PARKER HARVEY
A Northern Michigan Law Firm

March 10, 2026

Board of Review for Leland Township
c/o Julie Krombeen (twpassessor@gmail.com)
P.O. Box 238
Lake Leelanau, MI 49653

RE: Charitable Tax-Exemption - Fishtown Preservation Society
Our File No. 3205.17

Dear Assessor and Members of the Board of Review,

I am writing on behalf of our client, Jim Vansteenhouse, a property owner and taxpayer in Leland Township, to provide you with information relevant to the assessment of property owned by the Fishtown Preservation Society, Inc.

It has come to our attention that the township previously granted the Fishtown Preservation Society property tax exemptions, under MCL 211.7o, for a number of parcels on the basis that Fishtown Preservation Society (FPS) is a charitable institution and the properties are owned and occupied by FPS solely for the organization's charitable purpose. We believe that FPS may have, perhaps unintentionally, misled the Assessor and the Township when it initially applied for its property tax exemption. And FPS has certainly failed to advise the Assessor as its expanding commercial and economic development activity on its tax-exempt parcels.

It is important to our client that all parties are subjected to the same standards with respect to property taxation. As such, we do not believe that FPS is properly considered a "charitable institution" under MCL 211.7o, and that even if it were a "charitable institution" it is not eligible for a property tax exemption under MCL 211.7o because it leases a number of parcels out to for-profit businesses and operates a short-term vacation rental business out of another. Therefore, we believe that the Assessor and/or Board of Review should review and revoke all of FPS's property tax exemptions.

For a parcel to qualify for a property tax exemption under MCL 211.7o(1),

(1) The real estate must be owned and occupied by the exemption claimant;

(2) The exemption claimant must be a nonprofit charitable institution; and

(3) The exemption exists only when exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated.

Liberty Hill Housing Corp v City of Livonia, 480 Mich 44, 50; 746 NW2d 282 (2008) (citing *Wexford Med Group v City of Cadillac*, 474 Mich 192, 215; 713 NW2d 734 (2006)).

Whether a claimant meets the second requirement, and is a "charitable institution" requires an analysis of six-factors, set forth by the Michigan Supreme Court in *Wexford Med Group,*

(1) A "charitable institution" must be a nonprofit institution.

(2) A "charitable institution" is one that is organized chiefly, if not solely, for charity.

(3) A "charitable institution" does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services. Rather, a "charitable institution" serves any person who needs the particular type of charity being offered.

(4) A "charitable institution" brings people's minds or hearts under the influence of education or religion; relieves people's bodies from disease, suffering, or constraint; assists people to establish themselves for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government.

(5) A "charitable institution" can charge for its services as long as the charges are not more than what is needed for its successful maintenance.

(6) A "charitable institution" need not meet any monetary threshold of charity to merit the charitable institution exemption; rather, if the overall nature of the institution is charitable, it is a "charitable institution" regardless of how much money it devotes to charitable activities in a particular year.

Wexford Med Group v City of Cadillac, 474 Mich at 215.

While the Fishtown Preservation Society may be federal exempt from income taxes under IRC 501(c)(3), such status does not mean that it is a "charitable institution" under MCL 211.7o. We believe that the Fishtown Preservation Society does not qualify as a "charitable institution" under the six-factor test set forth in *Wexford.*

Fishtown Preservation Society is not organized or operated "chiefly" for charity. It does not, "bring peoples minds or hearts under the influence of education or religion," and it does not appear to provide any charitable services to individuals. The FPS organization's primary goals and purposes are clearly historical preservation of privately owned property and local economic development, supporting commercial fishing operations and local retail and service businesses.

The organization's 2024 Form 990 return, shows that it does not provide any meaningful form of charitable services. Most of the organization's expenses are in the form of salaries and wages ($150,856), other major expenses relate to commercial fishing operations ($32,248), cost of goods sold ($18,703), occupancy, travel, and advertising ($22,465 combined). There are no expenses clearly identified as charitable, and the FPS website does not provide any information on charitable

services. And, while FPS claims to provide education, the organization had only $15,591 in Education related expenses in 2024, representing less than 4% of its total functional expenses of $409,688. Neither the 2022 or 2023 Form 990s filed by FPS appear to identify any expenses as education or charitable services.

As FPS's federal Form 990s and its own website, make clear that FPS is not "chiefly" organized for charity, as required by MCL 211.7o. FPS does not provide any specific information on the charitable services it provides, and its expenditures on education are *de minimis*, representing less than 4% of its total expenditures in 2024. FPS's primary operations are related to historic preservation of private property and local economic development. These are not "charitable" purposes under MCL 211.7o.

Furthermore, even if FPS was considered a "charitable institution" it would not be entitled to property tax-exemptions on the parcels that are leased to for-profit businesses, or that are used for short-term vacation rental operations. A property tax exemption under MCL 211.7o(1) is only proper, "when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated." *See Liberty Hill Housing Corp v City of Livonia*, 480 Mich at 50.

In *Liberty Hill*, the Michigan Supreme Court explained that to "occupy" a property the charitable institution owning the property must maintain a "regular physical presence," and that where the owner leases property to non-exempt tenants, a property tax-exemption is not properly available, regardless of whether the tenant's use of the property is consistent with the organization's purpose. *Id.* at 58-59. That is the standard that must be applied to the parcels owned by FPS.

FPS owns the following six parcels in Leland Township:

009-610-203-00 (204 W. Avenue A)
009-610-204-00 (206 W. Avenue A)
009-610-208-00 (205 W. River Street)
009-610-209-00 (203 W. River Street)
009-610-210-00 (203 W. River Street, Unit C)
009-610-404-00 (101 S. Lake Street)

Of these parcels, it appears that only 101 S. Lake Street is presently occupied by FPS, which it uses as its offices and headquarters.

The River Street parcels are not occupied by FPS or used for charitable purpose, instead they are leased out to a variety of for-profit businesses, including Carlson's Fishery, Tug Stuff, the Dam Candy Store, Diversions, Haystacks, the Cheese Shanty and others. Under the standard set forth by the Michigan Supreme Court in *Liberty Hill*, there is no basis on which FPS can properly claim an exemption under MCL 211.7o for these parcels.

As for the two parcels on Avenue A, it appears that those properties are used (or are intended for use) in FPS's short-term vacation rental program, operated as "The Otherside." According to FPS's website, management of the "Otherside" is outsourced to Peninsula Vacation Rentals, and

at least one shanty is listed and available on VRBO with nightly rates of $900 or more. Since management of the short-term rental operation is outsourced, it would appear that FPS does not occupy the Avenue A parcels, and use of the property as a short-term rental would seem entirely inconsistent with any "charitable" purpose.

Given that FPS had previously represented that it was using these parcels for its charitable purpose, it can be understood that the Assessor, previously, had little reason to review the claims further. However, now that the Assessor, Township, and Board of Review have been provided with a fuller and more accurate portrayal of FPS's use of these parcels, we would expect that appropriate action be taken to revoke the exemptions and seek to recover past taxes, to the full extent allowed by law.

I am enclosing copies of the cases cited herein, FPS's Form 990s are available through the IRS's online search tool at *www.irs.gov/charities-non-profits/search-for-tax-exempt-organizations*, or through ProPublica.

Thank you for your time and attention to this matter. Of course, if you have any questions regarding this request, please contact me.

Sincerely,

Timothy M. White

TMW:

Cc: Fishtown Preservation Society
Leelanau County Equalization Department

KeyCite Yellow Flag
Distinguished by MARIAN CENTER IN JOY VALLEY INC. PETITIONER v. SPRINGVALE TOWNSHIP, RESPONDENT, Mich. Tax Tribunal, December 23, 2025

480 Mich. 44
Supreme Court of Michigan.

LIBERTY HILL HOUSING CORPORATION, Petitioner–Appellant
v.
CITY OF LIVONIA, Respondent–Appellee.

Docket No. 131531.
|
April 2, 2008.

Synopsis
Background: Nonprofit corporation appealed Tax Tribunal's denial of property tax exemption for houses that nonprofit corporation owned and leased to disabled and low-income individuals. The Court of Appeals, 2006 WL 1328885, affirmed. Nonprofit corporation filed application for leave to appeal.

Holdings: The Supreme Court, Corrigan, J., held that:

[1] to occupy property, for purposes of property tax exemption, charitable institution has to at a minimum have a regular physical presence on the property, overruling *Pheasant Ring v. Waterford Twp.*, 272 Mich.App. 436, 726 N.W.2d 741;

[2] nonprofit corporation did not occupy the property and, thus, was not entitled to property tax exemption.

Judgment of Court of Appeals affirmed.

Weaver, J., concurred in result only.

Michael F. Cavanagh, J., dissented and filed opinion in which Marilyn Kelly, J., joined.

West Headnotes (7)

[1] **Taxation** Character, purpose, and activities of institutions; incidence of benefits
Taxation Character, extent, and ownership of property
Taxation Occupation and use of property
Courts should consider three factors when determining whether ad valorem property tax exemption for charitable institutions applies: (1) the real estate must be owned and occupied by the exemption claimant; (2) the exemption claimant must be a nonprofit charitable institution; and (3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. M.C.L.A. § 211.7*o*(1).
4 Cases that cite this headnote

[2] **Statutes** Dictionaries
Dictionaries are merely interpretive aids used by court in interpreting statutory language.
11 Cases that cite this headnote

[3] **Statutes** Superfluousness
Courts must give effect to every word, phrase, and clause in a statute, and must avoid an interpretation that would render any part of the statute surplusage or nugatory.
2 Cases that cite this headnote

[4] **Taxation** Occupation and use of property
To "occupy" property, for purposes of ad valorem property tax exemption for property owned and occupied by a charitable institution, charitable institution must at a minimum have a regular physical presence on the property; overruling *Pheasant Ring v. Waterford Twp.*, 272 Mich.App. 436, 726 N.W.2d 741. M.C.L.A. § 211.7*o*(1).

6 Cases that cite this headnote

[5] **Taxation** Occupation and use of property

A charitable institution does not automatically "occupy" property, for purposes of ad valorem property tax exemption for property owned and occupied by a charitable institution, if it has occupancy rights to the property; the term "occupy" requires more than merely having the right to occupy. M.C.L.A. § 211.7o(1).

5 Cases that cite this headnote

[6] **Taxation** Occupation and use of property

Nonprofit corporation that owned and leased housing to disabled and low-income individuals for their personal use, in furtherance of its charitable purpose, did not "occupy" the property and, thus, was not entitled to ad valorem property tax exemption for property owned and occupied by a charitable institution; nonprofit corporation did not maintain a regular physical presence on the property. M.C.L.A. § 211.7o(1).

4 Cases that cite this headnote

[7] **Taxation** Occupation and use of property

Term "occupy" in statute creating ad valorem property tax exemption for property owned and occupied by a charitable institution is not synonymous with "use." M.C.L.A. § 211.7o(1).

4 Cases that cite this headnote

Attorneys and Law Firms

****283** Honigman Miller Schwartz and Cohn, LLP (by June Summers Haas), Lansing, for the petitioner.

Sean P. Kavanagh, City Attorney and Barbara J. Scherr, Assistant City Attorney, for the respondent.

William J. Schramm, Bloomfield Hills and Corey Beaubien, Troy for Homes, for Autism, amicus curiae.

****284 OPINION**

CORRIGAN, J.

***46** Petitioner, a nonprofit organization, leased housing to disabled and low-income individuals during the tax years at issue. In question is whether petitioner was entitled to a property-tax exemption for charitable institutions under MCL 211.7o(1), which requires that the charitable institution has "occupied" the property. We affirm the Court of Appeals holding that because petitioner did not occupy the property under the unambiguous language of MCL 211.7o, it was not entitled to the property-tax exemption. Petitioner did not maintain a regular physical presence on the property, but instead leased the housing on the property for tenants to use for their own personal purposes. Because the Court of Appeals reached the opposite result in *Pheasant Ring v. Waterford Twp.*, 272 Mich.App. 436, 726 N.W.2d 741 (2006), which involved similar facts, we overrule that decision.

I. FACTS AND PROCEDURAL HISTORY

Petitioner is a nonprofit corporation whose stated purpose is to "creat[e] integrated housing alternatives for low income individuals and families, and persons with disabilities, to interact with the general public, and to promote the establishment of safe, affordable and accessible as necessary housing for low-income individuals and families and persons with disabilities."[1] Petitioner owns 51 single-family homes in the Detroit ***47** area. It leases or rents these homes to qualified individuals who are referred by its parent corporation, Community Living Services.[2] Petitioner's clients are individuals whose low-income or disability status qualify them to receive federal Supplemental Security Income benefits. All of petitioner's tenants pay rent under traditional written leases. These lease agreements include provisions for security deposits, late-payment fees, and hold-over fees. Petitioner has no ongoing day-to-day presence in the homes.

At issue in this case are five houses that petitioner owned and leased to persons who qualified under petitioner's statement of purpose. Petitioner requested from respondent city of Livonia an exemption from property taxes under MCL 211.7o(1) for tax years 2003 and 2004, arguing that the five houses

were exempt because petitioner "owned and occupied" the houses in furtherance of its charitable purpose. After respondent denied petitioner's request, petitioner appealed in the Michigan Tax Tribunal (MTT).

