

STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
MICHIGAN TAX TRIBUNAL

WARM Training Center,  
Petitioner,

v

MTT Docket No. 332980

City of Detroit,  
Respondent.

Tribunal Judge Presiding  
Kimbal R Smith III

FINAL OPINION AND JUDGMENT

The Tribunal, having given due consideration to the file in the above-captioned case, finds:

1. Administrative Law Judge Thomas A. Halick issued a Proposed Opinion and Judgment on February 16, 2011. The Proposed Opinion and Judgment states, in pertinent part, “[t]he parties have 20 days from date of entry of this Proposed Opinion and Judgment to file any written exceptions to the Proposed Opinion and Judgment.”
2. Neither party has filed exceptions to the Proposed Opinion and Judgment.
3. The Administrative Law Judge considered the testimony and evidence submitted and made specific findings of fact and conclusions of law. The Administrative Law Judge’s determination is supported by the testimony and evidence and applicable statutory and case law.
4. The Tribunal adopts the Proposed Opinion and Judgment as the Tribunal’s final decision in this case. See MCL 205.726. The Tribunal also incorporates by reference the Findings of Fact and Conclusions of Law contained in the Proposed Opinion and Judgment in this Final Opinion and Judgment.

5. Given the above:
- a. The subject property shall be granted a charitable exemption pursuant to MCL 211.7o, for the tax years at issue; the amount of the exemption is 100%. The subject property's taxable value (TV) for the tax years at issue shall be as follows:

<b>Parcel Number:</b>	
Year	TV
2007	\$0 - Exempt
2008	\$0 - Exempt
2009	\$0 - Exempt
2010	\$0 - Exempt

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as provided in this Final Opinion and Judgment within 20 days of entry of this Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Final Opinion and Judgment within 28 days of entry of this Final Opinion and Judgment. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of this Final Opinion

and Judgment. Pursuant to MCL 205.737, interest shall accrue (i) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (ii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (iii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, (iv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, (v) after December 31, 2009, at the rate of 1.23% for calendar year 2010, and (vi) after December 31, 2010, at the rate of 1.12% for calendar year 2011.

MICHIGAN TAX TRIBUNAL

Entered: April 8, 2011

By: Kimbal R. Smith III

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

WARM Training Center,  
Petitioner,

v

City of Detroit,  
Respondent.

MICHIGAN TAX TRIBUNAL  
Property Tax Appeal  
MTT Docket No. 332980

Administrative Law Judge Presiding  
Thomas A. Halick

**PROPOSED OPINION AND JUDGMENT**

Petitioner, WARM Training Center, appeals ad valorem property tax assessments for the 2007, 2008, 2009, and 2010 tax years levied by Respondent, City of Detroit. This matter was heard in the Entire Tribunal Division of the Michigan Tax Tribunal. Attorney Thomas S. Nowinski, Clark Hill PLC, appeared on behalf of Petitioner. Attorney Kevin C. Richard, City of Detroit Law Department, appeared on behalf of Respondent.

MTT Docket No. 332980  
Final Opinion and Judgment, Page 4 of 24

Petitioner claims the subject property is exempt from ad valorem taxation under MCL 211.7o. The subject's True Cash Value, State Equalized Value, or Taxable value are not at issue, and appear on the assessment rolls as follows:

Parcel No. 16001631

Year	TCV	AV/SEV	TV
2007	\$30,478	\$15,239	\$10,694
2008	\$30,478	\$15,239	\$10,939
2009	\$65,478	\$32,739	\$28,920
2010	\$65,478	\$32,739	\$28,833

The Tribunal concludes that the subject property is exempt under MCL 211.7o for each year at issue. The current values on the tax rolls shall be as follows:

Parcel No. 16001631

Year	TCV*	AV/SEV*	TV
2007	\$30,478	\$15,239	\$0 (exempt)
2008	\$30,478	\$15,239	\$0 (exempt)
2009	\$65,478	\$32,739	\$0 (exempt)
2010	\$65,478	\$32,739	\$0 (exempt)

\*The TCV, AV, and SEV are not at issue, but are set forth for informational purposes only.

### Background

The subject property is located at 4835 Michigan Avenue, Detroit, Michigan. On December 21, 2006, Petitioner applied for exempt status, which Respondent denied by letter dated April 20, 2007, for the stated reason that the property "does not reduce educational burden of the state." Petitioner filed this appeal with the Tax Tribunal by letter postmarked May 18, 2007. A prehearing conference was held on July 15, 2010. The hearing was held on August 11, 2010. Petitioner presented documentary evidence and the testimony of Mr. Robert Chapman. Respondent presented documentary evidence, cross-examined Mr. Chapman, but offered no

witnesses. Post Hearing Briefs were filed on October 1, 2010.

