Oshtemo Township,
Petitioner,

v

Kalamazoo County and Kalamazoo County Board of Commissioners,
Respondents.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-003982

Presiding Judge
Peter M. Kopke

PROPOSED OPINION AND JUDGMENT

INTRODUCTION

As a result of a telephonic status conference, the Tribunal entered orders on March 10, 2020 and April 8, 2020, establishing dates for the filing of briefs and responses to briefs to resolve the underlying legal issue in the above-captioned case through summary disposition.[1] In compliance with those orders, the parties filed briefs on May 13, 2020 and responses on June 2, 2020 and June 3, 2020.

The Tribunal has reviewed the briefs, the responses, and the case file and finds that there are no genuine issues of material fact and that the granting of summary disposition in favor of Petitioner is warranted.

PARTIES' CONTENTIONS

Respondents contend that "neither of the Township's proposed levies are authorized by law." More specifically, Respondents contend that:

1. "Petitioner's proposed charter township levy without a vote of the electors was not authorized by law, because it would violate the Headlee Amendments to the Michigan Constitution, Const 1963, art. 9, §§ 25-34, as Oshtemo Charter Township was not incorporated prior to December 23, 1978, nor was it incorporated after that date by a vote of the electors."

2. "Petitioner's proposed road millage levy under MCL 247.670 without a vote of the electors was not authorized by law, because it would exceed Petitioner's constitutional maximum tax levy. Const 1963, art. 9, § 6[.]"

[1] The Tribunal entered an Order on April 8, 2020, granting Petitioner's April 1, 2020 Motion to extend the dates established in the March 10, 2020 Scheduling Order.

Respondents also contend that:

1. “On September 25, 2019, Oshtemo Township submitted its proposed L-4029 Form for approval, which contained a .5 mill increase for general tax purposes, and .5 mills for road purposes for the 2019 tax year . . . . This was in addition to requesting its general operating allocated millage.”

2. “In its request for approval of the proposed levy up to 5 mills for general tax purposes (‘its full Charter millage”) for 2019, Oshtemo Township stated that it is a Charter Township, and therefore entitled under MCL 42.27(2) to levy its full Charter millage of up to 5 mills without a vote of the people . . . . However, the Township acknowledged that it became a Charter Township by resolution of the Township Board, and not by a vote of the people, effective March 6, 1979, i.e., after the effective of the Headlee Amendment on December 22, 1978.”

3. “In general, the Headlee Amendment requires that any increase in taxes be approved by ‘direct voter approval.’ Const 1963, art. 9, § 25. Case law interpreting the Headlee Amendment holds that certain taxes that were ‘authorized by law’ before December 22, 1978 (see Const 1963, art. 9, § 31), may be imposed without a vote of the people, even if they were not actually levied before December 22, 1978 . . . . However, the Michigan Attorney General has opined that a township which became a charter township by resolution after 1978 is not entitled to levy the full Charter millage of 5 mils . . . . Rather, the Township must continue to operate under the maximum authorized 1 mill rate. Comstock is presently operating under a maximum tax rate, as adjusted b the Headless rollback under MCL 211.34d, of 0.9764 mills.”

4. “The Township argued, on the basis of the above-cited case law [i.e., Bailey], as well as *Saginaw County v Buena Vista School District*, 196 Mich App 363; 493 NW2d 437 (1993) . . . that since charter townships were statutorily authorized to levy the full charter millage of 5 mills before 1978, then Oshtemo Township should be able to do so at the present time, even though it was not itself a charter township before December 22, 1978.”

5. “Oshtemo Township apparently sees no distinction between the changing of the boundaries of the Buena Vista School District after 1978, which allowed it to increase its tax rate by an additional one mill, and the post-1978 change of structure of the Township from a general law township to a charter township, which arguably would entitle it to levy the full Charter millage of 5 mills. However, there is a distinction, and the Attorney General’s Opinion No. 6285 cited above is directly on point. The post-Headlee case law does not repudiate the relevant Attorney General’s Opinion.”

6. "In its request for County Board approval of its tax levies . . . Oshtemo Township stated that under MCL 247.670, it may levy up to an additional 3 mills for the purpose of maintenance or improvement to roads, without a vote of the people. MCL 247.670 pre-dates the Headlee Amendment, such that the proposed levy would generally be authorized without a vote of the people . . . . However, the Court in *Taxpayers United* lacked subject matter jurisdiction to determine whether the proposed road millage levy at issue there violated the constitutional 50 mill limitation of Const 1963, art 9, § 6. The pre-Headlee constitutional tax limitations carried over from the 1930's continue in effect, notwithstanding the subsequent Headlee amendments in 1978."[2]

7. "As to Oshtemo Township, which became a Charter Township after 1978 without a vote of the people, the proposed additional .5 mills for road purposes under MCL 247.670 is not authorized by law without a vote of the people to increase the tax limit level, as it would exceed the Township's millage limitation under Const 1963, art, 9, § 6, and the Township's authorized maximum tax rate . . . . Petitioner would argue that it is a charter township, and as such falls within the exception for charter townships in the second paragraph of Const 1963, art.9, §6 to the general tax limitation set forth in the first paragraph of that section."

8. ". . . *Scio Township* . . . ultimately determined that voter approval to authorize the higher charter millage limit was needed, but the voter approval of Charter itself satisfied this requirement.[3] In the instant case, Oshtemo Township has had neither a direct vote on the proposed road millage increase, nor a vote on the change to charter township status. The higher charter township millage limits are therefore not applicable, as concluded by the formal Attorney General Opinions." Rather, "[t]he additional millage, per formal Attorney General Opinions, must be within the Township's authorized limit, and not in addition to that amount."

