand Rapids*, MTT Docket No. 55294-55297 (1984).

IT IS FURTHER ORDERED that Petitioner and Respondent are GRANTED leave to file supplemental responses.[33]

IT IS FURTHER ORDERED that Summary Disposition is GRANTED in favor of Petitioner pursuant to MCR 2.116(I)(2).

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 provided in this Final Opinion and Judgment within 20 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization.[34] 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) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (ii) after December 31, 2010, at the rate of 1.12% for calendar year 2011, (iii) after December 31, 2011, through June 30, 2012, at the rate of 1.09%, (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%, (v) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (vi) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (vii) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (viii) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (ix) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (x) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (xi) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, and (xii) after December 31, 2019, through June 30, 2020, at the rate of 6.40%.

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

[33] This order is limited to those supplemental responses already filed and does not grant the parties leave to file additional supplements subsequent to its entry.
[34] See MCL 205.755.

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 required filing fee within 21 days from the date of entry of the final decision.[35] Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is $50.00 in the Entire Tribunal and $25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.[36] A copy of the motion must be served 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.[37] Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[38]

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."[39] A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.[40] The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[41]

By _____

Entered: January 23, 2020
ejg

[35] See TTR 261 and 257.
[36] See TTR 217 and 267.
[37] See TTR 261 and 225.
[38] See TTR 261 and 257.
[39] See MCL 205.753 and MCR 7.204.
[40] See TTR 213.
[41] See TTR 217 and 267.