

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

BRIDGEPORT GUN CLUB,
Petitioner,

v

MTT Docket No. 346247

BRIDGEPORT TOWNSHIP,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

OPINION AND JUDGMENT

This case involves Petitioner's claim that parcel numbers 73-09-11-5-10-1024-000, 73-09-11-5-10-1035-000 and 09-99-9-99-0040-500, located in Bridgeport, County of Saginaw are exempt from ad valorem taxation. Jack Danks, President, Bridgeport Gun Club, represented Petitioner. Amanda Carrigan, Assessor, Bridgeport Township, represented Respondent. The hearing was held on October 28, 2010.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner did not prove by a preponderance of the evidence that it is a charitable organization pursuant to MCL 211.7o. As such, the subject property is not exempt from ad valorem property taxes. The subject property's true cash values (TCV), state equalized values (SEV), and taxable values (TV) are:

Parcel Number	Year	TCV	SEV	TV
73-09-11-5-10-1024-000	2008	\$399,400	\$199,200	\$76,707
73-09-11-5-10-1024-000	2009*	\$393,200	\$196,600	\$86,182
73-09-11-5-10-1024-000	2010*	\$381,000	\$190,500	\$85,923
73-09-11-5-10-1035-000	2008	\$78,800	\$39,400	\$15,284
73-09-11-5-10-1035-000	2009*	\$75,000	\$37,500	\$15,956
73-09-11-5-10-1035-000	2010*	\$75,000	\$37,500	\$15,908
73-09-99-9-99-0040-500	2008	\$23,000	\$11,500	\$11,500
73-09-99-9-99-0040-500	2009*	\$23,000	\$11,500	\$11,500
73-09-99-9-99-0040-500	2010*	\$5,000	\$2,500	\$2,500

*Pursuant to MCL 205.737(5)(a), “. . . if the tribunal has jurisdiction over a petition alleging that the property is exempt from taxation, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from the appeal at the time of the hearing on the petition.” In the instant case, such a request was not made. Therefore, tax years 2009 and 2010 are automatically added to this petition.

PETITIONER’S CONTENTIONS

Petitioner contends that the subject property, which consists of 1) one parcel of approximately 17.14 acres of land, an 8,816 square foot club house, a garage and a shooting range, lodge and outbuildings, 2) one unimproved parcel of approximately 31.1 acres, and 3) one parcel of personal property, is exempt from taxation under MCL 211.7o for the 2008, 2009 and 2010 tax years because Petitioner Bridgeport Gun Club is a nonprofit charitable organization exempt from federal taxation under Section 501(c)(4) that owned and occupied the subject real property and used the property solely for the purposes for which it was organized.

PETITIONER’S EXHIBITS

- P-1. Correspondence dated August 31, 2010 from Michigan State Police.
- P-2. Correspondence dated September 3, 2010 from Saginaw County Sheriff’s Office.
- P-3. Correspondence dated August 31, 2010 from U.S. Customs and Border Protection.
- P-4. Correspondence dated August 31, 2010 from Bridgeport Charter Township Police Department.
- P-5. Undated correspondence from Boy Scouts of America, Troop 205 of Bridgeport.
- P-6. Undated correspondence from Cub Scout Pack 3295.
- P-7. Correspondence dated September 4, 2010 from Pace Setters 4H Shooting Sports.

