



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

The Salvation Army,
Petitioner,

MICHIGAN TAX TRIBUNAL

v

MOAHR Docket No. 18-003822,
18-003823, 18-003824 &
18-003825

Addison Township,
Respondent.

Presiding Judge
Marcus L. Abood

FINAL OPINION AND JUDGMENT ON REMAND

On March 3, 2020, the Tribunal issued a Final Opinion and Judgment (FOJ) in the above-captioned case which found in pertinent part that the subject properties qualified for a property tax exemption under MCL 211.7o for the 2018 tax year. Specifically, the Tribunal concluded that Petitioner's residential use of the subject properties did not disqualify it from an exemption because the use was necessary for Petitioner's charitable purposes. Respondent filed a claim of appeal with the Michigan Court of Appeals on March 19, 2020. On March 25, 2021, the Court issued an unpublished per curiam opinion affirming in part and vacating in part the FOJ.¹ More specifically, the Court vacated the Tribunal's determination with respect to parcel number A-05-21-226-006 and remanded for the Tribunal to reconsider whether Petitioner's use of that parcel warrants an exemption for the 2018 tax year. The Court explained its reasoning for vacating the portion of the FOJ:

There is no dispute that the program director did not begin residing at the subject parcel until January 2020. As of December 31, 2017, the

¹ *Salvation Army v Addison Twp*, unpublished per curiam opinion of the Court of Appeals, issued March 25, 2021 (Docket No. 353210).

property was being used as a pastoral retreat house—a residential unit for visiting pastors and guests of the Salvation Army. Accordingly, the MTT’s finding—that the pastoral retreat parcel at Echo Grove Camp was exempt from tax under MCL 211.7o(1) based on the personal residency of the program director—was not supported by the evidence. The MTT did not otherwise address the parcel’s use as a pastoral retreat as it relates to the Salvation Army’s charitable purposes. Because the MTT’s “factual findings are upheld unless they are not supported by competent, material, and substantial evidence,” we vacate the MTT’s determination with respect to the pastoral retreat parcel and remand for reconsideration of whether the Salvation Army’s use of the parcel as a pastoral retreat during the time relevant warrants tax exemption under MCL 211.7o(1).²

Based on the evidence, testimony, and case file, the Tribunal finds after remand that the taxable value (TV) of the subject property for the 2018 tax year is as follows:

Parcel Number: A-05-21-226-006

Year	TV
2018	\$0

REVISED FINDINGS OF FACT

Although the Court of Appeals remanded the case, it did not direct the Tribunal to rehear the case, and the Tribunal concludes that there are sufficient facts on the record to revise the Findings of Fact.³ The Tribunal incorporates by reference the Findings of Fact in the FOJ, and revises those findings.

1. On December 31, 2017, parcel number A-05-21-226-006 was used as a pastor retreat house.
2. The pastor retreat is used as a place to stay for visiting pastors, Salvation Army officers, and other guests.
3. The pastor retreat’s use is necessary for Petitioner’s charitable purposes.

² *Id.* at 12-13 (internal citation omitted).

³ See *Kern v Pontiac Twp*, 93 Mich App 612, 625; 287 NW2d 603 (1979).

CONCLUSIONS OF LAW

Although the Court of Appeals vacated the Tribunal's determination regarding parcel number A-05-21-226-006, it affirmed the determination concerning the remaining parcels.⁴ In doing so, the Court explained that "it is not the mere residential use of the property that controls, but the purpose behind the residential use, i.e., whether such residential use is necessary to further the purposes for which the charitable institution was incorporated."⁵

The Tribunal concludes that parcel number A-05-21-226-006 is occupied solely for the purposes for which Petitioner was incorporated. As stated in the FOJ, Petitioner's Articles of Incorporation provide its purposes:

The object for which it is formed is, to further the work of the Christian Church known as THE SALVATION ARMY, and to engage in charitable, educational, missionary, philanthropic and religious work, and more particularly charitable, educational, missionary, philanthropic and religious work of the character that has been and is being conducted by the branch of the Christian Church known as THE SALVATION ARMY, and to do everything, and to act and carry on every kind of operation necessary and incidental to the maintenance of such beneficial, educational, charitable, missionary, philanthropic and religious work, but that all of such work shall be conducted not for pecuniary profit; to receive and hold both real and personal property, of and for religious societies and associations belonging to such branch of the Christian Church known as THE SALVATION ARMY, and to execute trusts thereof, also from time to time to transact any business and carry on any work or operations in connection with and for the purposes of the foregoing, but at no time for pecuniary profit; to enter into, make, perform and carry out, contracts of every kind, and for any lawful purpose; issue bonds or obligations of the corporation and secure the same by trust deed, mortgage, pledge or otherwise, if deemed best or necessary by said corporation, and to dispose of the same; take and hold, by lease, gift, purchase, grant, devise

⁴ *Id.* at 12.