9. ". . . Oshtemo Township has suggested that *American Axle & Mfg v Hamtramck, supra,* supports its position that the township road millage requested should be permissible, not only because of the 'charter' exception in Const 1963, art. 9, § 6, but also as the millage can be levied 'outside' of the constitutional or charter tax limitations.[4] The statutory language for this township road millage statute (MCL 247.670) does pre-date the Headlee Constitutional Amendments, and thus the millage itself would not require a vote of the electorate. However, as the Attorney General opined regarding

[2] See the unpublished opinion *per curiam* issued by the Court of Appeals in *Taxpayers United Michigan Foundation v Washtenaw County*, on August 17, 2016 (Docket No. 332469), *lv app den* 500 Mich 947; 890 NW2d 671 (2017).
[3] See *Smith v Scio Twp*, 173 Mich App 381; 433 NW2d 855 (1988).
[4] See *American Axle & Mfg, Inc v City of Hamtramck*, 461 Mich 352; 604 NW2d 330 (2000).

similar pre-Headlee taxes, this analysis does not answer whether the approval of these millages violated the taxing limitations set forth in art 9, § 6. OAG, 2015, No 7287 (October 21, 2015) . . . . [and] Respondent submits that the law does not support a claim that the township road tax should be in 'addition' to the established millage limitations, but rather any such millage must instead be 'within' the applicable limitation. While the judgment millage levies reviewed in the *American Axle & Mfg* case pre-dated Headlee, as did the township road millage at issue herein, the *American Axle & Mfg* case clarifies that for 'judgment levies' there was a long history of confirming that such judgment levies were in 'addition to' the otherwise authorized general millages . . . . The judgment levy statute also expressly provides that the assessing officer is to collect the judgment levy by 'adding the total amount of the judgment to the other township, city, or village taxes.' (MCL 600.6093(1)). By contrast, for the township road millage at issue in this case, there is an equally well-established history that it is 'within' the millage limitation, and not in 'addition' to it."

10. "Oshtemo Township requested the proposed township road millage not only be set above and in addition to the applicable Const 1963, art 9, § 6 tax limits that should be applicable as reviewed above, and as opined by the various Attorneys General through formal Opinions, but also in excess of the charter township 5.0 mill limits applicable for charter townships that are established by the vote of the electorate. There is no legal merit to such an assertion under existing law."

As for Petitioner, Petitioner contends that it had the "right to levy an additional .5 mills of its charter millage and a road millage of .5 mills . . . based squarely upon the legal analysis provided by the Michigan Court of Appeals and the Michigan Supreme Court." Petitioner also contends that:

1. "The Kalamazoo County Board of Commissioners' decision . . . was based upon three Attorney General Opinions . . . . [and] the Attorney General Opinions themselves lack adequate legal analysis and are unsupported by the law. Petitioner[] say[s] this not because [it] believe[s] [its] legal analysis is superior to that of the Attorney General's Office in the early 1980's, but because of the more in-depth legal analysis which has come out of the Court of Appeals and the Michigan Supreme Court subsequent to the enactment of Headlee. The sole basis for the Attorney General's Opinions commencing in 1985 is the belief that no increase in taxation can take place without a vote of the electorate. However, such an interpretation, while attempting to give effect to the intent of the people, runs contrary to the plain and unambiguous language expressed in the Act itself . . . . If one reads all of the Attorney General Opinions cited by the Respondent in this case, one will see that

holding the Headlee Amendment placed new limitations on charter millages is devoid of any critical legal analysis."

2. " . . . the charter millage was neither a new nor an increased tax[,] but a tax established by the Legislature – pursuant to the Charter Township Act – which predated the adoption of the Headlee Amendment. Charter townships have always been authorized to levy up to 5 mills, and the Headlee Amendment did not supersede this authorized millage for a charter township."

3. "*American Axle* refutes the argument that the charter millage is a new or increased tax and, as a charter millage, is not subject to the caps provided for in Art. 9, § 6 of the Michigan Constitution . . . . Just as the RJA in *American Axle* predated and was exempt from Headlee, the Charter Township Act predates and exempts a charter township levy up to 5 mills from Headlee. Pursuant to the plain language of Art. 9, § 31, the Charter Township Act is a tax authorized by law or charter when the Headlee Amendment was ratified. The key is not whether the township authorize the tax before Headlee, but if the law authorized the tax before the Headlee amendment was ratified."

4. "A change in form from a general law township to a charter township does not prohibit levying of a charter millage before or after Headlee. Charter townships were authorized prior to the adoption of Headlee to levy up to 5 mills and, therefore, are not subject to the restrictions of Art. 9 § 31. A change in the form of government does not change the fact that the tax authorization pre-dated Headlee . . . . Just as the Court held in *Saginaw County* and the *Taxpayers United* cases, the key is whether the taxes were authorized by law prior to Headlee, a tax in effect at the time of ratification of Constitution 1963, Art. 9 § 31. Despite the Court's dicta regarding its applicability to a charter township case, we believe the analysis of the Court is still sound. As in the *Taxpayers United* case, this tax is not a new or novel tax and is, in fact, the same type and rate of tax which would have applied to any charter township prior to the enactment of Headlee. Given that, Oshtemo Charter Township should be allowed to levy up to 5 mills, and its request to levy .5 in additional charter millage should be approved."

5. "The ruling in the *Scio Township* case clearly holds that neither the board, nor the electors, may limit a charter township's authority to impose a charter levy. Also, Headlee did not and could not limit a charter township from its lawful levy set by the Michigan Legislature. This repudiates OAG 6285 (1985)."

6. "Once you accept the ruling set forth in American Axle, that the charter millage was a millage authorized by law prior to December 22, 29178 (the enactment of Headlee), one only needs to read paragraph b of Art. 9, § 6 to

see that it does not apply to taxes imposed for any other purpose, the tax limitations of which are provided by charter or general law. Once the Michigan Supreme Court, in American Axle, rejected the idea that a charter millage was a new or increased millage but a millage authorized by law prior to Headlee, the limits of Art. 9, § 6 do not apply, A charter township's millage is just that – a charter millage."

7. "Petitioner in this case would argue that the Charter Township Act is controlling here and was not superseded by the Headlee Amendment . . . . If the language in Article 9, § 31 exempts a tax levy authorized by law when Headlee was ratified, so too does the language in Article 9, § 6, paragraph b exempt the same levy from the application of the limitations set forth in Article 9, § 6 paragraph b of the Michigan Constitution of 1963."