- P-8. Correspondence dated April 9, 2010 from Cass River Greenway.
- P-9. Correspondence dated May 19, 2010 from Frankenmuth Community Foundation.
- P-10. Correspondence dated February 10, 2009 from Bridgeport Olde Tyme Festival.
- P-11. Correspondence dated August 4, 2008 from Saginaw Community Foundation.
- P-12. Correspondence dated September 10, 2010 from Calvary Community Church.
- P-13. Correspondence dated September 12, 2010 from Department of Veteran Affairs.
- P-14. Correspondence dated March 18, 2009 from Bridgeport High School Softball Team.
- P-15. Scholarship checks.
- P-16. Correspondence dated August 25, 2010 from Bridgeport-Spaulding Athletic Department.
- P-17. May 2010 Newsletter, Bridgeport Gun Club.
- P-18. April 2010 Newsletter, Bridgeport Gun Club.
- P-19. March 2010 Newsletter, Bridgeport Gun Club.
- P-20. February 2010 Newsletter, Bridgeport Gun Club.
- P-21. October 2009 Newsletter, Bridgeport Gun Club.
- P-22. July 2009 Newsletter, Bridgeport Gun Club.
- P-23. April 2009 Newsletter, Bridgeport Gun Club.
- P-24. General Information Regarding Applying for a Concealed Weapons Permit.
- P-25. Correspondence dated September 1, 2010 from Petitioner regarding hunter safety training.
- P-26. Information regarding exemption for Frankenmuth Conservation.
- P-27. Articles of Incorporation for Bridgeport Gun Club, Inc. dated August 16, 1954.
- P-28. Certificate of Amendment to the Articles of Incorporation of Bridgeport Gun Club, Inc. dated August 15, 1984.

P-29. Constitution, Bridgeport Gun Club, Inc.

P-30. Correspondence from Internal Revenue Service dated January 22, 2007, confirming that Bridgeport Gun Club, Inc. is exempt under section 501(c)(4) of the Internal Revenue Code.

P-31. 2010 State of Michigan Nonprofit Corporation information update.

P-32. 2009 State of Michigan Nonprofit Corporation information update.

P-33. 2008 State of Michigan Nonprofit Corporation information update.

P-34. Amended By-Laws of Bridgeport Gun Club, dated January 2000.

P-35. Warranty Deed dated August 3, 1965; Warranty Deed dated February 7, 1956.

P-36. Monthly income statements January 1, 2008 through July 31, 2010.

P-37. IRS Forms 990 for 2008 and 2009.

P-38. Photographs of the subject property.

PETITIONER'S WITNESS

Jack Danks, President of the Bridgeport Gun Club, Inc. was Petitioner's sole witness. In addition to supporting the admission of the thirty-eight exhibits presented by Petitioner, Mr. Danks further testified that Petitioner (i) purchased the subject property in 1954 (Transcript, p. 24), (ii) uses the subject property to "promote the art of trap, skeet, target shooting and education to influence the proper protection of game and fish conservation and to practice, promote, and teach safety precautions in the use of firearms as well as good sportsmanship." (Transcript, p. 24), (iii) was granted tax exemption under Section 501(c)(4) of the Internal Revenue Code in 1956 (Transcript, p. 25), (iv) has 300 members who "volunteer their time, efforts and service to the club and the community" (Transcript, p. 11), (v) "has a clubhouse, two trap fields, an indoor

pistol range, an outdoor rifle range, two 3-D archery courses ” (Transcript, p. 11), (vi) has a \$50 annual membership fee until age 65, with no initiation fee (Transcript p. 11 and 12), (vii) is a charitable organization “because charitable means there is a benefit for an indefinite number of people either by education or by lessening the burden of the government,” which Petitioner contends it has been doing for years (Transcript, p. 12), (viii) allows the border patrol and local police department access to Petitioner’s ranges (Transcript, p. 16), (ix) provides numerous community organizations with access to the subject property (Transcript, p. 16 and 17), (x) estimates that the clubhouse is used by outside organizations “25 to 30” days per year (Transcript, p. 24); (xi) has made contributions to charitable organizations (Transcript, p. 17), (xii) allows non-members may use the club facilities, including the ranges, only with a member, and must pay a \$5 fee for targets (Transcript, p. 28 and 29); (xiii) charges non-members \$1 more than members for fish fry dinners (Transcript, p. 30); (xiv) requires members and non-members to pay the same fees for hunter safety classes and for concealed weapon classes; (xv) maintains cash reserves to ensure that utilities, insurance, maintenance, etc. can be paid in the event of an emergency (Transcript, p. 74); and (xvi) is currently saving money to construct a new building so that “kids can come out there and shoot during the week with a bow and arrow and learn how to do it” (Transcript, p. 75).

