STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Huron County Parks Trustee,
Petitioner,

v

MTT Docket No. 15-002756

City of Caseville,
Respondent.

Tribunal Judge Presiding
Steven H Lasher

ORDER GRANTING PETITIONER'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT

INTRODUCTION

On January 19, 2016, Petitioner filed a motion requesting that the Tribunal enter summary disposition in its favor in the above-captioned case. More specifically, Petitioner contends that the subject property is exempt from taxation or in the alternative, that the subject assessment was arbitrary. Respondent has not responded to Petitioner's Motion for Summary Disposition.

The Tribunal has reviewed the Motion and the evidence submitted and finds that granting Petitioner's Motion for Summary Disposition is warranted at this time. The assessment against the subject shall be rescinded and set to a $0 value as the subject is exempt from real property tax under MCL 211.7m.

BACKGROUND

Caseville County Park Campground ("Park") is a licensed campground, open to the general public to temporarily lease sites of the park. The public may use the sites for parking travel trailers, camping trailers, truck campers, fifth-wheel trailers, motor homes, or park

models.[1] The sites include 58 water and electric sites, and 172 full-hookup sites. There are 157 seasonal sites and the remaining sites are transient sites. For seasonal sites, units are allowed to remain at the designated site from May 1 to October 31 of each year. During this same period, transient sites are used mostly on weekends for an average stay of about 2-3 days. The County owns the underlying land and Park guests own the units. Further, the Park does not have any property interest in the units while they are temporarily parked on the sites.

The Park has been exempt from paying *ad valorem* under the General Property Tax Act ("GPTA"), Act 206 of 1893, MCL 211.1, *et seq*, and has not been subject to assessment for trailer coach taxes under Trailer Coach Parks Act ("TCPA"), MCL 125.1035, *et seq*, until the 2015 tax year. The initial Notice of Assessment indicated the Park's 2015 assessed and taxable values were $920,000 with a true cash value of $1,840,000. Respondent "corrected" those values after this appeal was filed reducing the assessed and taxable values to $450,000, with a true cash value of $900,000.

PETITIONER'S CONTENTIONS

In support of its Motion, Petitioner requests that the Tribunal grant Summary Disposition, in its favor pursuant to MCR 2.116(C)(10). Petitioner contends that (1) occupied trailer coaches parked at the Park are exempt from taxation under the General Property Tax Act and the Trailer Coach Parks Act, and (2) there is no authority to place trailer coaches on the assessment roll if taxes are due.

(1) Trailer Coaches parked in the Park are exempt from taxes under General Property Tax Act and Trailer Coach Parks Act.

[1] Collectively referred to as the "units."

Petitioner contends that the Park is exempt from ad valorem taxation under MCL 211.7m which states that property is exempt if the property is owned by a county, used for public purposes, and open to the public, given that the County owns the Park, and the Park is open to the public for the public purposes.

MCL 211.2a states that a "mobile home, which is not covered by [MCL 125.1041,] while located on land otherwise assessable as real property . . . shall be considered real property and be assessed as part of the real property upon which the mobile home is located." Moreover, MCL 125.1041 provides that "the specific tax shall be in lieu of any property tax levied upon the trailer coach pursuant to the provisions of [GPTA] upon or on account of the trailer while located in the trailer coach park." Thus, Petitioner contends that in order to be subject to the specific tax under TCPA, the Park "must first be subject to general property taxation."[2]

MCL 211.2a states that travel trailers, camping trailers, and truck campers do not fall within the statutory definition of a mobile home. Thus, Petitioner contends that "any travel trailer, camping trailer, or truck camper at Caseville Park is not subject to real property tax and cannot be assessed" for property tax purposes under GPTA and the specific tax under TCPA does not apply because these types of units are not first subject to general property taxation.

Petitioner further contends that units falling within the definition of "mobile homes" parked at the Park would be required to be assessed as part of the property under MCL 211.2a. However, given the land is exempt from taxation under MCL 211.7m, the mobile homes that are parked at the Park would also be exempt from taxation under GPTA. Petitioner thus reasons that the TCPA's specific tax does not apply to the mobile homes as they are not subject to general property taxation given the exemption.

[2] Petitioner's Motion for Summary Disposition, page 6.

(2) If taxes are due, there is no authority to place trailer coaches on the assessment roll.