8. "The Township road millage under MCL 247.670 is a tax authorized by law prior to Headlee, just like the accommodations tax in *Bailey, supra*.[5] The road tax is the same in type and amount as it was when Headlee was adopted, just like the utility tax in *Taxpayers United, supra*. Therefore, tax levy under the Public Highways and Private Roads Act of 1909 is a preexisting authorized tax for road improvements and maintenance and is not subject to Headlee."

9. "Since a charter township does not have allocated millage, the only limit outside of the Charter Township Act is set by general law. In this case, 3 mills is established pursuant to general road law and, therefore, is exempt from Art[.] 9, § 6, Paragraph b of the Michigan Constitution of 1963 . . . . These taxes have never been part of a township's tax limitations, and just as in the American Axle Case, would not constitute a violation of Headlee."

10. "Petitioners would argue that the 3[-]mill road millage falls outside of the 15, 20 and 50 mill limitations of Art. 9, § 6 of the Michigan Constitution of 1963 because it is a tax authorized by general law prior to Headlee. Petitioner also argues that the Township has the right to levy up to 5 mills under its charter millage. If the township millage is charter millage, not general allocated millage, then the holding in OAG 7287 (2015) is not applicable. The County in OAG 7287 (2015) only exceeded its millage limitations because it was not a charter county. Had it been a charter county, its charter millage would have been exempt from the calculations of Art. 9, § 6, and no violation would have occurred . . . . In this case, Oshtemo Charter Township's charter millage is 5 mills, and is not part of the allocated millage to be considered under Art. 9, § 6 of the Michigan Constitution. Therefore, even if the charter limits were applicable, the .5 mills of requested additional road millage, in addition to the .5 mills of additional charter millage, would still fall below the permitted charter limitations of 5 mills."

[5] See *Bailey v Muskegon County Board of Comm'rs*, 122 Mich App 808, 821; 333 NW2d 144 (1983).

On June 2, 2020, Petitioner filed a response to Respondents' brief. In its Response, Petitioner contends that:

1. "Respondents in this case relied primarily on three Attorney General Opinions in denying Petitioner's right to levy an additional .5 mills of its charter millage . . . All three Attorney General Opinions ignore the ruling in *American Axle*.

2. "Attorney General Opinions might be binding on state agencies and state officials, but not when they run contrary to Supreme Court precedent . . . . [and] [t]he *American Axle* case . . . clearly stands for the proposition that a tax authorized by law before Headlee was ratified permits the levying of the previously-authorized tax, even when it was not being levied at the time Headlee was ratified and even though the circumstances making the tax or rate applicable did not exist before that date."

3. "The right to incorporate as a charter township without a vote of the electorate, i.e., by resolution, was enacted in 1976 and was effective March 31, 1977, prior to Headlee. The previously[]authorized tax was a charter township tax of up to 5 mills. There is no authority to classify the tax as a general law township tax and thereby limit it to pre-Headlee authorized millage . . . . The charter tax was a tax authorized by law prior to Headlee. It is a tax not requiring voter approval in order to be levied. Once a general law township becomes a charter township, its taxes become charter millage, not a general law township allocated millage . . . . Once one accepts the fact that the millage is a previously authorized tax under general law and is a charter millage, the limitations of Art. 9, § 6 of the Michigan Constitution fall away. The limits for a charter township are set forth in the Charter Township Act, MCL 42.1, et seq."

4. "Once you accept the ruling set forth in *American Axle* . . . that the charter millage was a millage authorized by law prior to December 22, 1978 (the enactment of Headlee), and a charter millage, one only needs to read paragraph b of Art. 9 § 6 to see that it does not apply to taxes imposed for any other purpose, the tax limitations of which are provided by charter or general law. Once the Michigan Supreme Court, in *American Axle* . . . rejected the idea that a charter millage was a new or increased millage[,] but a millage authorized by law prior to Headlee, the limits of Art. 9, § 6 do not apply. A charter township's millage is just that – a charter millage."

5. "[Respondent] concedes that the road millage requested by the Township under MCL 247.670 precedes the adoption of the Headlee Amendment and the village request itself would not require a vote of the electorate. However, Respondent then goes on to deny that it is based on a claim that such a

> request would exceed the tax limitations of Article 9, § 6 for the Township. Respondent is wrong for two reasons . . . . First, the Charter Township millage is not a general law allocated millage. Second, and perhaps even more on point, is the fact that the Headlee Amendment exempts taxes authorized by law when the Headlee Amendment was ratified. Both Article 9, § 31, and Article 9, § 6 of the Michigan Constitution exempt taxes provided for by general law at the time Headlee was adopted."

On June 3, 2020, Respondents filed a response to Petitioner's brief. In their Response, Respondents contend that:

1. "Respondent's position in this matter is based chiefly upon the persuasive authority of OAG, 1985-1986, No. 6285 (April 17, 1985), and OAG, 1989-1990, No. 6588 (June 16, 1989), which are directly on point in determining that a township which became a charter township by resolution (i.e., without a vote of the people) after the effective date of the Headlee Amendment in 1978 is not entitled to levy the full Charter millage of 5 mills, but rather, must continue to operate under the maximum authorized 1 mill rate. This limitation also applies to additional taxes such as the proposed road millage under MCL 247.670. These Attorney General Opinions are applicable to State agencies and officers[] and have not been directly overturned by judicial order."[6]

2. "Petitioner admits of its post-Headlee incorporation as a Charter Township by resolution, without a vote of the electorate. Petitioner's argument relies primarily on the Supreme Court's decision in *American Axle* . . . which did not specifically address the issue that is before the Tax Tribunal in this case, nor specifically overrule the Attorney General Opinions relied upon by Respondent . . . . Rather, *American Axle* dealt with the issue of judgment tax levies under MCL 600.6093, which pre-dated Headlee (the historic foundation for this statute was originally enacted in 1887), but is by its terms applicable to any municipality, i.e., both general law and charter townships were empowered both pre- and post-Headlee to levy taxes in addition to otherwise authorized millages to pay judgments. See Const 1963, art. 9, sec. 31."