Petitioner’s witness also stated that a small house on the property is rented for \$450 per month (Transcript, p. 19 and 20).

Finally, Petitioner’s witness contends that Petitioner is similar to the Frankenmuth Conservation Club, which has been granted exempt status by Frankenmuth Township.

PETITIONER'S ARGUMENT

Petitioner contends that it is exempt from ad valorem real property taxes for the 2008, 2009 and 2010 tax years pursuant to MCL 211.7o, because it has “proven the four legs of statute 211.7o” (Transcript, p. 25). Petitioner states that “the first leg of our proof is that we indeed are a charitable and nonprofit organization. The second leg of our proof is that the property is owned by the Bridgeport Gun Club. The third leg of our - - is that the property is used for what it was incorporated for. Finally, the club was incorporated under the laws of the State of Michigan.” (Transcript, p. 11).

RESPONDENT'S CONTENTIONS

Respondent contends that the subject property is not exempt from taxation under MCL 211.7o because “Petitioner is not a charitable organization, nor do the organization’s activities, as a whole, constitute a charitable gift for the benefit of the general public without restriction or for the benefit of an indefinite number of persons.” Respondent further contents that “while the organization may allow the free use of their range to local police departments, this indeed may be laudable; however, the primary collective purpose of the organization is not merely to offer the free use of its firing range. It is ultimately a nonprofit social welfare club created for recreational reasons to serve its members.” Respondent contends that it has properly determined the true cash value of the subject property for the tax years at issue.

RESPONDENT'S ADMITTED EXHIBITS

R-1. Property Record Card, Parcel 09-11-5-10-1024-000.

- R-2. Property Record Card, Parcel 09-11-5-10-1035-000.
- R-3. Property Record Card, Parcel 99-99-9-99-0040-500.
- R-4. Photographs of Subject Property.
- R-5. Map of Property.
- R-6. Petitioner Federal Income Tax Exemption Letter.
- R-7. Petitioner 2008 Federal Income Tax Return.
- R-8. Petitioner 2009 Federal Income Tax Return.
- R-9. Petitioner Website – Introduction Page.
- R-10. Petitioner Website – Range Rules.
- R-11. Petitioner Website – Hunter Safety Class.
- R-12. Petitioner Website – Sight-In-Days.
- R-13. Petitioner Website – CCW Course.
- R-14. Articles of Incorporation.
- R-15. By-Laws.
- R-18. Frankenmuth Conservation Club Articles of Incorporation.

RESPONDENT’S WITNESSES

Amanda Carrigan, Assessor, Bridgeport Township, testified that (i) the subject property includes two real property parcels and one personal property parcel located at 3265 Roselle Road in Bridgeport, Michigan (Transcript, p. 46); (ii) Parcel 09-11-5-10-1024-000 includes 17.14 acres of land, an 8,816 square foot clubhouse used for meetings and dining area, a garage, as well as a shooting range, and is classed as commercial (Transcript, p. 46); (iii) Parcel 09-11-5-