The MTT affirmed, concluding that petitioner was not entitled to the property-tax exemption because petitioner did not occupy the houses within the meaning of MCL 211.7*o*(1). The MTT observed that the caselaw interpreting the occupancy requirement of MCL 211.7*o*(1) had held that a charitable institution "occupied" the housing when its provision of housing was incidental to the overall corporate purpose. The MTT pointed out that, in this case, petitioner's tenants were not using the homes for charitable purposes. The MTT concluded that petitioner did not occupy the properties under MCL 211.7*o* for the following reasons:

> ***48 **285** To say that Liberty Hill occupies the properties in these instances where Liberty Hill lessees reside at the subject properties does not comport with the plain meaning of the statute. In a landlord-tenant relationship, the lessee is generally considered the occupant and the lessor does not generally have occupancy rights during the term of the lease. See *Frenchtown Villa v. Meadors*, 117 Mich.App. 683 [324 N.W.2d 133] (1982).
>
> In this case, involving single family homes, it is a significant stretch to say that the non-profit [sic] corporate owner/lessor occupies the properties by virtue of leasing them to tenant occupants consistent with the non-profit's [sic] corporate purposes.
>
> In these consolidated cases, while Liberty Hill, a nonprofit charitable institution, owns the properties, it does not occupy any of them. The exemption is apparently meant for instances where the offices and operations of the non-profit [sic] charitable institution exist.

The Court of Appeals affirmed in an unpublished opinion per curiam. The panel explained that it agreed with the MTT's reasoning and conclusion:

> The tribunal's opinion points out that in a landlord-tenant relationship, the lessee is the *occupant* while the lessor, here petitioner, does not have occupancy rights during the terms of the lease. Further, to find that the non-profit [sic] corporate owner/lessor *occupies* the properties by virtue of leasing them to tenant-occupants, even though the tenancy is consistent with the non-profit's [sic] corporate purposes, requires a "significant stretch". We agree. [*Liberty Hill Housing Corp. v. City of Livonia*, unpublished opinion per curiam of the Court of Appeals, issued May 16, 2006 (Docket No. 258752), p. 2, 2006 WL 1328885 (emphasis in original).]

The panel concluded that petitioner did not occupy the properties that it leased to tenants for the tenants' personal housing needs.

While petitioner's application for leave to appeal the Court of Appeals decision was pending, the Court of ***49** Appeals decided *Pheasant Ring*, in which it held that the petitioner charitable institution "occupied" property under MCL 211.7*o*(1) when it leased housing to tenants in furtherance of its charitable purpose of providing housing to individuals with autism. No appeal was taken from the Court of Appeals decision in *Pheasant Ring*.

To clarify whether a charitable institution that leases property to others in furtherance of its charitable purpose occupies the property for purposes of the property-tax exemption under MCL 211.7*o*(1), we ordered oral argument on the application in the instant case and directed the parties to address whether *Pheasant Ring* was correctly decided. 477 Mich. 1018, 726 N.W.2d 732 (2007).

II. STANDARD OF REVIEW

In *Wexford Med. Group v. City of Cadillac*, 474 Mich. 192, 201, 713 N.W.2d 734 (2006), this Court described the standard of review for MTT decisions as follows:

> The standard of review for Tax Tribunal cases is multifaceted. Where fraud is not claimed, this Court reviews the tribunal's decision for misapplication of the law or adoption of a wrong principle. *Michigan Bell Tel. Co. v. Dep't of Treasury*, 445 Mich. 470, 476, 518 N.W.2d 808 (1994). We deem the tribunal's factual findings conclusive if they are supported by "competent, material, and substantial evidence on the whole record." *Id.*, citing Const. 1963, art. 6, § 28 and *Continental Cablevision v. Roseville*, ****286** 430 Mich. 727, 735, 425 N.W.2d 53 (1988). But when statutory interpretation is involved, this Court reviews the tribunal's decision de novo. *Danse Corp. v. Madison Hts.*, 466 Mich. 175, 644 N.W.2d 721 (2002).

This Court has held that statutes exempting persons or property from taxation must be narrowly construed in favor of the taxing authority. See, e.g., *Id.* at 204, 713 N.W.2d 734.

*50 III. LEGAL BACKGROUND

A. MCL 211.7o

[1] The statute at issue, MCL 211.7o, creates an ad valorem property-tax exemption for charitable institutions. *Wexford Med Group, supra* at 199, 713 N.W.2d 734. At the relevant times, MCL 211.7o(1) provided: "Real or personal property *owned and occupied* by a nonprofit charitable institution while *occupied* by that nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of taxes under this act." (Emphasis added.)[3] As a consequence of the statutory requirements, courts should consider three factors when determining whether the tax exemption under MCL 211.7o(1) applies:

> (1) The real estate must be *owned and occupied* by the exemption claimant;
>
> (2) the exemption claimant must be a nonprofit charitable institution; and
>
> (3) the exemption exists only when the buildings and other property thereon are *occupied by the claimant solely for the purposes for which it was incorporated.*
>
> [*Wexford Med Group, supra* at 203, 713 N.W.2d 734 (emphasis added).]

Here, it is undisputed that petitioner owned the properties at issue. The main point of contention is whether petitioner "occupied" the properties.

B. CASELAW INTERPRETATIONS

Petitioner argues that this Court, in analyzing the exemption under MCL 211.7o(1) and its predecessors, *51 has construed "occupation" to mean "charitable use" and has not required physical possession by the exemption claimant. In making this argument, petitioner relies on cases that interpreted the third element of MCL 211.7o(1), that the property be occupied *solely for a charitable purpose,* and not the first element, that the real estate must be *owned and occupied* by the claimant. A review of this Court's caselaw yields no support for petitioner's argument.

Our first case addressing the occupation requirement of Michigan's statutory tax exemption for nonprofit institutions was *Detroit Young Men's Society v. Detroit,* 3 Mich. 172 (1854).[4] In that case, the plaintiff was incorporated "for the purpose of moral and intellectual improvement" and owned a building in the city of Detroit that included a library. *Id.* at 180. The plaintiff offered for rent by third parties two stores on the first floor and two small offices on the second floor, but the "remainder of the building ... was used entirely for the purposes of the society...." **287 *Id.* at 173 (opinion syllabus). Because the 1853 statute required "actual [ ]" occupation by the institution,[5] this Court held that the *52 occupation must be exclusive and ruled that the property was subject to taxation, "subject to a deduction of the value of the tenements actually used and occupied by them for the purposes for which they were incorporated, from the entire value of the lot and building." *Id.* at 184.

In *Webb Academy v. Grand Rapids,* 209 Mich. 523, 525, 177 N.W. 290 (1920), the plaintiff, an incorporated educational institution, sought a property-tax exemption for educational institutions.[6] The plaintiff conducted school business on the property, but the founder of the school and his wife, a teacher at the school, lived on the property, along with a student who helped with upkeep in exchange for room and board. *Id.* at 532–533, 177 N.W. 290. This Court indicated that the "owned and occupied" element of the exemption statute was not at issue when it noted: "That plaintiff was in full possession and control of the premises, and maintained an academy there, is not questioned." *Id.* at 535, 177 N.W. 290. It then agreed with the trial court that the property was occupied by the educational institution solely for the purposes for which it was incorporated and that the other minor uses, such as housing incidental to the school uses, did not defeat that conclusion. *Id.* at 539, 177 N.W. 290. Thus, this Court's decision focused on whether the property was occupied *solely for* *53 *the purposes for which the plaintiff was incorporated,* not on whether actual occupancy was required to qualify for an exemption.

Likewise, in *Gull Lake Bible Conference Ass'n v. Ross Twp.*, 351 Mich. 269, 273, 88 N.W.2d 264 (1958), this Court noted that there was no dispute about whether the plaintiff owned or occupied the property. In that case, the plaintiff's stated purpose was "[t]o promote and conduct gatherings at all seasons of the year for the study of the Bible and for inspirational and evangelistic addresses." *Id.* at 271, 88 N.W.2d 264. The plaintiff sought a property-tax exemption for charitable organizations.[7] ****288** Besides a tabernacle and youth chapel (for which the tax-exempt status was not contested), the property included an old hotel building used to house employees, a fellowship center building, a trailer campsite for persons attending the conference and living in trailers, cottages that were rented to persons attending the conference, a gravel pit, a picnic area, boat docks, a bathhouse, a beach, a playground, horseshoe and badminton courts, and parking areas. *Id.* at 272, 88 N.W.2d 264. This Court determined that the housing and recreational facilities on the property were necessary to fulfill the plaintiff's purpose. *Id.* at 275, 88 N.W.2d 264. Again interpreting the third element of the tax-exemption statute, this Court held that the property was occupied by the plaintiff solely for the purpose for which it was incorporated. *Id.* at 274–275, 88 N.W.2d 264.

***54** Finally, in *Oakwood Hosp. Corp. v. State Tax Comm.*, 374 Mich. 524, 526, 132 N.W.2d 634 (1965) (*Oakwood Hosp I*), the plaintiff was a nonprofit corporation that owned and operated a hospital. The plaintiff claimed a tax exemption for property on which its hospital facilities were located.[8] *Id.* Also on the property were six houses that provided housing near the hospital for the resident physicians and interns whose services and availability to the hospital at all times were essential to the operation of the hospital. *Id.* at 527, 132 N.W.2d 634. This Court held that the plaintiff was entitled to the tax exemption for the entire property, including the houses. This Court explained that housing the doctors and interns near the hospital was necessary to the proper functioning of the hospital. *Id.* at 530, 132 N.W.2d 634. Therefore, the houses were "occupied in furtherance of and for the purposes for which plaintiff was incorporated and for hospital and public health purposes." *Id.*[9] Thus, this Court was again called on to address the third element of the tax-exemption statute: whether the property was occupied for the purposes for which the claimant was incorporated. This Court simply did not address the first element: whether the property was "owned and occupied."[10]

***55 **289** C. *PHEASANT RING v. WATERFORD TWP.*

Five months after the Court of Appeals issued its opinion in the instant case, the Court of Appeals decided *Pheasant Ring*. In *Pheasant Ring, supra* at 440, 726 N.W.2d 741, the petitioner was a nonprofit corporation organized to carry on educational and other charitable activities, including establishing and supporting a transitional community for persons with autism. The petitioner sought a property-tax exemption for a building that it owned and rented to persons with autism. *Id.* at 441–442, 726 N.W.2d 741. Nothing in the Court of Appeals opinion stated that any of the petitioner's employees resided in the building to supervise or monitor the tenants. Nonetheless, the Court of Appeals held that the petitioner "occupied" the home within the meaning of MCL 211.7*o*(1). The Court looked to the dictionary definition of "occupy" and then, without discussing *Detroit Young Men's Society, Webb Academy, Gull Lake*, or *Oakwood Hosp I*, held that the petitioner "occupied" the building because it used the building in furtherance of its charitable purpose. The panel held, in pertinent part:

> The Township asserts that Pheasant Ring does not occupy the property because the location of its offices is not physically on the property at issue and it rents the property ***56** to tenants. This interpretation of the requirements for tax exemption is too narrow and restrictive. There is no dispute that Pheasant Ring owns the property. Although Pheasant Ring does not use the property for its own offices, the property is occupied by tenants of Pheasant Ring in furtherance of its charitable purposes. This Court, in determining whether a charitable organization "occupied" a property for purposes of qualifying for a tax exemption, has determined that "[t]he proper test is whether the entire property was used in a manner consistent with the purposes of the owning institution." *Holland Home v. Grand Rapids*, 219 Mich.App. 384, 398, 557 N.W.2d 118 (1996). Under this criterion, Pheasant Ring occupied the residence.
>
> [*Pheasant Ring, supra* at 442, 726 N.W.2d 741.]

IV. ANALYSIS

We conclude that under the plain language of MCL 211.7o(1) and this Court's previous caselaw, the Court of Appeals correctly decided this case and incorrectly decided *Pheasant Ring.*

[2] [3] [4] [5] First, the Court of Appeals opinion in the instant case is consistent with the statutory language, whereas *Pheasant Ring* is not. *Webster's* Universal College Dictionary (1997) defines "occupy" as follows:[11]

> —*v.t.* 1. to have, hold, or take as a separate space; possess, reside in or on, or claim: *The orchard occupies half the farm.* 2. to be a resident or tenant of; dwell in. 3. to fill ***57** up, employ, or engage: *to occupy time reading.* 4. to engage or employ the mind, energy, or attention of: *We occupied the children* ****290** *with a game.* 5. to take possession and control of (a place), as by military invasion.—*v.i.* 6. to take or hold possession.