3. "By contrast, when the Headlee Amendment was ratified in 1978, Oshtemo Township as a general law township was not 'empowered' at that time to levy the full 5 mills that a charter township was authorized to levy under MCL 42.27(2).[7] The intent of the people is paramount in the interpretation of a constitutional provision. The purpose and intent of the Headlee Amendment was to require voter approval for new or increased local taxes. See Const 1963, art. 9, sec. 25 . . . . Thus, a general law township could not thereafter effectively raise local taxes without a vote of the people by the expediency of

[6] See *Beer & Wine Ass'n v Atty General*, 142 Mich App 294, 300; 370 NW2d 328 (1985).
[7] See *Bailey*, *supra*.

adopting a resolution to become a charter township, as emphasized by the Attorney General in the Opinions reasonably relied upon by Respondent that make the distinction between charter townships that were incorporated post-Headlee by resolution only, and those that are authorized by a vote of the electorate . . . . This distinction is evident in other case law cited by Respondent in its initial Brief, including *Smith* [case] . . . in which the vote of the people was necessary to raise the tax limits, where the vote to become a charter township was deemed sufficient to do so. This was consistent with both the letter and the 'tax revolt' spirit of Headlee.[8] See also *Saginaw County* . . . in which the tax increase was authorized by a vote of the people, which vote itself took into account the potential change in structure of the School District . . . By this same analysis, a general law township which became a charter township after 1978 without a vote of the people cannot avoid the tax limitations in Const 1963, art. 9, sec. 6. The case of *Taxpayers United Michigan Foundation v Washtenaw County* . . . cited by Petitioner, is unavailing, as the Court there was without jurisdiction to rule on the tax limit issue. Therefore, although Comstock Township was empowered to levy a road millage under MCL 247.670 both before and after 1978 without a vote of the people (which Respondent does not dispute), it was always required to do so within its constitutional limits, absent a vote of the people to increase those limits."[9]

4. "The Opinions of the Attorney General cited above, with which Kalamazoo County agreed, are to the effect that the Headlee Amendment, by operation of law, precludes a township that incorporated as a charter township by resolution only after 1978 from taking advantage of the higher statutory charter millage limits, or of the higher limits on total taxation enjoyed by a charter township. To do so requires a vote of the people, either to incorporate as a charter township, or to increase its taxes. Otherwise, the Headlee Amendment constitutional provision would be rendered devoid of meaning and effect, contrary to the will of the people of the State of Michigan who ratified it."

STANDARD OF REVIEW

There are no specific Tribunal rules governing requests for summary disposition. Thus, the Tribunal is bound to follow the Michigan Rules of Court in rendering decisions on such requests.[10] In this case, the parties request summary disposition in their

[8] See *Saginaw County*, *supra*.
[9] See *Grosse Ile Committee for Legal Taxation v Twp of Grosse Ile*, 129 Mich App 477, 494-495; 342 NW2d 582 (1983); OAG, 1985-1986, No. 6285 (April 17, 1985); OAG, 1956 (Vol. II), No. 2577, p 255 (May 7, 1956); OAG, 1955 (Vol I), No. 2318, p 560 (October 20, 1955). To like effect, see OAG, 2015, No. 7287 (October 21, 2015).
[10] See TTR 215.

respective favors under MCR 2.116(C)(10).[11] Summary disposition under MCR 2.116(C)(10) tests the factual support for a claim and must identify those issues regarding which the requesting party asserts there is no genuine issue of material fact. Under subsection (C)(10), a request for summary disposition will be granted if the documentary evidence demonstrates that there is no genuine issue of material fact, and the requesting party is entitled to judgment as a matter of law.[12]

The Michigan Supreme Court has established that a court must consider affidavits, pleadings, depositions, admissions, and documentary evidence filed by the parties in the light most favorable to the non-requesting party.[13] The requesting party bears the initial burden of supporting its position by presenting its documentary evidence for the court to consider.[14] The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists.[15] Where the burden of proof at trial on a dispositive issue rests on a non-requesting party, the non-requesting 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.[16] If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the request is properly granted.[17]

CONCLUSIONS OF LAW

The Tribunal has carefully considered both parties' briefs and responses under MCR 2.116 (C)(10) and finds that denying Respondents' request and granting Petitioner's request is, as indicated above, warranted. Although the parties do not dispute the Tribunal's jurisdiction, the Tribunal nonetheless confirms its subject matter jurisdiction over the underlying issue in this case, as the dispute concerns a millage levy

[11] Although neither brief specifically states the Court Rule under which summary disposition is being requested, the Tribunal concludes that they request summary disposition under MCR 2.116(C)(10) because the arguments presented concern statutory interpretation, which would be appropriate under MCR 2.116(C)(10).
[12] See *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).
[13] See *Quinto v Cross and Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996) (citing MCR 2.116(G)(5)).
[14] See *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420; 522 NW2d 335 (1994).
[15] *Id.*
[16] See *McCart v J Walter Thompson USA, Inc*, 437 Mich 109, 115; 469 NW2d 284 (1991).
[17] See *McCormic v Auto Club Ins Ass'n*, 202 Mich App 233, 237; 507 NW2d 741 (1993).

and the Supreme Court has stated that a dispute concerning the number of mills levied is within the Tribunal's exclusive and original jurisdiction.[18]

The parties do, however, dispute whether Petitioner's millage is authorized. Petitioner's rate request for the 2019 tax year shows an operating millage of 0.9764 and "extra voted millages."[19] Under the Property Tax Limitation Act,[20] a general law township may levy up to 1 mill, subject to the Headlee rollback fraction.[21] MCL 42.27(2) provides a limit for a charter townships of 5 mills. The parties do not dispute that, at the time the Headlee Amendment was ratified, Petitioner had not been incorporated as a charter township, and thus at that time it could only levy the general law township limit of 1 mill. As such, the Tribunal must determine whether Petitioner's subsequent incorporation by resolution authorized it to levy up to the charter township limit of 5 mills.