10-1035-000 includes 31.1 acres of land and is classed residential (Transcript, p.48); (iv) Parcel 09-99-9-99-0040-500 includes personal property for the organization (Transcript, p. 51 and 52); (v) Petitioner has not filed a personal property statement for the tax years at issue (Transcript, p. 52); (vi) The current use of the subject property is as a sportsman's club according to Petitioner's website (Transcript, p. 52); (vii) Petitioner's website states that "the Bridgeport Gun Club, located on 54 acres near Bridgeport, Michigan, was founded in 1950 for the purpose of furthering shooting sports. We offer outdoor 25 yard, 50 yard, and 100 yard rifle and pistol ranges with firing lines and benches under a covered pavilion to allow shooting during inclement weather." (Transcript, p. 53); (viii) Petitioner's website also states that "the Bridgeport Gun Club is a membership based organization. The club also offers hunter safety courses, CCW courses, as well as sight-in services for a fee to its members and the public." (Transcript, p. 53); (ix) Petitioner's "predominant source of income for the club is a weekly fish fry held throughout the winter months" (Transcript, p. 55); (x) "other sources of income are membership dues, range fees, as well as hunter safety and CCW course fees" (Transcript, p. 55); (xi) "Petitioner's club memberships are open to the public for a fee" (Transcript, p. 55); (xii) "their range is not open to the general public except during special events. However, nonmember guests may accompany members for a fee." (Transcript, p. 55); (xiii) Petitioner's Articles of Incorporation state, among other things, that the corporation was formed "to promote the art of trap, skeet, and any other target shoot; to influence the proper protection of game and fish; to practice, promote, and teach safety precautions in the use of firearms, and to foster good fellowship among sportsmen." (Transcript, p. 60); (xiv) although Petitioner was formed as a nonprofit organization, "it was not organized chiefly for the purpose of charity" (Transcript, p. 63); (xv) Petitioner's rules and by-

laws state that “the use of the range is a benefit for members. Do not allow nonmembers access to the gate combination. Members only. Guests brought to the range by a member are \$5 each. Members who bring guests are responsible to collect and turn the money over to a board member. Violation of this rule will result in the loss of range privileges. While on the range, you must show your membership card if asked. The Range is not open to the general public except during special events. However, members may bring nonmember guests to the range and are responsible for their guests’ behavior and safety.” (Transcript, p. 65); (xvi) discussions with the assessor for Frankenmuth Township indicate that the Frankenmuth Conservation Club was granted an exemption from property tax because it is considered a conservation club and not just a gun club. (Transcript, p. 69);

RESPONDENT’S ARGUMENT

Respondent contends that although Petitioner is exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code, “this does not predetermine an organization to be exempt from property taxes.” Under *Ladies Literary Club v City of Grand Rapids*, 409 Mich 748; 298 NW2d 422 (1980), a three part test was created to determine whether a property qualifies for an exemption under MCL 211.7o:

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

While Respondent agrees that Petitioner satisfies the first and third provisions of the test (i.e., that the subject property is owned and occupied by Petitioner for the purposes for which it was incorporated), Respondent contends that Petitioner has failed to prove that “it is a library, benevolent, educational, charitable, or scientific institution.” Respondent identifies six criteria that it contends must be satisfied by Petitioner for property to qualify for exemption:

- (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, by assisting 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 much money it devotes to charitable activities in a particular year.

Respondent further contends that “while the organization is a nonprofit institution, it was not organized chiefly for the purpose of charity.” Instead, the organization was created for the purpose of promoting shooting sports, to influence the protection of game and fish, and to promote safety in firearm use as well as good sportsmanship. “Once again, none of these purposes are convincing enough for the Petitioner to be considered a “charitable institution.”

Respondent further contends that “while the organization may allow the free use of their range to local police departments, this indeed may be laudable; however, the primary collective purpose of the organization is not merely to offer the free use of its firing range. It is ultimately a nonprofit social welfare club created for recreational reasons to serve its members.”

Finally, Respondent contends that “it is clear that the primary purpose of the organization is to service its membership. While the public is welcome at the club facilities, they must be accompanied by paid members of the club, which provides no benefit to the general public without restriction.”