We conclude that the second meaning is the one the Legislature intended. The third, fourth, and fifth meanings in the definition are clearly not relevant here.[12] The first meaning defines "occupy" as "to have, hold, ... possess, ... or claim[.]" These parts of the definition are synonymous with ownership.[13] Because the statute uses the conjunctive term "owned *and* occupied," however, the Legislature must have intended different meanings for the words "owned" and "occupied." Otherwise, the word "occupied" would be mere surplusage. "Courts must give effect to every word, phrase, and clause in a statute, and must avoid an interpretation that would render any part of the statute surplusage or nugatory." *Koontz v. Ameritech Services, Inc.*, 466 Mich. 304, 312, 645 N.W.2d 34 (2002). Thus, the Legislature must have intended the term "occupy" to mean the other aspect of the dictionary definition: to "reside in or on" or "to be a resident or tenant of; dwell in." This aspect of the ***58** definition especially makes sense when viewed in its specific context;[14] it is "real or personal property" that must be "occupied." "Reside" means "1. to dwell permanently or for a considerable time; live. 2. (of things, qualities, etc.) to be present habitually; be inherent ([usually followed] by *in*)." *Webster's Universal College Dictionary* (1997). Thus, aided by this dictionary definition, we conclude that to occupy property under MCL 211.7o(1), the charitable institution must at a minimum have a regular physical presence on the property.[15]

[6] Using this definition, the Court of Appeals in the instant case correctly held that petitioner did not occupy property that it leased to others and did not physically reside in.[16] In this situation, the tenants, not petitioner, actually "occupied" the property. We agree with the Court of Appeals that "to find that the non-profit [sic] corporate owner/lessor *occupies* the properties by virtue of leasing them to tenant-occupants, even though the tenancy is consistent with the non-profit's [sic] corporate ****291** purposes, requires a 'significant stretch'." *Liberty Hill, supra* at 2 (emphasis in original.) The *Pheasant Ring* panel's holding that a nonprofit corporation occupies a property merely by virtue of the fact that the property is being used in a manner ***59** consistent with the corporation's purpose is at odds with the statute's plain language.

The Court of Appeals holding in the instant case is further supported by this Court's decisions in Webb Academy, Gull Lake, and *Oakwood Hosp I.* Although those decisions did not focus on the occupancy requirement of the statute, but focused instead on the part of the statute requiring that the property be occupied "solely for the purposes for which it was incorporated," the plaintiffs in those cases were actually physically present on the property when they engaged in activities that carried out their nonprofit goals. Here and in *Pheasant Ring,* on the other hand, the petitioners were not present on the properties.

V. RESPONSE TO THE DISSENT

[7] The dissent and petitioner incorrectly conclude that the term "occupy" is synonymous with "use."[17] In arguing that "occupy" means "use," the dissent selectively quotes the fifth of five suggested meanings of "occupancy" in Black's Law Dictionary (8th ed).[18] The first definition of "occupancy" suggested, however, ***60** reads: "The act, state, or condition of holding, possessing, or residing in or on something; actual possession, residence, or tenancy, [*especially*] *of a dwelling or land.*" *Id.* (emphasis added). This definition is consistent with the first two meanings of "occupy" suggested in *Webster's Universal College Dictionary* (1997), one of which we adopt today.

We reject the dissent's argument that interpreting "occupied" to mean "reside [d] in or on" is incongruous with the Legislature's second use of "occupied" in MCL 211.7o(1). Contrary to the dissent's argument, a charitable institution may reside on property for charitable purposes, rather

than simply dwelling on the property for no reason other than dwelling itself. For example, the doctors and interns in *Oakwood Hosp I* resided in physicians' housing "in furtherance of and for the purposes for which plaintiff was incorporated and for hospital and public health purposes." *Oakwood Hosp I, supra* at 530, 132 N.W.2d 634.

The dissent argues that charitable institutions do not typically reside in a place because they are inanimate. Clearly, just as inanimate things may not "use" property, they may not "reside" on property. Charitable institutions, however, are not merely inanimate bodies; they are made up of people. A charitable institution's members, employees, or volunteers may dwell on the property or at least be habitually ****292** present on the property, which is consistent with the meaning of "reside." The dissent contends that a charitable institution may not "reside in" certain property, such as a swimming pool. Although one obviously cannot dwell in a swimming pool, one can maintain a regular physical presence at the pool (e.g., by habitually swimming there) or on the property that contains the pool. Either would generally be sufficient to occupy the property.

***61** In citing *Oakwood Hosp I* to support its argument that the term "occupied" means "used," the dissent conflates the following two factors for determining whether the tax exemption under MCL 211.7*o*(1) applies:

> (1) The real estate must be owned and occupied by the exemption claimant;
>
> * * *
>
> (3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. [*Wexford Med Group, supra* at 203, 713 N.W.2d 734.]

As discussed, the *Oakwood Hosp I* Court addressed *only* the third factor. The Court held that the nonprofit corporation occupied physicians' housing for the purposes for which it was incorporated. The *Oakwood Hosp. I* Court's mention of the nonprofit corporation's "use" of the property was a reference to this Court's holding in *Webb Academy* that housing is exempt only when it is incidental to the use of the entire property for charitable purposes. Further, the Court's discussion of the "use" of property is not inconsistent with our interpretation of the term "occupy." It is certainly consistent for a charitable institution to use property on which it maintains a regular physical presence. Use of property is just one part of occupying it. The two terms are not mutually exclusive; "use" is merely narrower than "occupy."

The dissent would hold that a charitable institution may occupy property by using it without maintaining a physical presence there. Such an interpretation leads to one of the following two unsatisfactory conclusions: (1) a charitable institution can occupy property without actually being physically present or (2) a charitable ***62** institution need only use the property sporadically or perhaps even once to occupy it. Neither of these conclusions is consistent with proper meaning of the term "occupy." Rather, a charitable institution must maintain a regular physical presence on the property to occupy the property under MCL 211.7*o*.

VI. CONCLUSION

Petitioner did not occupy the real property to qualify for a property-tax exemption under MCL 211.7*o*(1). Although petitioner owned the housing, it leased the housing to others for their own personal use and had no regular physical presence in the housing. Thus, petitioner did not occupy the housing under the plain language of the statute and this Court's interpretations of the predecessors of MCL 211.7*o*. Because petitioner cannot satisfy all the requirements of MCL 211.7*o*(1), it is not entitled to an exemption from property taxes during the tax years at issue. Accordingly, we affirm the judgment of the Court of Appeals in the instant case and overrule *Pheasant Ring* to the extent that it is inconsistent with this opinion.

TAYLOR, C.J., YOUNG and MARKMAN, JJ., concur.

WEAVER, J. (*concurring in the result only*).

The question before this Court is whether the petitioner is exempt under ****293** MCL 211.7*o*(1)[1] from paying property tax on property it uses for the charitable purpose of providing housing for low-income families, low-income individuals, ***63** and disabled individuals. Specifically, does the petitioner "occupy" the subject property, as the term "occup[y]" is contemplated as a requirement for exemption from property tax under MCL 211.7*o*(1)?

Pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, I concur in affirming the Court of Appeals holding that petitioner did not occupy the subject property as contemplated under MCL 211.7o(1), and I agree with overruling *Pheasant Ring v. Waterford Twp.*, 272 Mich.App. 436, 726 N.W.2d 741 (2006), but would overrule it to the extent that its holding is inconsistent with my opinion.

I. FACTS

Petitioner Liberty Hill is a nonprofit organization incorporated under the laws of Michigan. Petitioner's charitable purpose is to provide housing for low-income or disabled individuals, in addition to low-income families. The tenants of the property at issue lease the housing under traditional landlord-tenant agreements. Petitioner collects rent from the tenants, charges late fees when the deadline for rent passes, and requires security deposits.

Petitioner requested a tax exemption from respondent city of Livonia for tax years 2003 and 2004, arguing that it qualified for exemption as a charitable organization occupying property in furtherance of its charitable purpose. The case was heard in the Michigan Tax Tribunal (MTT), which denied petitioner's request for an exemption. Petitioner appealed in the Court of Appeals, which affirmed the MTT's ruling in an unpublished opinion per curiam.[2] Petitioner then sought leave to appeal in this Court.

***64** While the application for leave to appeal in the instant case was pending, the Court of Appeals issued a published opinion in *Pheasant Ring v. Waterford Twp.* The petitioner in *Pheasant Ring* was a nonprofit organization, similar to petitioner in this case, that leased housing to persons with autism under traditional landlord-tenant agreements. The petitioner in *Pheasant Ring* requested a property-tax exemption under MCL 211.7o(1). In *Pheasant Ring*, the Court of Appeals held that the petitioner did "occupy" the property in a manner that qualified for the exemption. The decision was not appealed in this Court.

To clarify whether a charitable organization that leases property to others as part of its charitable purpose "occupies" the property under MCL 211.7o(1), this Court ordered oral argument on the application, directing the parties to address "whether *Pheasant Ring v. Waterford Twp.* ... was correctly decided."[3]

II. STANDARD OF REVIEW

Questions of statutory construction are reviewed de novo. *Grimes v. Dep't of Transportation*, 475 Mich. 72, 76, 715 N.W.2d 275 (2006). " '[E]xemption statutes are to be strictly construed in favor of the taxing unit.' " *Ladies Literary Club v.* ****294** *Grand Rapids*, 409 Mich. 748, 753, 298 N.W.2d 422 (1980) (citation omitted).

III. ANALYSIS

To qualify for an exemption under the text of MCL 211.7o(1), the claimant must satisfy a three-part test: (1) the real estate must be owned and *occupied* by the exemption claimant, (2) the exemption claimant must be a nonprofit charitable institution incorporated under ***65** the laws of this state, and (3) the buildings and other property thereon must be *occupied* by the claimant solely for the purposes for which it is incorporated. *Wexford Med. Group v. City of Cadillac*, 474 Mich. 192, 203, 713 N.W.2d 734 (2006). The issue in common between *Pheasant Ring* and the instant case is whether the petitioners "occupied" their respective properties in a manner that meets the first and third elements of the exemption test. In both cases, the properties were leased as housing to tenants with special needs.

With regard to the petitioner in this case, the Court of Appeals held that petitioner did not occupy the property because it had leased the property to tenants and had thus given up its right to occupy the property. The Court of Appeals in *Pheasant Ring*, on the other hand, criticized that argument as being "too narrow and restrictive." *Pheasant Ring*, 272 Mich.App. at 442, 726 N.W.2d 741. The *Pheasant Ring* panel then went on to hold that, because the petitioner had *used* the property in furtherance of its charitable purpose, it had occupied the property for the charitable purpose. *Id.*

I agree with the Court of Appeals in the instant case, and further conclude that the *Pheasant Ring* panel incorrectly interpreted the term "occupied" to mean "used." I note that long-established law requires this Court to give a

narrow construction to statutes creating tax exemptions. *Ladies Literary Club,* 409 Mich. at 753, 298 N.W.2d 422. I interpret the term "occupied" in the narrowest sense, looking only at the language used in MCL 211.7*o*(1). The statute requires a claimant to perform two actions before a charitable exemption can be granted: (1) the charitable organization must own the property and (2) the charitable organization must occupy the property.[4] ***66** The statute makes the occupancy requirement distinct from the ownership requirement, and it makes no mention of "using" the property. Thus, I reject the *Pheasant Ring* interpretation that "using" the property is equivalent to occupying the property because that interpretation goes beyond the text of the statute. Given the statute's use of the term "occupied," a claimant must, at a minimum, have occupancy rights to the property before it can qualify as having "occupied" that property.

By leasing the property to tenants, the petitioner in this case gave up its right to occupy the property during the term of the leases. Because petitioner could not occupy the property by reason of its own agreements, it cannot now claim that it "occupied" the property for purposes of MCL 211.7*o*(1). The tenants were the only occupants of the property during the tax years at issue.

IV. CONCLUSION

Petitioner did not occupy the property at issue during tax years 2003 and 2004 because petitioner had contracted away its occupancy rights in the form of lease agreements. Thus, petitioner cannot satisfy the requirements of MCL 211.7*o*(1) for exemption from property taxes for tax years 2003 and 2004.

****295** Accordingly, I concur with the majority in affirming the Court of Appeals holding in the instant case and overruling the Court of Appeals opinion in *Pheasant Ring v. Waterford Twp.,* but would overrule it to the extent that it is inconsistent with my opinion.

MICHAEL F. CAVANAGH, J. (*dissenting*).

I dissent from the majority opinion, which holds that Liberty Hill Housing Corporation, a nonprofit organization that leases housing to disabled or low-income individuals, did not qualify for ***67** the charitable-institution property-tax exemption under MCL 211.7*o*(1) because it did not occupy the properties at issue. I disagree that the Legislature intended the term "occupy," as used in MCL 211.7*o*(1), to mean "reside in or on" or "to be a resident or tenant of; dwell in." This cannot be the meaning intended by the Legislature, because it is inconsistent with the statute's subsequent use of the term and the statute's purpose.