### Petitioner's Arguments

Petitioner's Exhibits P1 through P23 were marked and admitted into evidence without objection.

Petitioner claims that the subject property is exempt from taxation as a nonprofit charitable organization under MCL 211.7o, and also as an educational institution under MCL 211.7n.

Petitioner states that the subject property meets the six-factor test set forth by the Michigan Supreme Court in *Wexford Medical Group v City of Cadillac*, 474 Mich 192; 713 NW2d 734 (2006). The following is restated from Petitioner's Post Hearing Brief:

- 1) There is no dispute that WARM is a nonprofit institution.
- 2) There is likewise no dispute that WARM is organized chiefly for charity. WARM's restated Articles of Incorporation state: "The corporation's purpose and activities shall be limited in all respects and at all times to those exclusively within the purview of Section 501(c)(3) of the Internal Revenue Service Code of 1986 or the corresponding provisions of any future United States IRS Code."
- 3) The testimony of WARM's Executive Director emphasizes that WARM "does not offer its charity on a discriminatory basis by choosing who, among the group it purports to serve, deserves the services." It is not disputed that WARM "serves any person who needs the particular type of charity being offered."

- 4) It cannot be seriously disputed that the activities engaged in by WARM “assist people to establish themselves for life,” and also “lessen the burdens of government.” There are several aspects to this. Perhaps most importantly, WARM’s energy education outreach assists low income individuals in avoiding utility shutoff stemming from wasteful use of energy resources. Put another way, WARM’s energy education program helps individuals living on the economic margin by allowing them to conserve precious financial resources by conserving energy resources. Also, obviously, WARM’s workplace training program “assists people to establish themselves for life” by preparing them for employment opportunities presented by the current emphasis of “green” construction practices. This also “lessens the burdens of government by way of its technical assistance program. Again, the energy audits and weatherization advice it provides would, in WARM’s absence, have to be provided by some agency of government itself. Indeed, the substantial support WARM receives from federal, state, and local government entities and agencies is a clear testimonial to the extent to which WARM’s activities lessen the burdens of government. It should also be recalled that the *Wexford* court reaffirmed its adoption of the more general definition of charity as “the promotion of the general welfare of the public.”
- 5) WARM does not charge for its services, so that factor of the *Wexford* opinion is irrelevant. And under *Huron Residential Services I* . . . it is likewise irrelevant that the costs of providing those services are subsidized by government grants and contracts.

---

1 *Huron Residential Services v Pittsfield Charter Township*, 152 Mich App 54; 393 NW2d 568 (1986).

- 6) WARM devotes the entirety of its resources to its charitable activities, so the concept of “monetary threshold of charity” is likewise irrelevant to its qualification as a charitable organization.

Furthermore, it is not disputed that the property at issue, WARM’s headquarters building, is occupied by WARM solely for the purpose for which it was incorporated.

Finally, the subject property qualifies for exemption under MCL 211.7n because the vast majority of its activities are educational in nature, notwithstanding that WARM does not have a traditional curriculum or text books.

#### Respondent’s Arguments

Respondent does not dispute that Petitioner owned and occupied the subject property during the years at issue. Respondent claims that the property “does not reduce educational burdens of the state” and that it does not use the property for a charitable purpose within the meaning of MCL 211.7o.

Respondent claims that under the criteria of *Wexford, supra*, the subject property does not qualify for a charitable exemption. Petitioner has proven that its activities only benefit any individual “as an indirect result of its purpose and mission to provide services to other nonprofit organizations.” Petitioner’s restated articles of incorporation, dated October 22, 1993, provide:

The purpose of WARM Training Program, Inc. is **to provide contracting services, technical assistance, training, project management, and other development services to non-profit housing corporations, other community based groups and their constituents.** The corporation's purpose and activities shall be limited in all respects and at all times to those exclusively within the purview of Section 501(c)(3). . . . Petitioner's Exhibit P-1 (Emphasis added by Respondent).

Respondent cites the testimony of Petitioner's Executive Director, Mr. Chapman, to support its claim that Petitioner does not directly benefit individuals but rather collaborates with "THAW" (the heat and warmth fund), the Salvation Army, and the City of Detroit and other entities that provide emergency assistance to individuals who can't pay their heating bills.