⁵ *Salvation Army*, unpub op at 9 (citing *Webb Academy v Grand Rapids*, 209 Mich 523; 177 NW 290 (1920), *Gull Lake Bible Conference Ass'n v Ross Twp*, 351 Mich 269, 271-272; 88 NW2d 264 (1958), *Oakwood Hosp Corp v State Tax Comm*, 374 Mich 524; 132 NW2d 634 (1965), and *Calvin Theological Seminary v Grand Rapids*, unpublished per curiam opinion of the Court of Appeals, issued August 13, 2019 (Docket No. 343662).

or bequest, any property (real or personal) for the objects of said corporation; to borrow money for the purposes of the corporation, and issue bonds therefor, and to secure the same by mortgage, trust deed, or otherwise. The corporation shall and may exercise all the powers now and hereafter granted by the laws of the State of Illinois to corporations organized under the said Act.⁶

Petitioner's "charitable, educational, missionary, philanthropic and religious work" includes the operation of the Echo Grove Camp, at which, Christian education occurs.⁷

The record shows that, as of December 31, 2017, the parcel was used as a retreat home where a visiting pastor could reside.⁸ Martin Soffran testified at a deposition that "[i]t is a house that is kept available for primarily the needs of . . . a pastoral retreat."⁹ Soffran added that the pastoral retreat gives "Salvation Army officers or pastors . . . the ability to come and stay as needed."¹⁰ The visiting person may also be there for planning purposes, according to Soffran.¹¹ In addition, Matt Coakley stated that other guests may use the pastoral retreat house.¹² Because Petitioner is a church and its purposes also include Christian education, the Tribunal concludes that it would be necessary for Petitioner to have a residence available for pastors who visit Echo Grove. That the parcel is also available for visiting Salvation Army officers and other visitors is also consistent with Petitioner's purposes, as it would be necessary to have a place for those persons to stay in order to engage in planning or as a part of Petitioner's programs at Echo Grove camp. Accordingly, although the use of the pastoral retreat is

⁶ P-4 (alteration in original).

⁷ Tr, 23-24.

⁸ Tr, 75, 113. Deposition of Martin Soffran, R-2, pp 13, 15.

⁹ Deposition of Martin Soffran, p 13

¹⁰ *Id.*

¹¹ *Id.*

¹² Deposition of Matt Coakley, R-1, p14

residential, that “residential use is necessary to further the purposes for which [Petitioner] was incorporated.”¹³

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that parcel number A-05-21-226-006 is entitled to an exemption under MCL 211.7o for the 2018 tax year. The subject property’s TCV, SEV, and TV for the tax year at issue are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property’s SEV and TV for the tax year(s) 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

¹³ *Salvation Army*, unpub op at 9.

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, 2013, through June 30, 2016, at the rate of 4.25%, (ii) after June 30, 2016, through December 31, 2016, at the rate of 4.40%, (iii) after December 31, 2016, through June 30, 2017, at the rate of 4.50%, (iv) after June 30, 2017, through December 31, 2017, at the rate of 4.70%, (v) after December 31, 2017, through June 30, 2018, at the rate of 5.15%, (vi) after June 30, 2018, through December 31, 2018, at the rate of 5.41%, (vii) after December 31, 2018 through June 30, 2019, at the rate of 5.9%, (viii) after June 30, 2019 through December 31, 2019, at the rate of 6.39%, (ix) after December 31, 2019, through June 30, 2020, at the rate of 6.40%, (x) after June 30 2020, through December 31, 2020, at the rate of 5.63%, (xi) after December 31, 2020, through December 31, 2021, at the rate of 4.25%.

This Final Opinion and Judgment resolves all pending claims in this matter and closes this case.

APPEAL RIGHTS

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

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

A claim of appeal must be filed with the Michigan Court of Appeals with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave." You are required to file a copy of the claim of appeal with filing fee with the Tribunal in order to certify the record on appeal. The fee

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

By 

Entered: July 28, 2021
wmm

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