The key issue in this case is the meaning of the term "occupied" as it is used in MCL 211.7*o*(1), which exempts from taxation "[r]eal or personal property owned and occupied by a nonprofit charitable institution...." The majority opinion rejects the definition of "occupied" that denotes ownership, "to have, hold, ... possess, ... or claim," reasoning that the term "occupied" must mean something other than ownership because MCL 211.7*o*(1) uses the conjunctive phrase "owned *and* occupied." *Ante* at 290. But there are several definitions for the term, so ruling out the meaning that denotes ownership only eliminates one alternative. The entire entry for the term "occupy" in the dictionary used by the majority opinion suggests six different meanings:

> —*v.i.* 1. to have, hold, or take as a separate space; possess, reside in or on, or claim: *The orchard occupies half the farm.* 2. to be a resident or tenant of; dwell in. 3. to fill up, employ, or engage: *to occupy time reading.* 4. to engage or employ the mind, energy, or attention of: *We occupied the children with a game.* 5. to take possession and control of (a place), as by military invasion.—*v.i.* 6. to take or hold possession. [*Webster's* Universal College Dictionary (1997).]

Moreover, consulting a different dictionary yields additional variations of the definition, illustrating a hazard of singularly employing dictionary definitions to discern legislative intent. For example, Black's Law Dictionary ***68** (8th ed) articulates one definition of "occupancy" as "the use to which property is put," which bears some relation to the third *Webster's* definition: "to fill up, employ, or engage."[1] The majority cursorily dismisses three of the alternative *Webster's* definitions as "clearly not relevant," but accuses me of selectively quoting from Black's Law Dictionary. *Ante* at 289–90, 291. However, I have not presented alternative dictionary definitions to argue that "my" dictionary is more authoritative than the majority's dictionary; rather, I raise them to draw attention to the inadequacy of a dictionary-driven approach to statutory interpretation. The ****296** practice of reaching for

a dictionary to define common words in a statute risks serving to merely confirm the writer's assumed meaning of the word, rather than to actually advance the writer's legal analysis.[2] While dictionaries are certainly useful tools of statutory interpretation, there are circumstances in which consulting a dictionary will not itself resolve the proper meaning of a statutory word or phrase.

This case presents such a circumstance—in which consulting dictionaries yields a number of possible meanings of the term "occupied." As a result, discerning the most appropriate meaning requires further ***69** analysis. Several principles of statutory construction aid in determining how the term "occupied" should be understood in MCL 211.7*o*(1). A phrase must be construed in light of the phrases around it, not out of context. *Koontz v. Ameritech Services, Inc.*, 466 Mich. 304, 318, 645 N.W.2d 34 (2002). Similarly, when construing a statute, a court must read it as a whole. *G C Timmis & Co. v. Guardian Alarm Co.*, 468 Mich. 416, 421, 662 N.W.2d 710 (2003). Particularly relevant here is the commonsense principle that " ' "[i]dentical language should certainly receive identical construction when found in the same act." ' " *Empire Iron Mining Partnership v. Orhanen*, 455 Mich. 410, 426 n. 16, 565 N.W.2d 844 (1997), quoting *Tryc v. Michigan Veterans' Facility*, 451 Mich. 129, 155, 545 N.W.2d 642 (1996) (Riley, J., dissenting).

When a statute repeats terms, it is logical to infer that they have the same meaning in each instance. The statute at issue here uses the term "occupied" twice within the same sentence: "Real or personal property owned and *occupied* by a nonprofit charitable institution while *occupied* by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act." MCL 211.7*o*(1) (emphasis added). The statute's two uses of the term "occupied" should be consistent in meaning. But interpreting "occupied" to relate to residency, as the majority opinion suggests, is incongruous with the statute's second use of the term "occupied." That interpretation would require that an institution resided in property solely for a particular purpose. One's residency of property does not commonly have any purpose other than residency, or dwelling, itself. By contrast, the *use* of property might be for a particular purpose. It would be entirely appropriate to state that an institution used ***70** property solely for a particular purpose, such as a medical, educational, or recreational purpose. The second instance of "occupied" should be understood as synonymous with "used," because it is the most appropriate definition for that context. Interpreting "occupied" to relate to use would also be appropriate for the first instance of the term, which confirms that the Legislature intended this meaning.

Additionally, interpreting "occupied" as synonymous with "used" comports with the function of the statute, whereas interpreting "occupied" to relate to residency does not. The exemption described in MCL 211.7*o*(1) applies only to nonprofit charitable institutions; it never applies to individuals. Applying the term "reside" to an institution is a strained and odd interpretation. Unlike people, institutions are inanimate and do not typically reside in a place. Notably, the majority articulates the following definition of "reside" from *Webster's:* "1. to dwell permanently or for a considerable time; live. 2. (of things, qualities, etc.) to be present habitually; be ****297** inherent ([usually followed] by *in*)." *Ante* at 290. The first definition of "reside" clearly does not apply to institutions, because institutions do not dwell or live anywhere. The second definition of "reside" does not apply because an institution would not be inherent in a particular piece of property.

Further, the statute applies broadly to "real or personal" property, not simply residential property. Not all property that is eligible for exemption is susceptible to being resided in. For example, if a nonprofit charitable institution owned land that contained a swimming pool, it would be inapt to state that the institution occupied the swimming pool in that it resided in the pool. But it would be entirely appropriate to state that the institution occupied the swimming pool in that it operated the ***71** pool and, further, that it operated the pool in fulfillment of its charitable purpose.[3] Thus, the term "occupied" must be construed so that it applies to the broad range of property that could be exempt under MCL 211.7*o*(1).

Finally, Michigan caselaw supports interpreting the term "occupied" to mean "used" in the context of this exemption. In *Oakwood Hosp. Corp. v. State Tax Comm.*, 374 Mich. 524, 132 N.W.2d 634 (1965), the predecessor of MCL 211.7*o* was at issue. The statute exempted from taxation property that was "owned and occupied" by "library, benevolent, charitable, educational or scientific institutions ... while occupied by them solely for the purposes for which they were incorporated." *Id.* at 528, 132 N.W.2d 634. This Court held that houses owned by the plaintiff hospital, which

were used for dwelling purposes for resident physicians and their families, were exempt under this provision. *Id.* at 530–532, 132 N.W.2d 634. The hospital charged the residents $100 a month to defray the cost of the housing, which was located at the edge of the hospital property and fronted a public street in a residential neighborhood. This Court reasoned that the houses were built to be necessary accessories to the hospital, because there was a shortage of housing close to the hospital and the resident physicians needed to be available to serve at the hospital on short notice. *Id.* at 527, 132 N.W.2d 634. It concluded that "[t]he houses are *used* as part of the hospital operation and are incidental thereto. Exemption under the statute applies." *Id.* at 532, 132 N.W.2d 634 (emphasis added).[4] Clearly, *Oakwood* interpreted the term ***72** "occupied" to mean the use of the property. The focus in *Oakwood* was not simply who physically "resided in" the property, but whether the *use* of the property was within the hospital's scientific purpose. This Court viewed the resident physicians as an extension of the hospital because they were so integral to the hospital's purpose; accordingly, their tenancy and use of the housing was attributed to the hospital.

Therefore, if the term "occupied" is understood to relate to the use to which property is put, the question here is whether Liberty Hill occupied the properties when it leased them to these particular tenants. The relationship between ****298** Liberty Hill and its tenants is analogous to the relationship between the hospital and the medical residents in *Oakwood*. A hospital's narrow purpose is to provide medical care *at the hospital,* but *Oakwood* recognized that enabling medical residents to get to the hospital quickly was necessary to that purpose. Accordingly, even though actual medical care did not occur in the houses, the relationships between the medical residents, their housing, and the hospital were so intertwined that this Court regarded housing the medical residents as an operation of the hospital that was within its scientific purpose. The fundamental purpose of Liberty Hill is to enable low-income or disabled people to live independently, rather than in institutions or group homes. The physical manifestation of Liberty Hill's operations is not just its central office, but also in having Liberty Hill's tenants occupy the houses. If Liberty Hill's tenants do not live in the houses, Liberty Hill's purpose is not fulfilled.

Further, the tenancy arrangements demonstrate a unique relationship between Liberty Hill and its tenants. ***73** All Liberty Hill tenants are referred by Community Living Services, Liberty Hill's parent corporation. Liberty Hill's sample lease appears to be a standard lease, except that it includes a provision that "Community Living Services shall assist the tenant in complying with the terms of this lease." Unlike a standard landlord-tenant relationship, Liberty Hill has specifically agreed to work with the tenant to fulfill the lease requirements. Further, Community Living Services contracts to provide a number of services to Liberty Hill tenants *at the properties.* Support services include transportation, personal-care assistance, support for work, recreation, community involvement, and health-care service. The aid given in a particular tenant's home could amount to care being provided 24 hours a day, seven days a week, depending on the tenant's needs. Thus, between assisting the tenant with complying with the lease and providing support services, it is clear that Liberty Hill operates in the properties, even though the tenants physically reside in them.

In addition to the services that Liberty Hill provides through Community Living Services, the financial arrangements indicate that Liberty Hill does not have a standard landlord-tenant relationship with its tenants. All of Liberty Hill's tenants qualify for Supplemental Security Income, which amounts to approximately $600 a month and is usually the only source of income for each tenant. Tenants pay no more than one-third of their income to rent, usually about $200 a month. Liberty Hill receives governmental funds and donations that offset the remainder of the housing-related expenses, such as the mortgage, insurance, and maintenance. But in four of the last five years, Liberty Hill has operated at a deficit. The financial circumstances indicate that Liberty Hill is not leasing the houses as a typical landlord, but is leasing the houses as an integral ***74** part of its mission. Just as the houses in *Oakwood* would not have been exempted from taxation if they had been rented to people unrelated to the hospital, the Liberty Hill houses would not be exempt if they were rented to tenants who were not referred by Community Living Services and who did not meet Liberty Hill's criteria.

Leasing the properties to particular low-income or disabled tenants and maintaining a relationship with them was integral to Liberty Hill's operation. Thus, Liberty Hill occupied the properties within the meaning of MCL 211.7*o*(1) because it used the properties as part of its institutional mission. Moreover, it occupied the properties solely for the purposes for which it ****299** was incorporated, as required by MCL 211.7*o*(1). I would reverse the judgment of the Court of Appeals.

All Citations

480 Mich. 44, 746 N.W.2d 282

MARILYN KELLY, joins the dissent.

Footnotes

1 Although petitioner's goal is to break even while providing necessary housing and services to its clients, petitioner had operated at a deficit for the three years preceding this suit.

2 Community Living Services provides the clients with additional services, such as transportation, meals, monitoring, medical assistance, repairs, maintenance, and social activities.

3 MCL 211.7*o*(1) was last amended by 2006 P.A. 681. It now provides: "Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act."

4 1853 P.A. 86, § 5(8) exempted from taxation the "personal property of all library, benevolent, charitable and scientific institutions, incorporated within this State, and such real estate belonging to such institutions as shall actually be occupied by them, for the purposes for which they were incorporated[.]"

5 The Legislature later amended the statute to remove the word "actually." See 1885 P.A. 153, § 3, providing a tax exemption for the personal property of "library, benevolent, charitable, and scientific institutions, incorporated under the laws of this State, and such real estate as shall be occupied by them for the purposes for which they were incorporated[.]" This statute was amended a few years later by 1893 P.A. 206 to provide a tax exemption for "[s]uch real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions incorporated under the laws of this State, with the buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated...." Thus, although the statute no longer stated that "actual [ ]" occupancy was required, it did require that the property be both "owned and occupied" by charitable institutions and "occupied by them solely for the purposes for which they were incorporated."

6 *Webb Academy* involved another predecessor of MCL 211.7*o*, 1915 CL 4001, that, in language essentially identical to that of 1893 P.A. 206, exempted from taxation "[s]uch real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions incorporated under the laws of this state, with the buildings and other property thereon while occupied by them solely for the purposes for which they were incorporated[.]"

7 *Gull Lake* involved another predecessor of MCL 211.7*o* that exempted from taxation

> [s]uch real estate as shall be owned and occupied by library, benevolent, charitable, educational or scientific institutions and memorial homes of world war veterans incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which they were incorporated. [MCL 211.7, as amended by 1955 P.A. 46.]

8 At the time *Oakwood Hosp I* was decided, the pertinent statutory language was identical to that in effect when *Gull Lake* was decided. See MCL 211.7, as amended by 1961 P.A. 238.

9 Later, in *Oakwood Hosp. Corp. v. State Tax Comm.*, 385 Mich. 704, 190 N.W.2d 105 (1971)(*Oakwood Hosp. II*), this Court reached the opposite conclusion because the Legislature had amended the statute to specifically exclude such physician housing from the property-tax exemption.

10 Since *Oakwood Hosp. II,* the Court of Appeals has addressed the tax exemption at issue several times. See, e.g., *Lake Louise Christian Community v. Hudson Twp.*, 10 Mich.App. 573, 580, 159 N.W.2d 849 (1968) (holding that the religious institution did not occupy 1,300 acres of mostly unused wooded property because the property was not frequently used for

religious education), *Nat'l Music Camp v. Green Lake Twp.*, 76 Mich.App. 608, 612, 257 N.W.2d 188 (1977) (holding that the nonprofit educational institutions were entitled to a property-tax exemption for 92 acres of unspoiled sand dunes on Lake Michigan because "[t]he property was used in a manner consistent with the nature of the land in such a way that the purpose for which the owning institution is exempt, education, was plainly advanced"), *Kalamazoo Nature Ctr., Inc. v. Cooper Twp.*, 104 Mich.App. 657, 665–667, 305 N.W.2d 283 (1981) (holding that the nonprofit institution "occupied" 31 acres of preserved wilderness land that it did not physically enter but used for observation and educational purposes), and *Holland Home v. Grand Rapids*, 219 Mich.App. 384, 397–398, 557 N.W.2d 118 (1996) (holding that the nonprofit association did not occupy the property when a retirement home on the property was under construction on the relevant tax days). The validity of some of these opinions is questionable in light of our holding in the instant case.