Petitioner's financial statements show that it acts as an agent and provides services for other organizations on a contract basis. Respondent claims that this evidence shows that Petitioner exists to "assist other nonprofit or governmental entities in the furtherance of their goals and not Petitioner's." Petitioner's Post-Hearing Brief, page 6.

#### Exhibits

The following exhibits were admitted into evidence without objection:

#### **Petitioner's Exhibits 1-13**

P-1 Articles of Incorporation

P-2 Letter from Internal Revenue Service, April 5, 1999



MTT Docket No. 332980  
Final Opinion and Judgment, Page 9 of 24

- P-3 Detroit Free Press article, April 8, 2010
- P-4 State of Michigan 2009-2010 Energy Assistance Directory
- P-5 List of Michigan Energy Demonstration Centers
- P-6 Self-Guided Tour of Demonstration Center Features
- P-7 April 2010 edition of "Michigan DELEG Rebuild Michigan Partner News
- P-8 Financial Statements – FYE 5/31/09 and 5/31/08
- P-9 Financial Statements – FYE 5/31/08 and 5/31/07
- P-10 Form 990 (short form) for FYE 5/31/09
- P-11 Form 990 for FYE 5/31/08
- P-12 Form 990 for FYE 5/31/07
- P-13 Statement of sources and uses of cash for FYE 5/31/10

**Respondent's Exhibits 1-7**

- R-1 Application for Exemption
- R-2 Application for Exemption denial letter, April 20, 2007
- R-3 Warranty Deed for subject property
- R-4 Articles of Incorporation
- R-5 Restated Articles of Incorporation
- R-6 2009 Printout from Respondent's data base
- R-7 2009 Printout from Respondent's data base

Findings of Fact

1. The subject property is land improved by an office building located in Wayne County with the following parcel identification number: 16001631.
2. The subject property's address is 4835 Michigan Avenue, Detroit, Michigan.
3. The subject property is classified as commercial real property.
4. Petitioner acquired the subject property by deed dated July 10, 1984.
5. Petitioner was organized as a Michigan nonprofit corporation on August 19, 1981, with the following purpose stated in its Articles of Incorporation: "Train area residents in basic home repair skills; educate the general community in energy conservation techniques; provide low-cost home repair to residents of modest means; develop a skill-sharing bank within the area; purchase home repair material at reduced prices for WARM members; and, encourage the development of other neighborhood based programs which foster mutual support and sharing."
6. As stated in the Articles of Incorporation, Petitioner is financed by "Gifts, grants, donations, fees, [and] membership dues."
7. On October 25, 1993, Petitioner filed Restated Articles of Incorporation, which indicate that Petitioner's name was changed to "WARM Training Program, Incorporated" and which restated the corporate purpose as follows: "...to provide contracting services, technical assistance, training, project management, and other development services to non-profit housing corporations, other community based groups and their constituents. The corporation's purpose and activities shall be limited in all respects and at all times to

MTT Docket No. 332980  
Final Opinion and Judgment, Page 11 of 24

those exclusively within the purview of Section 501(c)(3) of the Internal Revenue Service code of 1986. . . .”

8. Petitioner is exempt from federal income taxes.
9. The Restated Articles of Incorporation indicate that Petitioner’s real property consists of the subject property with an estimated value of \$25,000 (as of 1993), and that the corporation obtains financing by solicitation of “. . . grants, contributions, and other property to enter into contracts, to engage needed personnel and services, and to transfer, hold and invest such real property as may be required. . . .”
10. On July 22, 1998, Petitioner filed a Certificate of Amendment to the Articles of Incorporation indicating that its name is “WARM Training Center” and on September 27, 2005, Petitioner filed a Certificate of Renewal of Assumed Name, indicating that Petitioner operates under the name “WARM.”
11. Robert W. Chapman was employed full time as Petitioner’s Executive Director during the years at issue.
12. Petitioner offers educational workshops to train individuals to weatherize buildings and also for purposes of obtaining employment in the field of making improvements to buildings to increase fuel efficiency. Petitioner has worked with Henry Ford Community College, Focus: Hope, and other groups to provide training to individuals to become qualified for employment as weatherization specialists. P-3.
13. Petitioner provides individuals with energy saving supplies, such as plastic storm window insulation kits, energy saving lights and air-sealing materials.