FINDINGS OF FACT

1. The subject property consists of three parcels, two of which are classified as commercial real property and one classified as commercial personal property.
2. The real property consists of approximately 48.24 acres of land, an 8,816 square foot club house, a garage, an indoor pistol range, and outdoor rifle range, two 3-D archery courses, and out buildings, located at 3265 Roselle Road, Bridgeport, Michigan.
3. The true cash values, assessed values and taxable values determined by Respondent for the tax years at issue are:

Parcel Number	Year	TCV	SEV	TV
73-09-11-5-10-1024-000	2008	\$399,400	\$199,200	\$76,707
73-09-11-5-10-1024-000	2009	\$393,200	\$196,600	\$86,182
73-09-11-5-10-1024-000	2010	\$381,000	\$190,500	\$85,923
73-09-11-5-10-1035-000	2008	\$78,800	\$39,400	\$15,284
73-09-11-5-10-1035-000	2009	\$75,000	\$37,500	\$15,956
73-09-11-5-10-1035-000	2010	\$75,000	\$37,500	\$15,908
73-09-99-9-99-0040-500	2008	\$23,000	\$11,500	\$11,500
73-09-99-9-99-0040-500	2009	\$23,000	\$11,500	\$11,500
73-09-99-9-99-0040-500	2010	\$5,000	\$2,500	\$2,500

4. Petitioner is a gun club that was incorporated in August, 1954, and is organized as a non-profit corporation under Section 501(c)(4) of the Internal Revenue Code.
5. Petitioner is a membership-based organization, with approximately 300 members.
6. Petitioner received 501(c)(4) status from the Internal Revenue Service in December, 1956.
7. The purpose for which Petitioner was incorporated is stated in Article II of its Articles of Incorporation dated August 16, 1954 (as amended) and its Constitution, as follows:

“To promote the art of trap, skeet and any other target shooting; to influence the proper protection of game and fish; to practice, promote, and teach safety precautions in the use of firearms, and to foster good fellowship among sportsmen.”
8. Petitioner’s purpose was also discussed in the preamble to its Amended By-Laws dated January, 2000, which stated “we are dedicated to the conservation of wildlife and natural resources of our lands. We provide instruction and example of proper use of firearms for sport and pleasure. We take interest in our young people to insure proper attitude in firearms and conservation. We expose our club and its ability to aid the local community.”

9. An applicant for membership “shall submit a written application. The applicant may be approved for membership by a majority of the members present”
10. Members pay a \$50 annual membership fee. Annual dues are not required to be paid by Officers of Petitioner or for Members “in good standing for ten consecutive years and having attained the age of 65”
11. The subject property was owned and occupied by Petitioner on the December 31, 2007, December 31, 2008 and December 31, 2009 assessment dates.
12. Club facilities are provided without charge to organizations such as the Michigan State Police, Saginaw County Sheriff’s Office, U.S. Customs and Border Protection, Bridgeport Township Police Department, Pace Setters 4 H Shooting Sports and Department of Veteran Affairs.
13. Petitioner has made cash or in-kind contributions to the Bridgeport-Spaulding Community School District, Bridgeport High School Softball Team, Calvary Community Church, Saginaw Community Foundation, Bridgeport Olde Tyme Festival, Frankenmuth Community Foundation, Cass River Greenway, Boy Scouts of America, and Cub Scout Pack 3295.
14. The subject clubhouse is used by organizations other than Petitioner approximately 25 to 30 times annually.
15. A small house located on the subject property is rented for \$450 per month.
16. Non-members may use the club facilities, including the ranges, only with a member, and must pay a \$5 fee for targets.
17. Non-members must pay \$1 more than members for fish fry dinners.

18. Members and non-members pay the same fees for hunter safety classes and for concealed weapon classes.
19. Petitioner generates funds primarily through fish fry dinners, wild game dinners and dues.
20. Total revenues for the 2009 calendar year were \$182,853.
21. Total expenditures for the 2009 calendar year were \$191,394, of which \$2,281 were “donations.” The remainder of the expenditures were for property utilities, maintenance, repairs, taxes, office expense, and expenses associated with fish fry and wild game dinners.
22. Cash reserves are maintained by Petitioner to ensure that utilities, insurance, maintenance, etc., can be paid in the event of an emergency.