11 Justice Cavanagh attacks our use of a dictionary in interpreting the statutory language. He states: "The practice of reaching for a dictionary to define common words in a statute risks serving to merely confirm the writer's assumed meaning of the word, rather than to actually advance the writer's legal analysis." *Post* at 295–96. We recognize that dictionaries are merely interpretive aids used by the court. *Consumers Power Co. v. Pub. Service Comm.*, 460 Mich. 148, 163 n. 10, 596 N.W.2d 126 (1999). But in a previous opinion authored by Justice Cavanagh, this Court held: "When determining the common, ordinary meaning of a word or phrase, consulting a dictionary is appropriate." *Title Office, Inc. v. Van Buren Co. Treasurer*, 469 Mich. 516, 522, 676 N.W.2d 207 (2004).

12 Although the dissent accuses us of cursorily dismissing three of the alternative meanings of "occupy," we see no need to discuss these definitions in detail because they clearly do not apply. The dissent seems to prefer the third meaning in the definition: "to fill up, employ, or engage; *to occupy time reading.*" But the dictionary's example using this meaning clearly demonstrates that the third meaning does not make sense in the context of the statute. One cannot "fill up" property the way one can fill up time reading. The fourth meaning does not apply because one cannot "engage or employ the mind, energy, or attention of" an inanimate object such as real property. Finally, it is preposterous to suggest that the Legislature intended the exemption to apply only if a nonprofit charitable institution conducted a successful military invasion of the property.

13 *Webster's Universal College Dictionary* (1997) defines "own" as "to have or hold as one's own; possess."

14 A word that is defined in various ways is given meaning by its context or setting. *Koontz, supra* at 318, 645 N.W.2d 34.

15 A charitable institution does not automatically occupy property if it has occupancy rights to the property. The term "occupy" requires more than merely having the "right to occupy." As we have explained, the charitable institution must actually occupy the property, i.e., maintain a regular physical presence there.

16 Petitioner is correct, however, that the fact that it charged the tenants rent does not disqualify it from the exemption. See *Wexford Med. Group, supra* at 215, 713 N.W.2d 734 ("A 'charitable institution' can charge for its services as long as the charges are not more than what is needed for its successful maintenance.").

17 Similarly, the Court of Appeals in *Lake Louise Christian, supra* at 578, 159 N.W.2d 849, and *Kalamazoo Nature Ctr., supra* at 665–667, 305 N.W.2d 283, erred in concluding that "occupy" is synonymous with "use."

18 Justice Cavanagh's dissent states that it quotes Black's Law Dictionary merely "to draw attention to the inadequacy of a dictionary-driven approach to statutory interpretation." *Post* at 295. Yet Justice Cavanagh does not explain what interpretive aid, other than his own personal vocabulary, he would prefer us to use to define the statutory term. Further, when it comes to actually interpreting the statutory language, Justice Cavanagh, despite his criticism of our reliance on a dictionary, himself turns to the dictionary definition. The dissent states that the term " 'occupied' should be understood as synonymous with 'used,' because it is the most appropriate definition for that context." *Post* at 296. Justice Cavanagh appears to derive this definition from Black's Law Dictionary, which he quotes earlier in his opinion.

1 MCL 211.7o(1) states: "Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which that nonprofit charitable institution was incorporated is exempt from the collection of taxes under this act."

2 *Liberty Hill Housing Corp. v. City of Livonia*, unpublished opinion per curiam of the Court of Appeals, issued May 16, 2006 (Docket No. 258752).

3 *Liberty Hill Housing Corp. v. City of Livonia*, 477 Mich. 1018, 726 N.W.2d 732 (2007).

4 The occupation must be in furtherance of the organization's charitable purpose.

1 The other four alternative definitions include:

> 1. The act, state, or condition of holding, possessing, or residing in or on something; actual possession, residence, or tenancy, [especially] of a dwelling or land.... 2. The act of taking possession of something that has no owner (such as abandoned property) so as to acquire legal ownership.... 3. The period or term during which one owns, rents, or otherwise occupies property. 4. The state or condition of being occupied. [Black's Law Dictionary (8th ed).]

2 See Hoffman, *Parse the sentence first: Curbing the urge to resort to the dictionary when interpreting legal texts*, 6 NYU J Legis & Pub Pol'y 401 (2003).

3 Despite its devotion to the dictionary, the majority departs from its chosen definition when it is convenient or necessary to do so, such as in the swimming-pool hypothetical. The shortcomings of its chosen dictionary definition lead the majority to craft its own definition of "occupy"—to maintain a regular physical presence. *Ante* at 292.

4 The majority's argument that *Oakwood* and the other cases addressing this exemption did not concern the "owned and occupied" element of the exemption statute is irrelevant because the term "occupied" should have the same meaning in both instances in the statute.

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Not Followed as Dicta SBC Health Midwest, Inc. v. City of Kentwood, Mich., May 1, 2017

474 Mich. 192
Supreme Court of Michigan.

WEXFORD MEDICAL GROUP, Petitioner–Appellant,

v.

CITY OF CADILLAC, Respondent–Appellee.

Docket No. 127152.
|
Calendar No. 4.
|
Argued Nov. 9, 2005.
|
Decided May 3, 2006.

Synopsis

Background: Nonprofit provider of health care appealed Tax Tribunal's refusal to grant it a charitable institution exemption and public health purpose exemption under the General Property Tax Act. The Court of Appeals affirmed. Provider sought leave to appeal.

Holdings: The Supreme Court, Michael F. Cavanagh, J., held that:

[1] if the overall nature of an institution is charitable, it is a charitable institution, for purposes of property tax exemption, regardless of how much money it devotes to charitable activities in a particular year, and

[2] provider was entitled to property tax exemption as a charitable institution.

Reversed in part and vacated in part.

West Headnotes (20)

[1] **Taxation** Questions of law

Where fraud is not claimed, Supreme Court reviews Tax Tribunal's decision for misapplication of the law or adoption of a wrong principle.

40 Cases that cite this headnote

[2] **Taxation** Questions of fact

Supreme Court deems Tax Tribunal's factual findings conclusive if they are supported by competent, material, and substantial evidence on the whole record. M.C.L.A. Const. Art. 6, § 28.

34 Cases that cite this headnote

[3] **Taxation** Trial de novo

When statutory interpretation is involved, Supreme Court reviews Tax Tribunal's decision de novo.

34 Cases that cite this headnote

[4] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

Taxation Character, extent, and ownership of property

Taxation Occupation and use of property

Test to assess whether a claimant is entitled to ad valorem property tax exemption for charitable institutions is as follows: (1) the real estate must be owned and occupied by the exemption claimant; (2) the exemption claimant must be a nonprofit charitable institution; and (3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. M.C.L.A. § 211.7*o*.

15 Cases that cite this headnote

[5] **Statutes** Intent

Under rules of statutory construction, court's paramount concern is identifying and effecting the Legislature's intent.

[6] **Taxation** General rules of construction

Because tax exemptions upset the desirable balance achieved by equal taxation, they must be narrowly construed.

9 Cases that cite this headnote

[7] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

A "charitable institution," for purposes of ad valorem property tax exemption, must be a nonprofit institution. M.C.L.A. §§ 211.7*o*, 211.9(a).

5 Cases that cite this headnote

[8] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

A "charitable institution," for purposes of ad valorem property tax exemption, is one that is organized chiefly, if not solely, for charity. M.C.L.A. §§ 211.7*o*, 211.9(a).

5 Cases that cite this headnote

[9] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

A "charitable institution," for purposes of ad valorem property tax exemption, does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services; rather, a charitable institution serves any person who needs the particular type of charity being offered. M.C.L.A. §§ 211.7*o*, 211.9(a).

16 Cases that cite this headnote

[10] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

A "charitable institution," for purposes of ad valorem property tax exemption, brings people's minds or hearts under the influence of education or religion; relieves people's bodies from disease, suffering, or constraint; assists people to establish themselves for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government. M.C.L.A. §§ 211.7*o*, 211.9(a).

12 Cases that cite this headnote

[11] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

A "charitable institution," for purposes of ad valorem property tax exemption, can charge for its services as long as the charges are not more than what is needed for its successful maintenance. M.C.L.A. §§ 211.7*o*, 211.9(a).

5 Cases that cite this headnote

[12] **Taxation** Character, purpose, and activities of institutions; incidence of benefits

An institution need not meet any monetary threshold of charity to merit the charitable institution property tax exemption; rather, if the overall nature of the institution is charitable, it is a "charitable institution" regardless of how much money it devotes to charitable activities in a particular year. M.C.L.A. §§ 211.7*o*, 211.9(a).

32 Cases that cite this headnote

[13] **Taxation** Health care facilities and institutions

Nonprofit provider of health care existed for, and carried out, the purpose of giving a gift for the benefit of an indefinite number of persons by providing free and below-cost medical care to anyone who needed it without qualification, and realized no pecuniary gain from its activities, and thus provider was entitled to ad valorem property tax exemption as a "charitable institution," even though the value of the free medical care rendered by provider in given tax years was less than $2,500, provider was not open 24 hours a day, and provider included noncompetition clauses in its physicians' contracts. M.C.L.A. § 211.7*o*.

3 Cases that cite this headnote

[14] **Taxation** ⇐ Property leased or otherwise used for profit

A "charitable institution," for purposes of ad valorem property tax exemption, can have a net gain—it is what the institution does with the gain that is relevant; when the gain is invested back into the institution to maintain its viability, this serves as evidence, not negation, of the institution's charitable nature. M.C.L.A. §§ 211.7*o*, 211.9(a).

[15] **Taxation** ⇐ Presumptions and burden of proof

When an institution presents no evidence of its charitable works, then, as a matter of law, it can not be found to be a "charitable institution," for purposes of ad valorem property tax exemption. M.C.L.A. §§ 211.7*o*, 211.9(a).

[16] **Taxation** ⇐ Presumptions and burden of proof

An institution need not present evidence of a particular level of charitable care to be found to be a "charitable institution," for purposes of ad valorem property tax exemption. M.C.L.A. §§ 211.7*o*, 211.9(a).

6 Cases that cite this headnote

[17] **Taxation** ⇐ Character, purpose, and activities of institutions; incidence of benefits

In order to be found to be a "charitable institution," for purposes of ad valorem property tax exemption, quantitative proof of the value of charitable care is not required; rather, the focus should be on the overall nature of the institution as judged by the particular facts presented in each individual case. M.C.L.A. §§ 211.7*o*, 211.9(a).

1 Case that cites this headnote

[18] **Administrative Law and Procedure** ⇐ Taxation

Taxation ⇐ Administrative agencies in general

Supreme Court will generally defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer.

8 Cases that cite this headnote

[19] **Taxation** ⇐ Character, purpose, and activities of institutions; incidence of benefits

Whether an institution is a charitable institution, for purposes of ad valorem property tax exemption, is a fact-specific question that requires examining the claimant's overall purpose and the way in which it fulfills that purpose. M.C.L.A. § 211.7*o*.

[20] **Taxation** ⇐ Character, purpose, and activities of institutions; incidence of benefits

Determination of whether an institution is a charitable institution, for purposes of ad valorem property tax exemption, will rarely, if ever, rest on one specific fact, such as the percentage of monetary value of services given for free. M.C.L.A. § 211.7*o*.

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Opinion

MICHAEL F. CAVANAGH, J.

***195** This case calls on this Court to interpret certain provisions of the General Property Tax Act (GPTA), MCL 211.1 *et seq.* Specifically, we must decide whether the Tax Tribunal improperly denied petitioner's request to be exempt from ad valorem property taxes because of its claimed status as a charitable institution under MCL 211.7*o* and 211.9(a), and its claim that it serves a public health purpose as described in MCL 211.7r. Because there is no statutory language that precludes finding petitioner exempt as a charitable institution, and because exempting petitioner on that basis fully comports with the reasoning of our previous cases, we hold that petitioner does in fact qualify for that exemption. In refusing to grant the exemption, the Tax Tribunal adopted a wrong principle and misapplied ***196** the law by failing to distinguish *ProMed Healthcare v. City of Kalamazoo*, 249 Mich.App. 490, 644 N.W.2d 47 (2002), and by focusing only on the amount of free medical services plaintiff provided. Instead, the tribunal should have considered plaintiff's unrestricted and open-access policy of providing free or below-cost care to all patients who requested it.