In that regard, Article IX, Section 6 of the Michigan Constitution provides limitations on mills levied:

> Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if

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[18] See *Hillsdale Co Senior Servs v Hillsdale Co*, 494 Mich 46, 54-55; 832 NW2d 728 (2013), which provides, in pertinent part:

> Plaintiffs simply argue that defendant is required to levy and spend more – that defendant must levy a larger "amount of charge," 100 percent of the full 0.5 mill. Accordingly, this case does pertain to "rates." Thus, all four elements of MCL 205.731(a) are satisfied, and the tribunal possesses exclusive and original jurisdiction in this case.

[19] See 2019 Tax Rate Request, attached as part of exhibit C to Petitioner's Motion pdf p 43.
[20] See 1933 PA 62, MCL. 211.201 *et seq*.
[21] See MCL 211.201, *et seq*., and MCL 311.34d. See also OAG 1985-1986, No. 6285 (explaining that "the limitation for a general law township is approximately one mill, as compared to the five[-]mill limitation of a charter township").

> approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.[22]

However, these limitations do not

> apply . . . subject to the provisions of Section 25 through 34 of this article, **to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law**.[23]

As such, Petitioner's tax limitations are not provided by Section 6. Rather, for a charter township such as Petitioner, Section 31, part of the Headlee Amendment,[24] provides said limitations:

> Units of Local Government are hereby prohibited **from levying any tax not authorized by law or charter when this section is ratified** or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, **without the approval of a majority of the qualified electors of that unit of Local Government voting thereon**.[25]

The authorities most directly on point are opinions of the Attorney General, which are not binding precedent but can be considered persuasive.[26] In an opinion issued in 1985, the Attorney General was asked "[w]hen a general law township incorporates a charter township, by resolution and without a vote of the township electors, after the effective date of the 1978 amendments to Const 1963, art 9 (the Headlee Amendment), is the township prohibited from levying millage at a charter township rate which is higher than the rate it was previously authorized to levy as a general law township?"[27] The Attorney General cited caselaw that explained that "[t]he Headlee Amendment grew out of the spirit of 'tax revolt' and was designed to place specific limitations on state and

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[22] See Const 1963, art 9, § 6.
[23] See Const 1963, art 9, § 6 (emphasis added).
[24] "The Headlee Amendment, adopted by referendum effective December 23, 1978, amended Const. 1963, art. 9, § 6, and added §§ 25–34. Art. 9, § 6." See *American Axle*, *supra* at 355–356.
[25] See Const 1963, art 9, § 31 (emphasis added).
[26] See *Williams v City of Rochester Hills*, 243 Mich App 539, 557; 625 NW2d 64 (2000).
[27] See OAG 1985-1986, No. 6285 (April 17, 1985).

local revenues. The ultimate purpose was to place public spending under direct popular control."[28] The opinion also relied on *Lockwood v Comm'r of Revenue*:[29]

> A constitutional limitation must be construed to effectuate, not to abolish, the protection sought by it to be afforded. It was Mr. Justice CAMPBELL who wrote as long ago as the 13th volume of the Michigan reports that:
>
> > If the people, in establishing their government, see fit to place restrictions upon the exercise of any privilege, it must be assumed that in their view the exercise of the privilege without the restriction would be inexpedient and dangerous, and would not, therefore, have been permitted. Every restriction imposed by the Constitution must be considered as something which was designed to guard the public welfare, and it would be a violation of duty to give it any less than the fair and legitimate force which its terms require. What the people have said they design[] they have an absolute and paramount right to have respected . . . .
> >
> > The presumption of constitutionality cloaking all the acts of our co-ordinate branch of government cannot prevail where the statute is "prohibited by the express language of the Constitution or by necessary implication."

Based upon these authorities, the Attorney General reasoned:

> While the Headlee Amendment did not impose a requirement of voter approval upon the incorporation of a charter township, it did impose a requirement of voter approval for the increase in authorized millage resulting from a change from general law township status to charter township status. Thus, the Headlee Amendment super[s]eded the authorized millage limitation for a charter township, MCL 42.27; MSA 5.46(27), when a charter township became incorporated subsequent to the effective date of Headlee, without a vote of the township's electors pursuant to MCL 42.3a(2)(b); MSA 5.46(3a)(2)(b). Such a township would continue as a general law township for purposes of its taxing authority unless and until a vote of the township's electors approved the higher millage levy, as required by the Headlee Amendment. As indicated in footnote 3 above, 25 such charter townships are already in existence. With the reduction in the population requirement of 1984 PA 361, from 5,000 to 2,000, an additional 301 general law townships will be eligible to adopt charter township status by final resolution only.

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[28] *Id*., citing *Waterford School Dist v State Bd of Educ*, 98 Mich App 658, 663; 296 NW2d 328 (1980) and *Grosse Ile Committee for Legal Taxation v Grosse Ile Twp*, 129 Mich App 477; 342 NW2d 582 (1983).
[29] See *Lockwood v Comm'r of Revenue*, 357 Mich 517, 557-558; 98 NW2d 753 (1959).

> It is my opinion, therefore, that charter townships incorporated after December 22, 1978, the effective date of Const 1963, art 9, Sec. 31, by final resolution of the township board and without an approving vote of the township's electors, are prohibited from levying millage at a charter township rate higher than the township's previously authorized millage limitation as a general law township.

When interpreting constitutional provisions, two rules of construction apply, the first of which is that "the interpretation should be the sense most obvious to the common understanding; the one which reasonable minds, the great mass of people themselves, would give it."[30] The second rule is to consider "the circumstances surrounding the adoption of the constitutional provision and the purpose sought to be accomplished."[31] The Tribunal finds the opinion of the Attorney General persuasive because the most obvious understanding of the Headlee Amendment is that an increase in taxes, such as a township having the authority to increase its millage, must be approved by the voters. Further, the Headlee Amendment's purpose was "to place public spending under direct popular control,"[32] and this purpose would be thwarted if a township could accomplish an increase in taxes by resolution. The Tribunal recognizes that incorporating by resolution is provided by statute, and that incorporation by resolution has an accompanying right of referendum by the taxpayers.[33] Although a vote to incorporate gives a charter township the authority to levy up to 5 mills without direct approval of the millage,[34] the Tribunal is unaware of any caselaw holding that failure to exercise a right of referendum for incorporation is the same as the "approval of a majority of the qualified electors"[35] required by the Headlee Amendment.