14. Petitioner also offers classes to Detroit residents on minor home repairs, such as minor electrical, plumbing, drywall and painting, preventative maintenance and building rehabilitation. P-4, page 27.
15. Petitioner provides for self-guided tours of the subject property. See, Exhibit P-6. The subject property has been remodeled to utilize green building materials and to provide an educational model that is open to the public.
16. Petitioner works with “Rebuild Michigan” which is a program administered by the Michigan Department of Energy, Labor, and Economic Growth, Bureau of Energy Systems.
17. During the years at issue, Petitioner provided energy education services to approximately 7,000 renters and homeowners per year in Wayne and Oakland Counties. P-3 and TR 6.
18. Petitioner provided long term assistance to individuals in order to avoid the need for crisis intervention by other governmental agencies and nonprofit entities. Petitioner provided education services for Habitat for Humanity. Petitioner provided job training for Southwest Solutions and Henry Ford Community College.
19. Petitioner received a \$15,000 “Rebuild Michigan Challenge Grant” from the State of Michigan to assist promoting energy efficiency and renewable energy use. P-7.
20. The subject property is used as offices for staff, to store materials used in home weatherization, and as a location for energy demonstrations for members of the public.
21. Petitioner offers technical assistance and consulting services free of charge to nonprofit organizations and municipalities for the purpose of improving the energy efficiency of

buildings occupied by these entities.

22. Petitioner sponsors workshops to teach individuals about insulation and energy efficiency. The workshops are conducted at schools, churches, and community centers in Southeast Michigan. TR 7.
23. Petitioner consults with individuals at their homes and conducts workshops at the subject property at no charge. TR 8.
24. Petitioner receives most of its financial support from federal, state, and municipal grants.
25. Petitioner does not charge a fee for any of its services.
26. Petitioner's total liabilities and net assets for fiscal year ending May 31, 2009 were \$315,757 and as of May 31, 2008 were \$380,580.
27. In the fiscal year ending May 31, 2009, Petitioner received revenue from donations of \$29,039 and from grants, workshops, training, and consulting of \$805,382. Petitioner also received revenue from "special events" of \$3,511 and "miscellaneous income" of \$703.
28. In the fiscal year ending May 31, 2008, Petitioner received revenue from donations of \$10,964 and from grants workshops, training, and consulting of \$747,321. Petitioner also received "miscellaneous income" of \$362.
29. Petitioner's total liabilities and net assets for fiscal year ending May 31, 2007 were \$303,876 and as of May 31, 2006 were \$276,278.
30. In the fiscal year ending May 31, 2007, Petitioner received revenue from donations of \$42,182 and from grants workshops, training, and consulting of \$742,423. Petitioner also received revenue from "special events" of \$24,515 and "miscellaneous income" of \$600.

31. In the fiscal year ending May 31, 2006, Petitioner received revenue from donations of \$48,181 and revenue from grants workshops, training, and consulting of \$773,898.

Petitioner also received “miscellaneous income” of \$5,496.

32. For the fiscal year ending May 31, 2010, Petitioner received contributions and funding from 32 sources. P-13. The major contributors and sources of funding were: \$412,102 from “Michigan Energy Smart,” \$205,418 from Henry Ford Workforce, \$100,000 from JP Morgan Chase, and \$91,913 from the Regional Energy Office. The total “cash in” from these sources was \$1,276,876.

Conclusions of Law

Under the Michigan Constitution of 1963, “All political power is inherent in the people. Government is instituted for their equal benefit, security, and protection.” Const 1963, art 1, sec 1.

“The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.” Const 1963, art 9, sec 1. The Constitution requires the taxation of real and personal property.

The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. . . . Const 1963 art 9, sec 3.

Pursuant to the above constitutional mandate, the people of the State of Michigan have enacted<sup>2</sup>, through the Legislature and Governor, the General Property Tax Act, 1893 PA 206, MCL 211.1, et seq.

The General Property Tax Act, 1893 PA 206, provides: “That all property, real and personal, within the jurisdiction of this state, not expressly exempted, shall be subject to taxation.” MCL 211.1. The act further provides:

- (1) For the purpose of taxation, real property includes all of the following:
  - (a) All land within this state, all buildings and fixtures on the land, and all appurtenances to the land, *except as expressly exempted by law*. MCL 211.2. (Italics added.)

The legal question is whether the subject property is exempt from property taxes under

MCL 211.7o or MCL 211.2n. Petitioner bears the burden of proving that it is entitled to the exemption by a preponderance of the evidence. *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002).