Our finding in that regard makes it unnecessary to determine whether petitioner also exists for a public health purpose. As such, we reverse the part of the Court of Appeals judgment that held that petitioner was not a charitable institution and vacate the part of the judgment that held that petitioner did not exist for a public health purpose. The matter is remanded to the Tax Tribunal for entry of a judgment for the petitioner.

****737** I. BACKGROUND

Petitioner Wexford Medical Group is a nonprofit corporation that provides health care in Wexford County, Michigan, which is a federally designated health professional shortage area. Petitioner does business as Great Lakes Family Care. Petitioner is a § 501(c)(3)[1] (nonprofit) organization and is owned jointly by Trinity Health Care and Munson Health Care, two other § 501(c)(3) organizations. Petitioner's articles of incorporation identify petitioner's mission as "providing access to quality and affordable health care services to the communities it serves." Both its statement of purpose and its bylaws further declare that petitioner will, among other things, conduct its activities within the confines of the rules governing ***197** § 501(c)(3) organizations, prevent inurement of funds to private individuals, and refrain from political activities.[2]

In accord with its mission, petitioner has a "charity care" policy and an "open-access" policy for Medicare and Medicaid patients. The charity care policy provides free and discounted health care to anyone whose income is up to twice the federal poverty level. Under its open-access policy, patients are treated on a first-come, first-served basis, and petitioner places no limit on the number of Medicare and Medicaid patients it will treat. In 2000, two patients took advantage of the charity care program; 11 patients used it in 2001. The total value of care rendered to these 13 patients was $2,400. Petitioner also reported that 50 percent of its patients utilized Medicare or Medicaid, which it stated was a significantly higher percentage than was true for other providers in the area.

In the years at issue, petitioner's annual budget was $10 million, and it handled approximately 40,000 to 44,000 patient visits a year. Petitioner's expected fee collection was as follows: 83 percent recovery from self-pay patients, 75 percent from Blue Cross Blue Shield patients, 60.3 percent from Medicare patients, ***198** and 40.4 percent from Medicaid patients. Under its policy of accepting patients who cannot pay their Medicare or Medicaid co-pays, petitioner provided below-cost health care totaling nearly $2 million more than its receipts. Overall, petitioner suffered financial losses in 1999, 2000, and 2001 of $575,000, $731,000, and $673,000, respectively. These losses were subsidized by its parent companies. And while petitioner's goal was to eventually become profitable, its agent testified that any

surplus would be invested back into the organization in accord with its statement of purpose.

Petitioner also engaged in a variety of health-based community services such as offering classes, lectures, training, testing and screening, and sports physicals. Other of its community endeavors included treating communicable diseases such as human immunodeficiency virus-acquired immune deficiency syndrome (HIV–AIDS), tuberculosis, hepatitis, and meningitis; treating maladies such as diabetes, obesity, and heart disease; and providing educational services such as disease screening, ****738** blood-borne pathogen instruction, defibrillator training, and first aid instruction. A significant number of these and other services provided by petitioner are not provided by anyone else in the community.

After respondent assessed and taxed petitioner's property in 2000 and 2001,[3] petitioner appealed the assessments to the Tax Tribunal. Petitioner argued that it was entitled to the GPTA's charitable institution exemption, MCL 211.7*o*, and its public health purpose exemption, MCL 211.7r, so it should not have to pay ad valorem property taxes.

***199** MCL 211.7*o* creates the ad valorem property tax exemption for charitable institutions. Section 70(1) states as follows:

> Real or personal property owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of taxes under this act.

The corollary statute addressing personalty, MCL 211.9(a), exempts from taxation

> [t]he personal property of charitable, educational, and scientific institutions incorporated under the laws of this state.

MCL 211.7r, which contains the public health purpose exemption, states, in pertinent part:

> The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families.

The Tax Tribunal upheld the assessment, finding that petitioner did not qualify for either exemption. With respect to the charitable institution exemption, the tribunal held that while petitioner extended charity care and indigent services to the community, its primary purpose was to operate as a typical family medical practice. It found that it could not distinguish petitioner's case from *ProMed, supra.* The tribunal commented:

> While, unlike *ProMed,* Petitioner is able to document the number of individuals it has served under its charity care policy, serving 13 patients under that program in a ***200** two-year time period is not sufficient for a medical practice that has up to 44,000 patient visits per year.

Citing petitioner's $10 million annual budget, the tribunal concluded that "[a] charity care write-off of approximately $2,400 is not an appropriate level of charity care to qualify Petitioner as a charitable institution."

Petitioner appealed the tribunal's decision,[4] and relying heavily on *ProMed, supra,* the Court of Appeals affirmed the tribunal's decision. *Wexford Med Group v. Cadillac,* unpublished opinion per curiam of the Court of Appeals, issued August 24, 2004, 2004 WL 1882645 (Docket No. 250197). The Court of Appeals held that petitioner "failed to present evidence that its 'provision of charitable medical care constituted anything more than an incidental part of its operations.' Specifically, ****739** the evidence indicated that Wexford provided no-cost services to only two people in 2000, and eleven people in 2001, which amounted to writing off $129.13 in 2000, and $2,229.09 in 2001." *Id.,* slip op at 2, quoting *ProMed, supra* at 500, 644 N.W.2d 47. The Court of Appeals was also not persuaded by petitioner's argument that it had written off losses sustained from underpayments by Medicare and Medicaid, reasoning as follows: "That the amount of payment under these programs often does not cover the cost of providing the service does not change the character of the service from service in exchange for payment to charity. Further, it is undisputed that Wexford's aim is to become profitable." *Wexford, supra* at 2. The Court was similarly unpersuaded by petitioner's ***201** argument that it was a charitable institution because it provided health care in an area deficient of such services.

With respect to whether petitioner served a public health purpose that would entitle it to ad valorem tax exemption, the Court also found against petitioner. The Court concluded that petitioner's "operations parallel a typical private medical clinic, rather than an organization that provides public health services" and that "the services that Wexford claims as serving public health purposes were 'inherent to the medical profession.' " *Id.* at 3. Therefore, petitioner's appeal was rejected.

This Court granted petitioner's application for leave to appeal, 472 Mich. 899, 696 N.W.2d 708 (2005), as well as motions by various amici curiae to file briefs. Briefs were received from amici Michigan Rural Health Clinics Organization, McLaren Health Care Corporation, Michigan Health & Hospital Association, and Michigan Association of Homes and Services for the Aging in support of petitioner, and by amici Michigan Municipal League and Michigan Townships Association in support of respondent.

II. STANDARD OF REVIEW

[1] [2] [3] The standard of review for Tax Tribunal cases is multifaceted. Where fraud is not claimed, this Court reviews the tribunal's decision for misapplication of the law or adoption of a wrong principle. *Michigan Bell Tel. Co. v. Dep't of Treasury*, 445 Mich. 470, 476, 518 N.W.2d 808 (1994). We deem the tribunal's factual findings conclusive if they are supported by "competent, material, and substantial evidence on the whole record." *Id.*, citing Const. 1963, art. 6, § 28 and ***202** *Continental Cablevision v. Roseville*, 430 Mich. 727, 735, 425 N.W.2d 53 (1988). But when statutory interpretation is involved, this Court reviews the tribunal's decision de novo. *Danse Corp. v. Madison Hts.*, 466 Mich. 175, 644 N.W.2d 721 (2002).

III. ANALYSIS

While our courts have had occasion to examine the charitable institution and public health purpose statutes in the past, this case tests the boundaries of those decisions by presenting a more finely tuned question. We must now decide precisely how, in the absence of a statutory yardstick, we should measure whether an institution is a "charitable institution" when it performs some level of charitable work. Similarly, we are asked to calculate whether an institution exists for a "public health purpose" when it engages in some level of activities designed to benefit public health. Stated differently, we must determine in which instances an organization claiming to perform charity work or work benefiting the public health does so to an extent that would merit the respective tax exemptions, and, importantly, whether there are any concrete parameters that can be imposed to assist with these inquiries.

Because the Legislature chose not to define the terms "charitable institution," found in MCL 211.7*o*, or "public health ****740** purposes," found in MCL 211.7r, the specific meaning of these phrases has been the subject of decades of case law. Turning our attention first to the term "charitable institution," a brief look back at the development of the law surrounding this phrase is useful to the analysis.

As an initial matter, the seminal cases addressing the meaning of "charitable institution" were written before parts of the GPTA were revised and renumbered by 1980 PA 142. Before those amendments, the pertinent exemption was found in MCL 211.7. In line with the ***203** statutory language as it then existed, a four-part test was developed to help assess whether a claimant was entitled to a tax exemption:

> (1) The real estate must be owned and occupied by the exemption claimant;
>
> (2) The exemption claimant must be a library, benevolent, charitable, educational or scientific institution;
>
> (3) The claimant must have been incorporated under the laws of this State;
>
> (4) The exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated. [*Engineering Society of Detroit v. Detroit*, 308 Mich. 539, 550, 14 N.W.2d 79 (1944).]

Because of the 1980 amendments, the second and third factors must now be adapted to correspond with the present wording of MCL 211.7*o*. Because the Legislature did not retain language requiring in-state incorporation,[5] we remove factor three. And under factor two, a claimant must now show that it is a "nonprofit charitable institution." Thus, the revised test for this particular subsection is as follows:

[4] (1) The real estate must be owned and occupied by the exemption claimant;

(2) the exemption claimant must be a nonprofit charitable institution; and

(3) the exemption exists only when the buildings and other property thereon are occupied by the claimant solely for the purposes for which it was incorporated.

***204** In the present case, there is no dispute with respect to factors one or three. Nor is there a question whether petitioner is a nonprofit organization; it is.[6] Instead, the central inquiry is whether petitioner is a "charitable institution," and, in a more general sense, what precise meaning that term has.

[5] **[6]** In examining this issue, we bear in mind the time-honored rules of statutory construction, under which our paramount concern is identifying and effecting the Legislature's intent. *Michigan United Conservation Clubs v. Lansing Twp.*, 423 Mich. 661, 665, 378 N.W.2d 737 (1985). And where a tax exemption is sought, we recall that because tax exemptions upset the desirable balance achieved by equal taxation, they must be narrowly construed. *Id.;* see also *Michigan Baptist Homes & Dev. Co. v. City of Ann Arbor,* 396 Mich. 660, 669–670, 242 N.W.2d 749 (1976).

****741** A. "CHARITABLE INSTITUTION"

It appears that the earliest examination of the term "charitable institution," albeit brief, was conducted in *Attorney General v. Common Council of Detroit,* 113 Mich. 388, 71 N.W. 632 (1897). Construing a precursor to the current charitable institution exemption statute,[7] ***205** this Court determined that real estate of the Masonic Temple Association, the Harmonie Society, and the Arbeiter Society were not exempt from taxation. *Id.* at 390, 71 N.W. 632. Although this Court did not discuss the factual underpinnings of the decision, we did set forth this foundational principle: "It is not enough, in order to exempt such associations from taxation, that one of the direct or indirect purposes or results is benevolence, charity, education, or the promotion of science. They must be organized chiefly, if not solely, for one or more of these objects." *Id.*

An opportunity to construe the term "charitable institution" in a slightly different context presented itself in *Michigan Sanitarium & Benevolent Ass'n v. Battle Creek,* 138 Mich. 676, 101 N.W. 855 (1904). At issue in that case was a statute that, in conjunction with a predecessor to MCL 211.7*o*(3), governed the tax exemption of property gifted to another with the condition that the property be used " 'for the purpose of founding or endowing a hospital or other charitable asylum within this State, for the care or relief of indigent or other sick or infirm persons....' " *Id.* at 680, 101 N.W. 855, quoting 1897 CL 8288. A dispute arose when the respondent city taxed the petitioner's property because the respondent believed, among other things, that the petitioner was not using the property for charitable purposes as required by the statute.

To determine whether the petitioner was a "charitable" hospital, it was necessary to examine the nature of the petitioner's activities. We observed first that the ***206** petitioner operated a hospital in which it treated sick and infirm persons. *Id.* at 682, 101 N.W. 855. We noted that the petitioner treated some patients for free and some at a reduced rate. *Id.* And while most of the petitioner's patients paid "a regular schedule of prices fixed by [the petitioner's] management," *id.* at 682, 101 N.W. 855, we concluded, because the respondent did not show otherwise, "that the charges collected from patients were not larger than were necessary to the successful maintenance of the institution." *Id.* at 682–683, 101 N.W. 855. Therefore, we determined that if we were to accept the respondent's position that to be considered "charitable," the petitioner could accept no fees from patients, we would be adopting the untenable position that "persons who dedicate a hospital to the public must pay taxes on that hospital unless they maintain the same from their private means." *Id.* at 683, 101 N.W. 855. We favored a different, more sensible, rule and held that "a corporation is sufficiently charitable to entitle it to the privileges of the act when the charges collected for services are not more than are needed for its successful maintenance." *Id.*

This Court next visited the meaning of "charitable institution" in *Auditor General v. R. B. Smith Mem. Hosp. Ass'n,* 293 Mich. 36, 38, 291 N.W. 213 (1940), where we again examined the predecessor to the ****742** current version of MCL 211.7*o*. There, we approvingly noted an ALR discussion on tax exemption for charitable institutions:

> "The determination of the exemption in a particular case seems to depend, in the last analysis, upon two things: First, whether the organization claiming the exemption is a charitable one; and, second, whether the property on which the exemption is claimed is being devoted to charitable purposes. In general, it may be said that any body not organized for profit, which has for its purpose the promotion of the general welfare of the public, extending its benefits without discrimination as to race, color, or creed, is ***207** a charitable or benevolent organization within the meaning of the tax exemption statutes. In determining whether the property is being devoted to charitable purposes within the meaning of the statute, the rule that tax exemptions are to be construed strictly is generally applied, with the result that, in the absence of a specific charter or statutory provision, no property owned by a charitable institution, but held as a source of income, can escape taxation, although the fact that a charge is made for benefits conferred, against those who are able to pay, in no way detracts from the charitable character of an organization." [*Id.* at 38–39, 291 N.W. 213 quoting 34 ALR 634, 635.]