Caselaw is also instructive. In *Bailey v Muskegon County Board of Commissioners*,[36] the Court of Appeals looked to the drafter's notes for the Headlee

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[30] See *Makowski v Governor*, 495 Mich 465, 472; 852 NW2d 61 (2014) (quotation marks and citation omitted).
[31] *Id*. (quotation marks, citation, and alteration omitted).
[32] See *Waterford School Dist*, *supra* at 663 and *Grosse Ile Committee*, *supra*.
[33] See MCL 42.3a(2)(b).
[34] See *Smith*, *supra* at 388.
[35] See Const 1963, art 9, § 31 (emphasis added).
[36] See *Bailey*, *supra*.

Amendment, which stated that the amendment's intent "was to permit Local units to retain those taxing powers they had by state law or local charter prior to the effective date of the amendment."[37] The Court explained that

> the term 'authorized by law' does not require that a tax actually be levied on the date that the Headlee Amendment became effective. Rather, it requires only that a local government be *empowered* to levy the tax on the date that the Headlee Amendment was ratified, even if the local government had not exercised its authority."[38]

In *Smith*, the Court explained:

> The plain language of Headlee prohibits a local government from levying a tax in excess of that permitted by law or charter and it prohibits increasing the authorized tax rate without approval of the electors. But nowhere does Headlee require a direct vote of the electors in order to permit a local unit of government to increase taxes if the local unit of government has the authority by law or charter to levy the increase."[39]

In *Saginaw Co*, the county voters approved millages related to school districts in 1974, before the passage of the Headlee Amendment.[40] The resolution approving the millages provided that school districts could levy 9.05 mills, but school districts located entirely within a city or charter township could levy an additional mill.[41] At the time of the Headlee Amendment's passage, the school district at issue was located in two townships, but later redrew its boundaries so that it was entirely within one charter township.[42] The Court stated that the higher millage rate was authorized by law at the time the Headlee Amendment was passed and the tax was "not a new kind of tax."[43] It explained that "[w]hen defendant's geographical configuration changed, it then became eligible to tax according to the applicable **preexisting tax structure**."[44]

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[37] *Id*. at 821 (citation omitted).
[38] *Id*.
[39] See *Smith*, *supra* at 386.
[40] See *Saginaw Co*, *supra* at 364.
[41] *Id*.
[42] *Id*.
[43] *Id*. at 366.
[44] *Id*. (emphasis added).

Finally, in *American Axle*, the City of Hamtramck added a levy of 30 mills to 1994 tax bills under the authority of MCL 600.6093.[45] The Supreme Court explained that the "Headlee exemption of taxes authorized by law when the section was ratified permits the levying of previously authorized taxes even where they were not being levied at the time Headlee was ratified and even though the circumstances making the tax or rate applicable did not exist before that date."[46] The *American Axle* Court relied in part on the analysis in *Bailey*. The Court concluded that MCL 600.6093 gave the City of Hamtramck "preexisting authorization" to levy the tax and thus voter approval was not required.[47]

The Tribunal concludes that Petitioner was not "authorized by law" to levy the charter millage at the time the Headlee Amendment was passed, and as such, its limitation is 1 mill adjusted by the Headlee Rollback Fraction. As stated above, the Tribunal considers OAG 1985-1986, No. 6285 to be persuasive. The Court in *Bailey* also explained that, for a tax to have been "authorized by law" at the time the Headlee Amendment was passed, the local unit must have been empowered to levy the tax, even if it had not done so.[48] The taxes at issue in *Saginaw Co* and *American Axle* fit this definition. In *Saginaw Co*, the voters had already approved an extra one mill levy for school districts that fit entirely within a charter township.[49] The tax at issue in *American Axle* was already law as part of the Revised Judicature Act at the time the Headlee Amendment was passed.[50] Here, however, Petitioner was not empowered to levy the charter township millage at the time the Headlee Amendment was ratified. And the Tribunal concludes that incorporating by resolution after the Headlee Amendment is not a mere "change in circumstances." In dicta, the *Saginaw Co* Court referenced two of the opinions relied upon by Respondents, OAG, 1985–1986, No. 6285, p 46 (April 17, 1985), and OAG, 1989–1990, No. 6588, p 149 (June 16, 1989), and distinguished the opinions from the case before it. The Court of Appeals recognized that a change from a

[45] See *American Axle*, *supra* at 355.
[46] *Id*. at 357.
[47] *Id.* at 364.
[48] See *Bailey*, *supra* at 821.
[49] See *Saginaw Co*, *supra* at 364.
[50] See *American Axle*, *supra* at 364.

general law township to a charter law township "exposes property owners to a new category of taxes."[51] Although not binding, the Tribunal may consider dicta to be persuasive.[52] The Tribunal is persuaded that a change from a general law township to a charter township constitutes a change in the "tax structure,"[53] because it allows a township to levy new taxes. Although Petitioner had the authority to incorporate by resolution prior to the Headlee Amendment,[54] it did not have the authority to levy the charter township millage because it was not a charter township at that time. Petitioner's argument that it must be allowed to levy the charter millage is belied by the fact that it functioned under a 1 mill levy, adjusted by the Headlee Rollback fraction, for the 2016, 2017, and 2018 tax years.[55] Accordingly, because Petitioner was not a charter township prior to the passage of the Headlee Amendment, it was not authorized to levy the charter township rate at that time.