The General Property Tax Act (“the Act”) provides for the annual assessment and taxation of all real and personal property within the state unless expressly exempted. “The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day....” MCL 211.2(2). The relevant, material facts do not vary significantly for each of the tax years in question. Based on the above findings of fact and the following legal analysis, Petitioner has met its burden of proof that the subject property is exempt from *ad valorem* property taxes under MCL 211.7o.

“The 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.” MCL 211.7o(1).

In *Michigan Baptist Homes & Development Company v City of Ann Arbor*, 396 Mich 660 (1976), the Michigan Supreme Court narrowly interpreted this exemption, and applied the following criteria:

---

2 “The style of the laws shall be: The People of the State of Michigan enact.” Mich. Const. of 1963, art 4,



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

1. The exemption claimant must be a library, benevolent, charitable, educational, or scientific institution;
2. The exemption claimant must have been incorporated under the laws of this State<sup>3</sup>;
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.

Petitioner owns the real estate, and occupies it as that term is used in MCL 211.7o.

*Kalamazoo Nature Center v Cooper Township*, 104 Mich App 657; 305 NW2d 283

(1981); *Holland Home v City of Grand Rapids*, 219 Mich App 384; 557 NW2d 518

(1996). Petitioner has proven that it is a charitable institution that occupies the subject property solely for its charitable purposes, for reasons discussed hereafter.

The Michigan Supreme Court issued its decision in *Wexford Medical Group v City of*

*Cadillac*, 474 Mich 102; 713 NW2d 734 (2006), which reaffirmed the “widely used

definition” of “charity” :

[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

---

sec 23. Michigan laws are enacted by the “People” and are called Public Acts.

<sup>3</sup> The third requirement is not at issue and has been held unconstitutional by appellate courts.

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 NW2d 682, quoting *Jackson v Phillips*, 96 Mass (14 Allen) 539 (1867) (emphasis deleted; alterations in original).] *Wexford*, 211.

*Wexford* also identified six factors relevant to the determination of whether an organization meets the definition of “charity” that was first set forth in *Retirement Homes, supra*.

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

- (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 Medical Group v City of Cadillac*, 474 Mich 192, 215; 713 NW2d 734, 746 (2006).

The six factors enumerated by the Supreme Court must be applied along with the recognized statutory definition of charity, on a case-by-case basis, with special attention paid to published cases involving similar facts. In applying the six factors to the subject property, the Tribunal

concludes as follows:

(1) There is no dispute that Petitioner is a nonprofit institution.

(2) Petitioner is organized chiefly for charity. Petitioner's restated Articles of

Incorporation State: "The corporation's purpose and activities shall be limited in all respects and at all times to those exclusively within the purview of Section 501(c)(3) of the Internal Revenue Service Code of 1986 or the corresponding provisions of any future United States IRS Code." The Articles of Incorporation further state: "The purpose of WARM Training Program, Inc. is to provide contracting services, technical assistance, training, project management, and other development services to non-profit housing corporations, other community based groups and their constituents." However, this statement is not conclusive. To determine whether Petitioner is organized chiefly or solely for charity, it must first be determined whether Petitioner's overall purpose is "charitable" under the classic definition of that term that was affirmed by *Wexford*. Based on the discussion below, it is concluded that Petitioner's overall purpose is charitable and that it used the subject property solely for such charitable purposes.

(3) The testimony of Petitioner's Executive Director emphasizes that it did "not offer its charity on a discriminatory basis by choosing who, among the group it purports to

serve, deserves the services.” Petitioner served any person who needs the particular type of charity being offered.

(4) The activities engaged in by Petitioner “assist people to establish themselves for life,” and also “lessen the burdens of government.” The energy education outreach assists low income individuals in avoiding utility shutoff stemming from inefficient energy use. The energy education program helped low and moderate income individuals to conserve financial resources, making them less dependent on programs like the home heating credit under the Michigan Income Tax Act. Petitioner’s workplace training program “assists people to establish themselves for life” by preparing them for employment. This also “lessens the burdens of government.” Energy audits and weatherization advice that Petitioner provided advanced public policy goals. Many of these services would otherwise be provided by an agency of government or become a burden to government. Petitioner received support from federal, state, and local government entities and agencies.

(5) Petitioner does not charge fees for its services.

(6) There is no “monetary threshold of charity” to consider in this case because all of Petitioner’s services are provided to individuals and organizations free of charge.