Along with observing this ALR explanation, we relied on the definition we applied in *Michigan Sanitarium, supra,* and found that the facts of the case compelled the conclusion that the hospital was tax-exempt. For example, the hospital operated as a public hospital, rather than a private one, relying heavily on donations of money and volunteer work from the community. *Id.* at 40, 291 N.W. 213. It was maintained without anyone profiting monetarily from it, and it did not pay any dividends. *Id.* And surpluses, when there were any, were invested back into the hospital and used to maintain it. *Id.* Thus, we held that the hospital was entitled to tax exemption, pointedly noting that an institution does not lose its charitable character merely because "in some years, instead of the usual deficit, it shows a small surplus which is used to supply needed equipment." *Id.* at 41, 291 N.W. 213.

On the next occasion we construed the charitable institution exemption statute, we were faced with a petitioner's claim of disparity when two of its nursing homes were granted tax-exempt status, but one, Hillside Terrace, was not. *Michigan Baptist, supra.* We affirmed the city's decision to tax Hillside Terrace, cataloguing the following differences between one home owned by another association that was granted tax-exempt status and the one by the petitioner that was ***208** not. For instance, Hillside Terrace was funded entirely by loans, debentures, and resident fees. *Michigan Baptist, supra* at 667, 242 N.W.2d 749. In fact, the residents paid a substantial up-front sum and monthly fees thereafter. *Id.* at 667, 668, 242 N.W.2d 749. Hillside Terrace had losses for two consecutive years, although the petitioner admitted that, should the losses continue, it would raise the residents' fees to eliminate the deficit. *Id.* at 669, 242 N.W.2d 749. The petitioner had neither solicited nor received any gifts, despite that gifts to Hillside Terrace were tax-deductible. *Id.* at 667, 242 N.W.2d 749. The petitioner offered reduced rates to four of its 72 residents in one year and waived the fees for one other resident. *Id.* at 668, 242 N.W.2d 749. Residents were hand-selected by the establishment after an application process that asked them to fully detail their financial status and their health. *Id.* at 668–669, 242 N.W.2d 749. Those who could not show sufficient means or who were in less than reasonably good health were, in large part, rejected. *Id.* at 669, 242 N.W.2d 749.

****743** On the other hand, the other nursing home, the Anna Botsford Bach Home, was endowed by and partially financed through charitable contributions and annual charity drives. *Id.* at 674, 242 N.W.2d 749. Rather than rely on resident fees for its maintenance, operational costs were paid using principal and interest from the endowment fund. *Id.* The Bach Home residents did not pay the full cost of their care, nor were they expected to. *Id.* And residents were accepted on the basis of their lack of ability to find care elsewhere, not on the basis of being in good financial and physical health. *Id.*

We found these differences critical and, thus, rejected the petitioner's equal protection claim that Hillside Terrace deserved the same tax exemption granted to the Bach Home. *Id.* at 674, 242 N.W.2d 749. In light of the fundamental differences in the way the homes were run, we held that the city's decision to treat the entities differently was ***209** fully justified. Moreover, we found that Hillside Terrace, while purported to exist for benevolent, charitable, and general welfare purposes, was not actually furthering those objectives. *Id.* at 671, 242 N.W.2d 749. Because of its selection process and resident-funded mechanism, we concluded that the home did not "serve the elderly generally," but, rather, "provide[d] an attractive retirement environment for those among the elderly who have the health to enjoy it and

who can afford to pay for it." *Id.* at 671, 242 N.W.2d 749. This structure for the nursing home, we held, did not comport with the legislative intent behind the charitable institution exemption statute. *Id.*

This Court again visited the meaning of the term "charitable institution" in *Retirement Homes of the Detroit Annual Conference of the United Methodist Church, Inc., v. Sylvan Twp.*, 416 Mich. 340, 348–349, 330 N.W.2d 682 (1982), wherein we construed another previous version of the charitable institution exemption.[8] The petitioner in *Retirement Homes* sought tax exemption as a charitable institution for the apartment complex it operated in conjunction with a licensed nursing home and a licensed home for the aged. *Id.* at 343, 330 N.W.2d 682. While the two licensed care facilities had already been established as tax-exempt, the apartments were a new addition to the complex and had not yet been evaluated. *Id.* We accepted the Tax Tribunal's finding that the apartment building was not entitled to tax exemption merely ***210** by virtue of its association with the tax-exempt properties, and, thus, had to be examined separately. See *id.* at 346 n. 9, 330 N.W.2d 682.

We then looked closely at how the apartment component of the complex was operated and found that the apartments differed little from the nursing home in *Michigan Baptist, supra,* that was not tax-exempt. We observed the Tax Tribunal's findings that residents were admitted "on the basis of their health and ability to pay the monthly fee," which contradicted the petitioner's articles of incorporation. *Id.* We also noted the tribunal's finding that "the apartments were merely 'a method whereby [the apartment] residents assure themselves a bed in a nursing home upon becoming disabled' and 'a convenient method of keeping a ready supply of prospective ****744** nursing home and old age home residents on hand' ". *Id.*

It was unclear whether the apartments were profitable, but we took care to note the juxtaposing propositions that while "[a] corporation does not qualify for a tax exemption merely because it is structured to be nonprofit and in fact makes no profit," "[b]y the same token, a nonprofit corporation will not be disqualified for a charitable exemption because it charges those who can afford to pay for its services as long as the charges approximate the cost of the services." *Id.* at 350 n. 15, 330 N.W.2d 682, citing *Michigan Sanitarium, supra* at 683, 101 N.W. 855, *Auditor General, supra* at 39, 291 N.W. 213, and *Gull Lake Bible Conference Ass'n v. Ross Twp.*, 351 Mich. 269, 88 N.W.2d 264 (1958). We noted that apartment residents who became unable to pay the monthly fee were relocated into areas of the retirement homes' complex that would entitle them to government assistance, which, consequently, lifted the petitioner's burden of charity. *Id.* at 345–346, 330 N.W.2d 682.

***211** Commencing our legal analysis, we first sought the meaning of "charity." *Id.* at 348, 330 N.W.2d 682. We noted the proposition pronounced in our past cases that "to qualify for a charitable or benevolent tax exemption, property must be used in such a way that it 'benefit[s] the general public without restriction' ". *Id.* at 348, 330 N.W.2d 682 quoting *Michigan Baptist, supra* at 671, 242 N.W.2d 749, and citing *Auditor General, supra* at 38, 291 N.W. 213. Surveying case law from other jurisdictions, we also took note of a widely used definition that seemed to restate and elaborate on that principle, and which similarly seemed to have stood the test of time:

> "[Charity] * * * [is] a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." [*Id.* at 348–349, 330 N.W.2d 682, quoting *Jackson v. Phillips,* 96 Mass (14 Allen) 539 (1867) (emphasis deleted; alterations in original).]

As such, we framed the pertinent question as follows: "Does Retirement Homes operate the apartments in such a way that there is a 'gift' for the benefit of 'the general public without restriction' or 'for the benefit of an indefinite number of persons' "? *Id.* at 349, 330 N.W.2d 682. In light of the particular facts of the case, we concluded in the negative and explained our reasoning as follows:

> [T]here is no "gift" for the benefit of an indefinite number of persons or for the benefit of the general public without restriction in the operation of the apartments. The monthly fee is designed to cover all operating costs as well as to

> recover the construction costs of the apartments. While it does not appear that the apartments are operated for a profit, neither does it appear that the residents ***212** receive any significant benefit that they do not pay for. There is no "gift" to the residents.
>
> The operation of the apartments does not appear to benefit the general public. Its residents are chosen on the basis of their good health, their ability to pay the monthly charge, and, generally, their ability to live independently. [*Id.* at 349–350, 330 N.W.2d 682.]

Most recently, we applied the charitable institution microscope to an environmental organization engaged in conservation efforts, the promotion of natural resource management, and the protection of the rights of citizens to bear arms. *Michigan* ****745** *United Conservation Clubs, supra* at 665, 378 N.W.2d 737. To further these goals, the petitioner conducted or sponsored educational seminars and courses, published informational brochures, maintained a library, conducted lobbying, and administered a fund to oppose any movement to restrict gun ownership. *Id.* at 666–667, 378 N.W.2d 737. Restating the definition of charity set forth in *Retirement Homes, supra,* we concluded that the petitioner was not a charitable institution, although we rejected the Court of Appeals exclusive focus on the petitioner's lobbying activities. *Id.* at 673, 378 N.W.2d 737. And while we agreed that the petitioner did provide some services that could be deemed charitable gifts, we found that, on balance, the petitioner was organized to benefit its paying members rather than to benefit "the general public without restriction" or "for the benefit of an indefinite number of persons." *Id.* at 673, 378 N.W.2d 737.

Several common threads can be found in this line of cases. First, it is clear that the institution's activities as a whole must be examined; it is improper to focus on one particular facet or activity. In that sense, the inquiry pertains more to whether an institution could be considered a "charitable" one, rather than whether the institution offers charity or performs charitable ***213** work. So it is the overall nature of the institution, as opposed to its specific activities, that should be evaluated.

A second indispensable principle is that the organization must offer its charitable deeds to benefit people who need the type of charity being offered. In a general sense, there can be no restrictions on those who are afforded the benefit of the institution's charitable deeds. This does not mean, however, that a charity has to serve every single person regardless of the type of charity offered or the type of charity sought. Rather, a charitable institution can exist to serve a particular group or type of person, but the charitable institution cannot discriminate within that group. The charitable institution's reach and preclusions must be gauged in terms of the type and scope of charity it offers.

From these precepts, it naturally follows that each case is unique and deserving of separate examination. Consequently, there can be no threshold imposed under the statute. The Legislature provided no measuring device with which to gauge an institution's charitable composition, and we cannot presuppose the existence of one. To say that an institution must devote a certain percentage of its time or resources to charity before it merits a tax exemption places an artificial parameter on the charitable institution statute that is unsanctioned by the Legislature.

The Tax Tribunal and the Court of Appeals focused exclusively on the dollar amount of free health care petitioner gifted as part of its charity care program, looking no further into the nature of petitioner's organization. This was error because it is clear that both tribunals had in mind a monetary threshold that is not only not discernable from the statute, but that would be, by its very nature, quite arbitrary.

***214** As petitioner aptly pointed out, there are multiple reasons why inventing legislative intent in this regard would be ill-advised and most unworkable. In fact, the difficulties with formulating a monetary threshold illuminate why setting one is the Legislature's purview, not the courts'. To set such a threshold, significant questions would have to be grappled with. For instance, a court would have to determine how to account for the indigent who do not identify themselves as such but who nonetheless fail to pay. A court would have to determine whether facilities that provide vital health care should be treated more leniently than some other type of charity ****746** because of the nature of its work, or even if a health care provider in an underserved area, such as petitioner, is more deserving of exemption than one serving an area of lesser need. A court would need to consider whether to premise the exemption on whether the institution had a surplus and whether providing below-cost care constitutes charity. Clearly, courts are unequipped to handle these and many other unanswered questions. Simply put, these are matters for the Legislature.

We conclude that the definition set forth in *Retirement Homes, supra* at 348–349, 330 N.W.2d 682, sufficiently encapsulates, without adding language to the statute, what a claimant must show to be granted a tax exemption as a charitable institution:

> "[Charity] * * * [is] a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." [*Id.*, quoting *Jackson v. Phillips,* 96 Mass (14 Allen) 539 (1867) (emphasis deleted; alterations in original).]

***215** In light of this definition, certain factors come into play when determining whether an institution is a "charitable institution" under MCL 211.7*o* and MCL 211.9(a). Among them are the following:

[7] (1) A "charitable institution" must be a nonprofit institution.

[8] (2) A "charitable institution" is one that is organized chiefly, if not solely, for charity.

[9] (3) A "charitable institution" does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services. Rather, a "charitable institution" serves any person who needs the particular type of charity being offered.

[10] (4) A "charitable institution" brings people's minds or hearts under the influence of education or religion; relieves people's bodies from disease, suffering, or constraint; assists people to establish themselves for life; erects or maintains public buildings or works; or otherwise lessens the burdens of government.

[11] (5) A "charitable institution" can charge for its services as long as the charges are not more than what is needed for its successful maintenance.