The Tribunal concludes, however, that Petitioner was authorized to levy the tax at issue. The tax at issue arises under MCL 247.670, which provides, in pertinent part, that

> the township board of **any township** may also levy a property tax of not to exceed 3 mills on each dollar of assessed valuation of the township in any year for the maintenance or improvement of county roads within the township or for the widening of state trunk line highways, as aforesaid, without submitting the question to the electors of said township. . . .[56]

As stated above, the Court in *Bailey* stated that a local unit is authorized by law if it is "**empowered** to levy the tax on the date that the Headlee Amendment was ratified, even if the local government had not exercised its authority."[57] The Legislature placed this statute into law in 1951,[58] and, as a result, it had been enacted before the Headlee Amendment was ratified. Further, Petitioner would have had the authority to levy this tax

[51] See *Saginaw Co, supra* at 365.
[52] See *Carr v City of Lansing*, 259 Mich App 376, 383–384; 674 NW2d 168 (2003).
[53] See *Saginaw Co*, *supra* at 366.
[54] See MCL 42.3a.
[55] See 2016, 2017, and 2018 Tax Rate Requests, attached as part of exhibit C to Petitioner's Motion, pdf pp 40-42.
[56] See MCL 247.670 (emphasis added).
[57] See *Bailey*, *supra* at 821 (emphasis added).
[58] See 1951 PA 51.

regardless of being a general law township because the statute provides that **any** township could levy the tax. MCL 247.670 provides both the authority to levy the tax and the rate that a township could levy without a vote. The Tribunal therefore concludes that Petitioner was "authorized by law" to levy the tax under MCL 247.670 prior to the ratification of the Headlee Amendment.

Respondents argue that Petitioner may not levy the millage requested because it must be within Petitioner's authorized limit, citing opinions of the Attorney General.[59] The Tribunal concludes that Petitioner had the authority to levy the tax under MCL 247.670 because the statute allows townships to levy the tax above its authorized rate. One of the opinions cited by Respondents states that a vote is required to levy the tax under MCL 247.670 when the levy would exceed the township's authorized limit, and that "[s]uch a vote is not a vote for a levy, but is a vote to raise the tax limitation ceiling for the township."[60] As stated above, opinions of the Attorney General are not binding precedent but can be considered persuasive.[61] The Tribunal concludes that MCL 247.670 unambiguously grants a township the authority to levy the tax up to 3 mills without a vote of the people, and that it did so prior to the ratification of the Headlee Amendment.

Further, the allocated millage limit under the Property Tax Limitation Act may be exceeded with a vote of the people.[62] By expressly granting any township the authority to levy up to 3 mills without a vote of the people, MCL 247.670 effectively allows the township to levy an additional tax above the limit. In other words, the limitations are those that may not be exceeded without a vote, and because no vote is required, those limitations do not apply to the tax levy under MCL 247.670. In addition, "a fundamental rule of [statutory] construction is that every word of a statute should be given meaning and no word should be treated as surplusage or rendered nugatory if at all possible."[63]

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[59] See OAG, 1985-1986, No. 6285 (April 17, 1985), II OAG, 1956, No. 2577, p 255 (May 7, 1956), I OAG, 1955, No. 2318, p 560 (October 20, 1955), and OAG, 2015, No. 7287 (October 21, 2015).
[60] OAG, 1955 (Vol I), No. 2318, p 560 (October 20, 1955).
[61] *Williams*, *supra* at 557.
[62] See Const 1963, art 9, § 6, 1933 PA 62, MCL. 211.201 *et seq*. The Tribunal notes that the 5-mill charter millage may also be exceeded with a vote of the people. See MCL 42.27(2).
[63] See *Pittsfield Charter Twp v Washtenaw Co*, 468 Mich 702, 714; 664 NW2d 193 (2003) *citing Feld v Robert & Charles Beauty Salon*, 435 Mich 352, 364; 459 NW2d 279 (1990).

The township already had the authority to levy up to its allocated or charter millage, and to appropriate any unexpended balances in the general fund or "county road fund of the county for the maintenance and/or improvement of county roads within the townships, or for the widening of state trunk line highways beyond the width required for state trunk line traffic in unincorporated areas of such township . . . ."[64] If a township could only levy the road millage up to either its allocated or charter millage, MCL 247.670's grant of authority to levy up to 3 mills without a vote of the people would be surplusage, because it could already do so.

In sum, the Tribunal concludes that Petitioner did not have the authority to levy the 5-mill charter millage, but that it could levy the mills for road purposes under MCL 247.670, nonetheless.

PROPOSED JUDGMENT

IT IS ORDERED that Respondents' Request for Summary Disposition relative to Petitioner's authority to levy the requested .5 mill increase for general tax purposes in addition to its operating millage for the 2019 tax year is GRANTED.

IT IS FURTHER ORDERED that Petitioner's Request for Summary Disposition relative to Petitioner's authority to levy .5 mills for road purposes for the 2019 tax year is GRANTED.

EXCEPTIONS

This is a **proposed** decision ("POJ") prepared by the Michigan Administrative Hearings System and **not** a final decision.[65] As such, **no** action should be taken based on this decision, as the parties have 20 days from date of entry of this POJ to **notify** the Tribunal **in writing if they do not agree with the POJ and** to **state in writing** why they do not agree with the POJ (i.e., exceptions).

Exceptions are **limited** to the evidence submitted and any matter addressed in the POJ. There is no fee for filing exceptions and the opposing party has 14 days from the date the exceptions were mailed to that party to file a written response to the exceptions.[66]

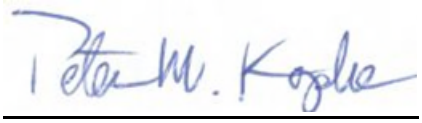
Exceptions and responses filed by **e-mail or facsimile** will **not** be considered in the rendering of the Final Opinion and Judgment. A copy of a party's written exceptions or response **must** be sent to the opposing party **by mail or email, if** email service is

[64] See MCL 247.670.
[65] See MCL 205.726.
[66] See MCL 205.762(2) and TTR 289(1) and (2).

agreed upon by the parties**,** and proof must be submitted to the Tribunal demonstrating that the exceptions or response were served on the opposing party.

After the expiration of the time period for the opposing party to file a response to the exceptions, the Tribunal will review the case file, including the POJ and all exceptions and responses, if any, and:

1. Issue a Final Opinion and Judgment (FOJ) adopting the POJ as the final decision.
2. Issue an FOJ modifying the POJ and adopting the Modified POJ as the final decision.
3. Issue an Order vacating the POJ and ordering such other action as is necessary and appropriate.