Petitioner contends that there is no authority to place trailer coaches on Petitioner's assessment roll if a tax was due. MCL 125.1041 states that the specific tax "shall be a tax upon the owners or occupants of each occupied trailer." Thus, Petitioner contends that even if MCL 125.1041 applies, the assessment should be against the individual unit owners and not the Park and it was an error to place the specific tax on the assessment roll.[3]

Finally, Petitioner contends that if the Tribunal finds that the units at the Park are subject to the specific tax under TCPA, the 2015 assessment of its taxable value does not comport with applicable statutes and was arbitrary.

STANDARD OF REVIEW

There is no specific Tribunal rule governing motions for summary disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such motions.[4] In this case, Petitioner moves for summary disposition under MCR 2.116(C)(10).

Summary disposition under MCR 2.116(C)(10) tests the factual support for a claim and must identify those issues regarding which the moving party asserts there is no genuine issue of material fact. Under subsection (C)(10), a motion for summary disposition will be granted if the documentary evidence demonstrates that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law.[5] In the event, however, it is determined that an asserted claim can be supported by evidence at trial, a motion under (C)(10) will be denied.[6]

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[3] Petitioner's Motion for Summary Disposition, page 9.
[4] See TTR 215.
[5] See *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).
[6] See *Arbelius v Poletti*, 188 Mich App 14; 469 NW2d 436 (1991).

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-moving party.[7] The moving party bears the initial burden of supporting its position by presenting its documentary evidence for the court to consider.[8] The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists.[9] Where the burden of proof at trial on a dispositive issue rests on a non-moving party, the non-moving 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.[10] If the opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.[11]

CONCLUSIONS OF LAW

The Tribunal has carefully considered Petitioner's Motion under MCR 2.116 (C)(10) and finds that granting the Motion is warranted.

The Tribunal finds that there is no dispute that the Park is exempt from taxation under MCL 211.7m. It is clear that the Park at issue is owned by Huron County and is a public campground that is open to members of the public. Given that the Park is owned by Huron County, the park is used for public purposes, and is open to the public, the Park is exempt under MCL 211.7m. Further, Respondent clearly contends that the Park was not taxed under GPTA and was only assessed because Petitioner failed to remit the specific tax under MCL 125.1041.[12] Respondent has placed the Park on the 2015 tax roll with an assessed and taxable value of

[7] See *Quinto v Cross and Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996) (citing MCR 2.116(G)(5)).
[8] See *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420; 522 NW2d 335 (1994).
[9] *Id.*
[10] See *McCart v J Walter Thompson USA, Inc*, 437 Mich 109, 115; 469 NW2d 284 (1991).
[11] See *McCormic v Auto Club Ins Ass'n*, 202 Mich App 233, 237; 507 NW2d 741 (1993).
[12] Answer at 2.

$450,000, which it contends is stemming from a specific tax under TCPA.[13] The Tribunal also finds that there is no dispute that the subject Park is a "trailer coach park" as defined by *Sandy Pines v Salem Twp.*[14] Petitioner does not dispute this and it is clear that a park where the public may temporarily park travel trailers, camping trailers, truck campers, fifth-wheel trailers, motor homes, or park models is an area of land where trailer coaches may be assembled or located.[15]

Petitioner first contends that since MCL 125.1041 states that the $3.00 per month fee is "in lieu of" of property tax under the general property tax act, the property must first be taxable under GPTA. The Tribunal disagrees. Petitioner specifically relies upon MCL 211.2a's exclusion of travel trailers, camping trailer, and truck campers from the definition of "mobile home" under that section, to contend that they are, similarly, excluded from the specific tax under MCL 125.1041. The Tribunal finds that this interpretation reads into the statute a meaning which was not intended by the legislature. The Tribunal finds that the phrase "in lieu of" was added to merely indicate that an individual property should not be taxed under both GPTA and TCPA. This is further supported by the Court of Appeals decision in *Sandy Pines* which defines "occupied trailer coach" as "a moveable residence attached to and drawn by some other power source." As such, travel trailers, camping trailers, and truck campers meet the definition of "occupied trailer coach" and are not excluded from taxation under MCL 125.1041 merely because they are not taxable real property under GPTA.[16]

Similarly, Petitioner contends that due to the fact that a mobile home under MCL 211.2a is assessed as part of the land, the exemption that applies to the County-owned land under MCL 211.7m also exempts the mobile homes located on exempt land. However, the Tribunal finds

[13] Prior to the 2015 assessment, the Park had a taxable value of $0 and had not been subject to TCPA's specific tax.
[14] *Sandy Pines v Salem Twp*232 Mich App 1; 591 NW2d 658 (1998).
[15] *Id*. at 18.
[16] See also State Tax Commission Bulletin No. 16 of 1998.