ISSUES AND CONCLUSIONS OF LAW

The general property tax act provides that “all property, real and personal, within the jurisdiction of this state, **not expressly exempted**, shall be subject to taxation.” MCL 211.1. (Emphasis added.) Exemption statutes are subject to a rule of strict construction in favor of the taxing authority. *Retirement Homes of the Detroit Annual Conference of the United Methodist Church, Inc v Sylvan Twp*, 416 Mich 340, 348; 330 NW2d 682 (1982); *APCOA, Inc v Dep’t of Treasury*, 212 Mich App 114, 119; 536 NW2d 785 (1995). The rule to be applied when construing tax exemptions was well summarized by Justice Cooley as follows:

[I]t is a well-settled principle that, when a specific privilege or exemption is claimed under a statute, charter or act of incorporation, it is to be construed strictly against the property owner and in favor of the public. This principle applies with peculiar force to a claim of exemption from taxation. Exemptions are never presumed, the burden is on a claimant to establish clearly his right to exemption, and **an alleged grant of exemption will be strictly construed** and

cannot be made out by inference or implication but **must be beyond reasonable doubt**. In other words, since taxation is the rule, and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms; it cannot be taken to have been intended when the language of the statute on which it depends is doubtful or uncertain; and the burden of establishing it is upon him who claims it. Moreover, if an exemption is found to exist, it must not be enlarged by construction, since the reasonable presumption is that the State has granted in express terms all it intended to grant at all, and that unless the privilege is limited to the very terms of the statute the favor would be extended beyond what was meant. *Michigan Bell Telephone Company v Department of Treasury*, 229 Mich App 200, 207; 582 NW2d 770 (1998), quoting *Detroit v Detroit Commercial College*, 322 Mich 142, 149; 33 NW2d 737 (1948), quoting 2 Cooley, *Taxation* (4th ed.), §672, p. 1403.

As in *Michigan Bell*, there is no dispute that the subject property, but for any exemption afforded it, is subject to property tax. *Id.* at 207.

It is also well settled that a petitioner seeking a tax exemption bears the burden of proving that it is entitled to the exemption. The Michigan Court of Appeals, in *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490; 644 NW2d 47 (2002), discussed Justice Cooley's treatise on taxation and held that:

[T]he **beyond a reasonable doubt** standard applies when the petitioner attempts to establish that an entire class of exemptions was intended by Legislature. However, the **preponderance of the evidence** standard applies when a petitioner attempts to establish membership in an already exempt class. (Emphasis added.) *Id.* at 494, 495.

(Also, see *Holland House v Grand Rapids*, 219 Mich App 384, 394-395; 557 NW2d 118 (1996)).

The exemption for real property owned and occupied by a nonprofit charitable institution (the "charitable exemption") is found in MCL 211.7o, which states in pertinent part:

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.

In *Wexford Medical Group v Cadillac*, 474 Mich 192, 203; 713 NW2d 734 (2006), the Michigan Supreme Court confirmed the test for exempting certain property from property taxes under MCL 211.7(o):

- (1) The real estate must be owned and occupied by the exemption claimant;
- (2) The exemption claimant must be a non profit 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.

In the instant case, the parties agree that Petitioner meets the first and third parts of the test for the tax years at issue. Petitioner owns the subject property and, other than the rental of a small house/garage on the property, occupies the property for the purposes for which Petitioner was incorporated. The parties disagree, however, whether Petitioner meets the second part of the test. Specifically, Respondent contends that Petitioner's primary purpose, as described in its Articles of Incorporation, its Constitution and its By-Laws, is not charitable. Instead, Respondent contends that Petitioner was initially incorporated as a nonprofit social welfare club for recreational reasons to serve its members, and has operated accordingly since its formation.

Here, Petitioner must prove by a preponderance of the evidence that it is a "charitable institution." In this regard, the Michigan Supreme Court concluded that the "institution's activities as a whole must be examined." (See *Michigan United Conservation Clubs v Lansing Township*, 423 Mich 661; 378 NW2d 737 (1985) ("*MUCC*"), which held that "[t]he proper focus in this case is whether *MUCC*'s activities, taken as a whole, constitute a charitable gift for the benefit of the general public without restriction or for the benefit of an indefinite number of persons." (Emphasis added.) (*Id.* at 673.)