Entered: September 28, 2020 By 

PMK/wmm

Oshtemo Township,
Petitioner,

v

Kalamazoo County and Kalamazoo County Board of Commissioners,
Respondent.

MICHIGAN TAX TRIBUNAL

MOAHR Docket No. 19-003982

Presiding Judge
Steven M. Bieda

FINAL OPINION AND JUDGMENT

The Tribunal issued a Proposed Opinion and Judgment (POJ) on September 28, 2020. The POJ states, in pertinent part, "[t]he parties have 20 days from date of entry of this POJ to notify the Tribunal in writing, by mail or by electronic filing, if available, if they do not agree with the POJ and to state in writing why they do not agree with the POJ (i.e., exceptions)."

On October 14, 2020, Petitioner filed exceptions to the POJ. In the exceptions, Petitioner states that it takes exception to the POJ solely with regard to the denial of its request to levy a 0.5 mill increase as part of its authorized charter millage. Petitioner states the issue is whether the exceptions and limitations of Article 9 Section 6 of the Michigan Constitution for Charter Townships, as applied by Article 9 Section 31 of the Michigan Constitution, should be applied to a "tax" authorized by law or charter when the Headlee Amendment was adopted or applied to a "local unit of government" authorized to levy the tax when the Headlee Amendment was adopted. Are the limitations imposed on the authorized tax at the time Headlee was adopted, or when the local unit of government had the power to impose the tax? The POJ argues the local unit of government's power to levy the tax when Headlee was adopted is the determining factor while Petitioner argues that the determining factor is whether the tax was authorized by general law or Charter at the time of Headlee. Petitioner states the focus of the Michigan Court of Appeals and the Michigan Supreme Court has been on whether the tax was authorized at the time Headlee was ratified, not the authority of the taxing unit. Petitioner relies on the Supreme Court's decision in *American Axle*[1], where in answer to the question of validity of a tax under the Revised Judicature Act, the Court held that when the law is plain and unambiguous, the Constitution should be applied as it is clearly expressed without further interpretation. The language of the Constitution clearly holds that it is the authorization of the tax, by law or Charter, when Headlee was ratified that determines its validity. Petitioner states that here the constitutional language is clear – the charter millage is a tax "authorized by law" prior to the passage of the

[1] *American Axle & Mfg., Inc. v City of Hamtramck,* 461 Mich 352; 604 NW2d 330 (2000).

Headlee Amendment and is exempt from the election requirement. Petitioner states that the Court in *Baily v Muskegon County Bd. Of Com'rs*[2] reached a conclusion which runs contrary to the POJ. Petitioner also takes exception to the argument that the Property Tax Limitation Act (PTLA) is controlling in this case. Petitioner states the PTLA specifically excludes charter counties, charter townships, and charter authorities from its definition of local units and does not apply to charter townships or other charter authorities.

On October 27, 2020, Respondent filed a response to the exceptions. In the response, Respondent states the POJ is consistent with the Attorney General Opinions on which Respondent relied in rejecting Petitioner's proposed general tax millage levy. As ruled by the POJ, Petitioner must continue to operate under the maximum authorized 1 mill rate, adjusted by Headlee. Respondent states that the POJ fully addressed Petitioner's arguments that it raises again in its exceptions as to the distinction between whether a tax was authorized by law pre-Headlee and whether Petitioner was itself "authorized by law", i.e., "specifically empowered," to levy the tax at that time. The POJ determined, under applicable case law, that a local unit must have been "empowered" to levy the preexisting tax as of the date of the Headlee Amendment to do so after Headlee's ratification, and Petitioner was not so empowered, concluding that incorporating by resolution after Headlee is not a mere "change in circumstances." Respondent states the POJ's ruling on Petitioner's lack of authority to increase its general millage levy without a vote of the electorate is consistent with the purpose and intent of the Headlee Amendment. It was in recognition of this intent and the referenced legal authority interpreting it that Respondent determined that Petitioner was not "authorized by law" to increase its general tax millage in 2019 without a vote of the electorate. Respondent does not raise exceptions to the POJ's determination that Petitioner was statutorily authorized, i.e., specifically empowered, under MCL 247.670 to levy an additional 0.5 mills for road purposes, without a vote of the electorate, even though it would exceed Petitioner's constitutional maximum tax levy. Respondent requests the Tribunal adopt the POJ as its Final Order and Judgment.

The Tribunal has considered the exceptions, response, and the case file and finds that the Administrative Law Judge properly considered the filings and evidence submitted in the rendering of the POJ. More specifically, Petitioner has essentially restated its arguments in its exceptions. The Tribunal finds that the ALJ's thorough analysis of the case law and Attorney General Opinions relevant to this case considers the ultimate purpose and intent of the Headlee Amendment and supports the conclusion that Petitioner did not have the authority to levy the 5-mill charter millage, but that it could levy the mills for road purposes under MCL 247.670. The Tribunal finds modification of the Proposed Judgment is necessary for clarification purposes.

Given the above, with the exception of the Proposed Judgment, Petitioner has failed to show good cause to justify the modifying of the POJ or the granting of a rehearing.[3] As

[2] *Baily v Muskegon County Bd. Of Com'rs,* 122 Mich App 808 (1983).
[3] See MCL 205.762.

such, the Tribunal adopts the modified POJ as the Tribunal's final decision in this case.[4] The Tribunal also incorporates by reference the Conclusions of Law contained in the POJ in this Final Opinion and Judgment. As a result:

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

IT IS FURTHER ORDERED that Petitioner's Request for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that the October 15, 2019 Resolution Authorizing 2019 Tax Rates for Oshtemo Township Within Statutory Limits is VACATED.

This Final Opinion and Judgment resolves the last pending claim 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.[5] 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.[6] 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.[7] Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[8]

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."[9] 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.[10] The fee

[4] See MCL 205.726.
[5] See TTR 261 and 257.
[6] See TTR 217 and 267.
[7] See TTR 261 and 225.
[8] See TTR 261 and 257.
[9] See MCL 205.753 and MCR 7.204.
[10] See TTR 213.

for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[11]

By _____

Entered: November 19, 2020
ssm

[11] See TTR 217 and 267.