Petitioner is a “nonprofit institution” organized under the Michigan Nonprofit Corporation Act. There is no evidence that any profit, dividend, or pecuniary benefit is paid to or otherwise inures to any private shareholder or other person. In *Gull Lake Bible Conference Association v Township of Ross*, 351 Mich 269; 88 NW2d 262 (1958), the court held that, “[A]side from modest salaries paid to necessary employees, no individual receives any pecuniary benefit from its operation.” Therefore, excessive salaries may constitute an impermissible “pecuniary benefit” to a private individual. Under the Michigan Nonprofit Corporation Act, compensation paid to an officer or employee, must be “reasonable.” MCL 450.2301. There is no evidence of excessive salaries or other pecuniary benefits that would disqualify Petitioner for the exemption.

Based upon the evidence presented and the legal arguments, Petitioner has set forth a *prima facie* case that it qualifies for the exemption under MCL 211.7o. Thus, the burden to go forward with evidence and legal arguments to the contrary shifts to Respondent. The ultimate burden of persuasion remains with Petitioner.

Respondent claims that the property “does not reduce educational burden[s] of the state” and that it does not use the property for a charitable purpose within the meaning of MCL 211.7o.

Respondent claims that Petitioner has merely “proven that its activities only benefit any individual as an indirect result of its purpose and mission to provide services to other nonprofit organizations.” Citing the restated articles of incorporation, dated October 22, 1993:

The purpose of WARM Training Program, Inc. is **to provide contracting services, technical assistance, training, project management, and other development services to non-profit housing corporations, other community based groups and their constituents.** The corporation's purpose and activities shall be limited in all respects and at all times to those exclusively within the purview of Section 501(c)(3). . . . Petitioner's Exhibit P-1 (Emphasis added by Respondent.)

This argument is not persuasive. Petitioner's services provide a benefit to individuals as well as other nonprofit organizations. The claim that the benefit to individuals is an "indirect result" of Petitioner's mission to serve other nonprofits is unavailing. The Articles plainly state that Petitioner services various nonprofit organizations and their constituents. By providing services to the "constituents" of other nonprofit organizations, Petitioner provided a benefit to those individuals.

Petitioner collaborated with "THAW" (the heat and warmth fund), the Salvation Army, and the City of Detroit and other entities that provide emergency assistance to individuals who can't pay their heating bills. Individuals were in fact benefited and this satisfies the legal requirement regardless of whether Petitioner provided services under contract with other nonprofits.

Petitioner offered its services to provide long term assistance to these individuals in order to avoid the need for crisis intervention by these other providers or governmental agencies.

Petitioner has also provided educational services to groups like Habitat for Humanity. Petitioner has provided job training for Southwest Solutions and Henry Ford Community College. The

services provide a benefit to individuals.

Respondent claims that Petitioner's activities are not charitable because the education and training does not "bring 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." *Wexford*, p 215. However, the facts prove that Petitioner meets this definition of charity. Petitioner's burden is to prove that its activities included one or more of the enumerated objectives, or other similar activity which "lessen[s] the burdens of government." Petitioner did "relieve people's bodies . . . from suffering" by helping them maintain a basic need of life: a WARM and affordable shelter. This plainly falls into the category of assisting people to "establish themselves for life" as does the job training activities. Homes that are more fuel efficient naturally reduce heating bills, which directly lessens a burden of government by reducing state tax expenditures through the home heating income tax credit. MCL 206.527a.

Having ruled that the subject property is exempt from property taxes under MCL 211.7o, there is no need to rule on whether Petitioner would qualify for the exemption under MCL 211.7n.

#### PROPOSED JUDGMENT

IT IS ORDERED that the subject property is exempt from property taxes under MCL 211.7o.

MICHIGAN TAX TRIBUNAL

Entered: February 16, 2011

By: Thomas A. Halick

This Proposed Opinion and Judgment (“Proposed Opinion”) was prepared by the State Office of Administrative Hearings and Rules. The parties have 20 days from date of entry of this Proposed Opinion to notify the Tribunal in writing if they do not agree with the Proposed Opinion and why they do not agree (i.e., exceptions). After the expiration of the 20-day time period, the Tribunal will review the Proposed Opinion and consider the exceptions, if any, and:

- a. Adopt the Proposed Opinion as a Final Decision.
- b. Modify the Proposed Opinion and adopt it as a Final Decision.
- c. Order a rehearing or take such other action as is necessary and appropriate.

The exceptions are limited to the evidence submitted prior to or at the hearing and any matter addressed in the Proposed Opinion. There is no fee for the filing of exceptions. A copy of a party’s written exceptions must be sent to the opposing party.