Whether an institution is a charitable institution is a fact specific question that requires examining the claimant's overall purpose and the way in which it fulfills that purpose. In this

regard, the Michigan Supreme Court held in *Wexford, supra*, that several factors must be considered in determining whether an entity is a “charitable institution for purposes of MCL 211.7o”:

(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.

While Petitioner contends that it satisfied all three tests found in *Wexford*, Respondent contends that Petitioner cannot be construed to be a charitable organization because it does not relieve a burden which would otherwise be imposed upon government; that providing free access to club facilities for benevolent purposes is not enough.

To make this determination, Petitioner's activities must be analyzed under the *Retirement Homes* test. It is clear that Petitioner's activities do not bring minds or hearts under the influence of education or religion, do not relieve bodies from disease, suffering or constraint, by assisting people to establish themselves for life, and do not erect or maintain public buildings or works. The question remains whether Petitioner's activities lessen the burdens of government.

In making this determination, the first question that must be answered is what "burdens of government" are lessened by Petitioner's activities? Here, Petitioner provided testimony, evidence and argument that some governmental burdens have been lessened through its activities such as providing police and military organizations free access to its shooting ranges. On this issue, the Michigan Court of Appeals recently concluded that even if petitioner "minimally lessens a government burden by offering firearms training facilities for law enforcement agencies, petitioner's activities primarily serve the interests of its members." *North Ottawa Rod & Gun Club, Inc v Grand Haven Charter Township*, unpublished opinion per curiam of the Court of Appeals, issued August 21, 2007, Docket No. 268308. However, the testimony and evidence clearly show that Petitioner's primary reason for being is as a social organization for its members. Petitioner's President testified that Petitioner raises money and maintains cash reserves primarily to ensure that utilities, insurance, maintenance, etc., can be paid. For example, for the year ended December 31, 2009, Petitioner generated \$182,853 in revenues, primarily through its fish fry dinners, wild game dinners, and dues. Virtually all of that revenue was used for utilities, repairs and maintenance, fees, office expense and the expenses associated with the fish fry and wild game dinners. Petitioner's year-end financial statement for the 2009 calendar year reflects expenditures of just \$2,281 for "donations."

Petitioner's charitable activities, taken as a whole, do not constitute a charitable gift for the benefit of the general public without restriction or for the benefit of an indefinite number of persons. While Petitioner provides several services or contributions that could be considered charitable gifts, the Tribunal finds that Petitioner's purposes are primarily for the benefit of its members, and not to provide charitable services. Thus, Petitioner was neither organized primarily to provide something to persons in need nor to provide for the advancement of education, religion or other traditional object intended, first and foremost, to benefit the community at large. While Petitioner's charitable activities are laudable and obviously appreciated by the recipients, when all of Petitioner's activities are taken as a whole, the Tribunal cannot help but find that Petitioner did not prove by a preponderance of the evidence that it qualifies for a property tax exemption under MCL 211.7o.

JUDGMENT

IT IS ORDERED that the subject property is not exempt pursuant to MCL 211.7o.

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 the Final Opinion and Judgment within 90 days of the entry of the 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, 1995, at a rate of 6.55% for calendar year 1996, (ii) after December 31, 1996, at a rate of 6.11% for calendar year 1997, (iii) after December 31, 1997, at a rate of 6.04% for calendar year 1998, (iv) after December 31, 1998, at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999, at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000, at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001, at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003, at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004, at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005, at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006, at the rate of 5.42% for calendar year 2007, (xiii) after December 31, 2007, at the rate of 5.81% for calendar year 2008, after December 31, 2008 at the rate of 3.315 for calendar year 2009, after December 31, 2009 at the rate of 1.23% for calendar year 2010, and after December 31, 2010 at the rate of 1.12% for calendar year 2011.

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

MICHIGAN TAX TRIBUNAL

Entered: January 24, 2011

By: Steven H. Lasher