[12] (6) A "charitable institution" need not meet any monetary threshold of charity to merit the charitable institution exemption; rather, if the overall nature of the institution is charitable, it is a "charitable institution" regardless of how much money it devotes to charitable activities in a particular year.

[13] Examining petitioner under these factors, we find that it is a charitable institution. Petitioner's medical clinic is readily distinguishable from the entities that we have found nonexempt under MCL 211.7*o*. Petitioner is not only organized as a charitable institution as reflected in its statement of purpose and its bylaws, ***216** but it devotes itself to charitable works on the whole. We instructed in *Attorney General v. Common Council of Detroit, supra* at 390, 71 N.W. 632, that an institution must be "organized chiefly, if not solely" for charity, and petitioner meets this test. Respondent has pointed to no other reason for petitioner's existence. Nor has respondent shown any evidence that petitioner is not actively pursuing its mission to the exclusion of any noncharitable activities. We find these omissions telling.

****747** Petitioner is also fundamentally different from the Hillside Terrace home for the aged in *Michigan Baptist, supra,* and the apartment complex in *Retirement Homes, supra.* In both of those cases, the cost of maintaining the institutions was covered by fees collected from the residents. Prospective residents whose health or financial status did not meet strict requirements were not accepted. And although the petitioner in *Michigan Baptist* made some small exceptions in that regard, the general rule was of an exclusionary nature, not a charitable one.

Petitioner in the present case shares no similarities with those institutions. Petitioner has a charity care program that offers free and reduced-cost medical care to the indigent with no restrictions. It operates under an open-access policy under which it accepts any patient who walks through its doors,[9] with preferential treatment given to no one. Although petitioner sustains notable financial losses by not restricting the number of Medicare and Medicaid patients it accepts, it bears ***217** those losses rather than restricting its treatment of patients who cannot afford to pay.

Petitioner more closely matches the hospitals examined in *R. B. Smith, supra,* and *Michigan Sanitarium, supra,* hospitals we found qualified for the charitable institution exemption. Just as in those cases, the overall nature of petitioner's organization is charitable. The losses the institution sustains are not fully subsidized by the patients, but by petitioner's parent corporations, patients who can afford to pay, and, to

some extent, by government reimbursements. And the fact that petitioner receives government reimbursements has little bearing on the analysis because, despite any government aid, the beneficiary of the medical care receives a gift. *See, e.g.*, *Huron Residential Services v. Pittsfield Charter Twp.*, 152 Mich.App. 54, 393 N.W.2d 568 (1986) (holding that a petitioner who received approximately 99 percent of its revenues from state funding was a charitable institution because the residents did not pay full value for the services rendered and, thus, received a charitable gift from the petitioner). See also *Retirement Homes, supra* at 350 n. 15, 330 N.W.2d 682 ("[A] nonprofit corporation will not be disqualified for a charitable exemption because it charges those who can afford to pay for its services as long as the charges approximate the cost of the services.").

Moreover, it is clear in this case that the reimbursements petitioner receives from government funding fall well short of defraying the costs petitioner incurs to render medical care. Thus, not only are Medicare and Medicaid patients receiving a gift from petitioner, but petitioner is not fully recouping its costs from the government because of the government's underpayments.

[14] Respondent argues that petitioner's goal of profitability negates its claim that it is a charitable institution. ***218** We find that argument hollow. Petitioner's bylaws do not allow any individual to profit monetarily from the petitioner's clinic; thus, "profitability" has a different meaning for this institution than it would for an entity whose goal it was to reward its agents or shareholders with profits. And the idea that an institution cannot be a charitable one unless its losses exceed its ****748** income places an extraordinary—and ultimately detrimental—burden on charities to continually lose money to benefit from tax exemption. A charitable institution can have a net gain—it is what the institution does with the gain that is relevant. See *R. B. Smith Mem. Hosp., supra* at 36, 41, 291 N.W. 213 (1940). When the gain is invested back into the institution to maintain its viability, this serves as evidence, not negation, of the institution's "charitable" nature.

Nor can credence be given to respondent's argument that petitioner is not "charitable" because it is not open 24 hours a day or because it includes noncompetition clauses in its physicians' contracts. Taken alone, these are merely neutral facts, and whether they gain or lose relevance depends on their importance when considered as part of the broader picture. In the totality of petitioner's circumstances, we do not find them particularly meaningful. First, just as there is no monetary threshold by which we can gauge an institution's charity, there is certainly no rule requiring a charity to never sleep. Petitioner holds regular business hours, and during those hours, it accepts any patient who needs medical care. And with respect to the noncompetition clauses, petitioner explained that it is very difficult to attract physicians to the region, so these clauses are included to encourage physicians to remain with the charity and assist petitioner with carrying out its charitable work. Moreover, petitioner's agent testified that ***219** petitioner has never enforced one of its noncompete clauses. Thus, these facts do nothing to reduce petitioner's charitable status.

Respondent also unconvincingly argues that petitioner does not "lessen the burden of government," see *Retirement Homes, supra* at 349, 330 N.W.2d 682, because it enlists eligible patients in government-subsidized programs. While "lessening the burden of government" is a component of the definition of "charity" found in *Retirement Homes, supra,* respondent takes it out of context. This Court stated that a charitable institution is one that benefits an indefinite number of persons " 'either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public buildings or works or *otherwise* lessening the burdens of government.' " *Id.* (emphasis added; citation omitted). Implicit in the definition is that relieving bodies from disease or suffering *is* lessening the burden of government. In other words, petitioner does not have to prove that its actions lessen the burden of government. Rather, it has to prove, as it did, that it "reliev[es] their bodies from disease, suffering or constraint," which is, by its nature, a lessening of the burden of government. In any event, even though petitioner helps to enroll patients in Medicare and Medicaid, it still subsidizes the cost of care in light of the government's underpayment, thus lessening the government's burden of covering the full cost of a person's care.

[15] **[16]** **[17]** Finally, we reject the reliance of the lower tribunals and respondent on *ProMed, supra.* The Court of Appeals holding in that case was directly tied to its finding ***220** that the petitioner had presented *no* documentation of the level of charitable service it provided. The Court of Appeals was correct to hold that when an institution presents no evidence of its charitable works, then, as a matter of law, it cannot be found to be a charitable institution. But it does not follow that an institution must present evidence

of a *particular* level of charitable care because there is no such threshold level contained in the statute. And we refuse to create one. Accordingly, ****749** *ProMed* must not be interpreted as requiring quantitative proof of the *value* of charitable care. Rather, the focus should be on the overall nature of the institution as judged by the particular facts presented in each individual case.[10]

In sum, the Tax Tribunal and Court of Appeals erred by denying petitioner's request for tax exemption as a charitable institution. Petitioner satisfies the concepts we have previously set forth with respect to what a claimant must show to be found "charitable." See *Retirement Homes, supra* at 348–349, 330 N.W.2d 682. Petitioner provides ***221** a gift —free or below-cost health care—to an indefinite number of people by relieving them of disease or suffering.

[18] As such, while we will generally "defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer," *Maxitrol Co. v. Dep't of Treasury*, 217 Mich.App. 366, 370, 551 N.W.2d 471 (1996), we decline to do so in this case because we find that the tribunal misinterpreted the law. The statute says nothing about how much "charity" an institution should provide. Despite that, the tribunal erroneously engrafted a nonexistent threshold of charitable activity. Had the Legislature wanted such a threshold, it could have easily included one. Therefore, we find that petitioner is a charitable institution entitled to the corresponding tax exemption.

B. "PUBLIC HEALTH PURPOSE"

Petitioner also argued that it was entitled to the exemption offered under MCL 211.7r to organizations serving a "public health purpose." Because we find that petitioner is exempt as a charitable institution under MCL 211.7*o*, there is no need to delve any further. Thus, we leave further examination of the meaning of "public health purpose" for another day. We do, however, vacate the part of the Court of Appeals judgment that held that petitioner did not qualify for this exemption.

IV. CONCLUSION

[19] **[20]** Whether an institution is a charitable institution within the meaning of MCL 211.7*o* is a fact-specific question that requires examining the claimant's overall purpose and the way in which it fulfills that purpose. ***222** The determination will rarely, if ever, rest on one specific fact, such as the percentage of monetary value of services given for free. Because the Tax Tribunal and the Court of Appeals misapplied existing law by erroneously narrowing the focus of their inquiry to the value of the free medical care petitioner rendered in the given tax years, they erroneously denied the requested exemption. Petitioner is a charitable institution because it exists for, and carries out, the purpose of giving a gift for the benefit of an indefinite number of persons by providing ****750** free and below-cost medical care to anyone who needs it without qualification, and it realizes no pecuniary gain from its activities. As such, it is entitled to an ad valorem tax exemption.

We reverse the part of the Court of Appeals judgment that held that petitioner was not a charitable institution. We further vacate the part of its judgment pertaining to whether petitioner served a public health purpose. We remand this case to the Tax Tribunal for entry of judgment for petitioner.

CLIFFORD W. TAYLOR, ELIZABETH A. WEAVER, MARILYN J. KELLY, MAURA D. CORRIGAN, ROBERT P. YOUNG, JR., and STEPHEN J. MARKMAN, JJ., concur.

All Citations

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Footnotes

1 26 U.S.C. 501(c)(3).

2 Specifically, the bylaws state as follows:

> The Corporation shall be operated exclusively for charitable, scientific and educational purposes as a nonprofit corporation. No individual Trustee shall have any right, title to or interest in the corporate property or earnings in his/her individual or private capacity and no part of the net earnings of the Corporation shall inure to the benefit of any Trustee or any individual. No substantial part of the activities of the Corporation shall consist of carrying on propaganda

> or otherwise attempting to influence legislation, nor shall the Corporation participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

3 Thirteen percent of petitioner's property is leased to a for-profit entity and is, thus, not tax-exempt; petitioner's arguments pertain only to the remaining 87 percent.

4 The Court of Appeals consolidated this case with a similar appeal, *McLaren Regional Med Ctr. v. Owosso,* unpublished opinion per curiam of the Court of Appeals, issued August 24, 2004, 2004 WL 1882645 (Docket No. 244386). An application for leave to appeal in *McLaren* is being held in abeyance for the resolution of this case. 696 N.W.2d 708 (2005).

5 The requirement that to be tax-exempt, an institution be incorporated within the state has been found to be unconstitutional. See *American Youth Foundation v. Benona Twp.*, 37 Mich.App. 722, 724, 195 N.W.2d 304 (1972), citing *WHYY v. Glassboro,* 393 U.S. 117, 89 S.Ct. 286, 21 L.Ed.2d 242 (1968).

6 And the statute's plain language disposes of any argument that an institution is automatically a charitable one if it is first a nonprofit institution. By requiring an institution to show that it is both nonprofit and charitable, the Legislature has presumed that there are instances when a nonprofit institution might not be considered "charitable." See also *Ladies Literary Club v. Grand Rapids,* 409 Mich. 748, 752 n. 1, 298 N.W.2d 422 (1980) (noting that our tax exemption statutes are more narrowly drawn than the federal statute governing § 501[c][3] corporations).

7 At the time, the statute exempted the following property:

> Such real estate as shall be owned and occupied by library, benevolent, charitable, educational and scientific institutions incorporated under the laws of this State, with the buildings and other property thereon, while occupied by them solely for the purposes for which they were incorporated: *Provided,* that such exemption shall not apply to fraternal or secret societies, but all charitable homes of such societies shall be exempt. [1893 PA 206, § 7(4).]

8 At that time, the statute exempted the following types of property:

> [S]uch real estate as shall be owned and occupied by library, benevolent, charitable, educational or scientific institutions and memorial homes of world war veterans incorporated under the laws of this state with the buildings and other property thereon while occupied by them solely for the purposes for which they were incorporated. Also charitable homes of fraternal or secret societies.... [MCL 211.7.]

9 Petitioner's agent did explain that it must occasionally turn away patients who have destroyed the physician-patient relationship by exhibiting violence, being dishonest to the detriment of petitioner's ability to treat them, or engaging in drug-seeking behavior. We find those exceptions to petitioner's general rule to be well-justified and, thus, to have no effect on petitioner's status as a charitable institution.

10 The *ProMed* Court also reasoned that to allow ProMed a charitable exemption, it "would in effect be granting tax exempt status to every doctor's office in the state, as well as every organization offering health-related services, as long as those organizations are structured as nonprofit corporations and maintain policies of offering some 'appropriate' level of charity medical care to indigent persons." *ProMed,supra at* 500–501. We reject that reasoning for two reasons. Most importantly, the Court inappropriately based its statement on its subjective fear of the outcome of applying the clear statutory language, rather than simply applying the language of the statute itself, which says nothing about an "appropriate" level of care. And even if the Court's concern were relevant, we find it somewhat overblown in that it is doubtful that any significant number of profitable medical institutions would forgo their for-profit status in exchange for property tax exemption. In any event, the charitable institution exemption has been in place for over 100 years, and we discern no sign of rampant abuse of it. Nor, apparently, has the Legislature because it has not altered the exemption in any significant way since we first interpreted it in 1897.

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