that Petitioner clearly admits that the units are not owned by the County and that the Park "takes no property interest in the units themselves."[17] Given that the specific language of MCL 211.7m only applies to property owned by the County, the exemption would not extend to the units themselves as they are not county-owned property. Therefore, the Tribunal finds that Petitioner has not supported its contention that the exemption under MCL 211.7m applies to any of the units. Overall, the Tribunal finds that Petitioner's contention that the exemption from taxation under MCL 211.7m extends to the specific tax under TCPA is without support. The Tribunal finds that GPTA's exemptions from taxation are specifically limited to the taxes set forth in GPTA. To extend GPTA's exemptions to another act is not contemplated in the plain language of the statute.

Petitioner distinguishes the facts of this case from the facts in *Sandy Pines*. The Tribunal finds that when compared to *Sandy Pines*, they are quite similar. In both cases, the petitioners leased designated areas for people to park recreational vehicles, RVs, or fifth-wheel trailers, which have been defined as "occupied trailer coaches."[18] However, the trailer coach park in *Sandy Pines* was privately owned property; here, the Park is publicly owned. Petitioner in this case contends that this distinction is sufficient to establish that the property at issue is not taxable under TCPA. As discussed above, the Tribunal finds that the exemption from taxation under GPTA does not apply to taxation under TCPA. In addition, there is no distinction between publicly or privately owned in MCL 125.1041; therefore, the Tribunal finds this distinction moot. Given the above, the Tribunal finds that the occupied trailer coaches are not exempt or excluded from taxation under MCL 125.1041 based upon their status under GPTA.

[17] Petitioner's Motion at 2.
[18] MCL 125.1041; *Sandy Pines*,

Notwithstanding the above, the Tribunal agrees with Petitioner that the assessment is invalid and finds that Respondent improperly added value to the assessment roll based on Petitioner's failure to remit the required specific tax. In the Answer, Respondent specifically contends that the "County property (land & buildings) were not TAXED" but the property was added to the tax roll because the "$3.00, month SPECIFIC TAX . . . was not remitted to the local Treasurer."[19] However, MCL 125.1041 specifically states that the failure to remit the specific tax shall result in a penalty, interest, and civil fine. Further, the State Tax Commission Bulletin No. 16 of 1998, relied upon by Respondent, does not state that the value shall be added to the roll. As such, the Tribunal finds that the assessment placed on the roll was improper and is rescinded. While Petitioner is correct that the tax is "upon the owners or occupants of each occupied trailer coach" Petitioner, as the licensee, is responsible for remitting the tax.[20] This is further supported by MCL 125.1043 which states:

> Nothing in this act shall prohibit any licensee from reimbursing himself for the amount of each specific tax which he is obligated to collect and remit by adding to his charges for each parking space in his trailer coach park an amount equal to the specific tax levied. . . .

Nevertheless, the requirement for Petitioner to remit the tax does not allow the tax to be added to the roll. As indicated above, the Park is exempt from ad valorem property taxes under MCL 211.7m and as such should not be placed on the roll. Further, the Tribunal agrees with Petitioner that the valuation placed on the roll is arbitrary. There is nothing on the record to reflect that it reflects a proper valuation or that it reflects the proper amount of fees which would be required under MCL 125.1041. The Tribunal, therefore, finds that the assessment shall be rescinded as it was improper and is contrary to law.

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[19] Answer at 2.
[20] MCL 125.1041.

JUDGMENT

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

IT IS FURTHER ORDERED that the true cash value ("TCV"), state equalized value ("SEV"), and taxable value ("TV") of the subject property for the 2015 tax year are as follows:

Parcel Number: 3253-726-070-50

Year	TCV	SEV	TV
2015	$0	$0	$0

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.[21] 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

[21] See MCL 205.755.

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%, and (iv) after June 30, 2012, through June 30, 2016, at the rate of 4.25%.

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

APPEAL RIGHTS

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

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.[22] 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.[23] 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.[24] Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.[25]

[22] See TTR 261 and 257.
[23] See TTR 217 and 267.
[24] See TTR 261 and 225.
[25] See TTR 261 and 257.

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."[26] A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.[27] The fee for certification is $100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.[28]

By Steven H. Lasher

Entered: March 14, 2016
jh/krb

[26] See MCL 205.753 and MCR 7.204.
[27] See TTR 213.
[28] See TTR 217 and 267.