STATE OF MICHIGAN

COURT OF APPEALS

TRINITY HEALTH-MICHIGAN and TRINITY HEALTH CORPORATION, Petitioners-Appellees,	FOR PUBLICATION August 21, 2026 12:08 PM
v	No. 367419 Tax Tribunal
CITY OF KENTWOOD, Respondent-Appellant.	LC No. 20-001514

Before: CAMERON, P.J., and BOONSTRA and SWARTZLE, JJ.

SWARTZLE, J.

Petitioners, Trinity Health Corporation and its subsidiary Trinity Health-Michigan, used a commercial building and land within the City of Kentwood and requested a tax exemption on the property. Respondent, the City of Kentwood, denied petitioners' request, and petitioners filed a petition with the Tax Tribunal to appeal this denial. Both petitioners and respondent moved for summary disposition, and the Tax Tribunal granted summary disposition for petitioners, finding that they were entitled to a tax exemption under MCL 211.7o as charitable institutions for the 2020, 2021, and 2022 tax years.

Respondent now appeals, arguing that petitioners were not entitled to a tax exemption under MCL 211.7o. Because there remains a genuine issue of material fact on petitioners' actual occupancy of the property, as well as an error with the 2022 tax year, we reverse in part and affirm in part, as explained here.

I. BACKGROUND

During the relevant tax years, Trinity Health-Michigan, a nonprofit hospital (the Hospital), owned a 115,996-square-foot commercial building on land located in Kentwood. Until 2019, the Hospital was the sole occupant of the building, using a portion of it for various administrative hospital departments, while leaving the remainder of the building vacant. The vacant portion was on the city's tax rolls. Beginning in 2019, Trinity Health Corporation (the Corporation), the parent-nonprofit organization, started to use the building and owned personal property located within the commercial building.

Petitioners filed a petition with the Tax Tribunal requesting a tax exemption for the property for tax year 2020; petitioners subsequently sought an exemption for tax year 2021. Petitioners later moved for summary disposition under MCR 2.116(C)(10), asserting that the property was entitled to tax exemptions under MCL 211.7o (charitable-institution exemption for real or personal property), MCL 211.7r (hospital or public-health exemption for real property), and MCL 211.9 (charitable-institution exemption for personal property) "for the tax years at issue." Respondent also moved for summary disposition.

To support their motion, petitioners relied on affidavits from the Corporation's senior vice president of financial reporting and systems, chief revenue officer, and tax director. The chief revenue officer stated that the Corporation began using the property in 2019 "to provide patient access and billing services to several of its subsidiary, non-profit hospitals." The senior vice president attested that the Hospital used 5,381 square feet of the property for its hospital departments and "made the remainder of the subject real property available for use by [the Corporation]." The parties did not enter into a written agreement, lease or otherwise, regarding the Corporation's use of the remainder of the property.

The senior vice president stated that the Hospital used an additional 19,400 square feet for telehealth services in March to August 2020, and the Hospital used another 7,900 square feet as a vaccination clinic beginning in December 2020 and continuing "well into" 2021. Petitioners submitted a supplemental affidavit from the senior vice president that stated the following regarding the Corporation's occupancy:

> Since 2019, [the Corporation] has occupied and continues to occupy all portions of the subject real property that is not occupied by [the Hospital] through the daily presence of [the Corporation's] employees who operate one of the [Corporation's] three (3) consolidated billing service centers thereon.

To show their charitable nature, petitioners submitted their respective articles of incorporation. The Hospital's articles of incorporation provide that its purposes including furthering the charitable works of the Catholic Health Ministries, supporting the Corporation's purpose, and participating in activities "related to the delivery of health care and health care related services . . . [that] are appropriate in carrying out the health care mission." The Corporation's articles of incorporation provide similar purposes, including carrying out the healthcare mission of Catholic Health Ministries and "operat[ing] exclusively for the support and benefit of its affiliates in order to enhance their ability to effectively meet the healthcare needs of the communities they serve."

In response to an argument made by respondent earlier, evidence was submitted comparing the Corporation's CEO's compensation of almost $3 million to the almost $25 million compensation of the CEO of a comparable for-profit medical center. Additionally, financial statements for the Corporation and all of its affiliated subsidiaries were produced, which included the Corporation's and its subsidiaries' net assets and revenues. For example, in FY2020, the Hospital had an operating margin of 3.21%; for its part, the Corporation had an operating margin of -23.52% that year. Respondent argued that the amount of net assets and net revenues indicated that petitioners were charging above the amount required for successful maintenance.

The Tax Tribunal granted petitioners' motion for summary disposition and denied respondent's motion for summary disposition. The Tax Tribunal concluded that the tax exemption applied to both the real and personal property at issue for the 2020, 2021, and 2022 tax years under MCL 211.7o, citing MCL 205.737(5)(a). Given its reliance on MCL 211.7o, the Tax Tribunal declined to analyze petitioners' claims under MCL 211.7r or MCL 211.9(1).

Respondent now appeals.

II. ANALYSIS

A. MCR 2.116(C)(10)

MCL 211.7o provides an ad valorem tax exemption for charitable institutions. The Tax Tribunal granted petitioners tax relief as charitable institutions under MCR 2.116(C)(10). We review de novo the Tax Tribunal's decision on a motion for summary disposition.[1] *Strata Oncology, Inc v Dep't of Treasury*, 348 Mich App 378, 386; 18 NW3d 367 (2023). Under MCR 2.116(C)(10), the Tax Tribunal may grant summary disposition if, after evaluating the evidence in the light most favorable to the party opposing the motion, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law. *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999).

B. TAX YEAR 2022

We begin with tax year 2022. Respondent claims that the Tax Tribunal erred by including the 2022 tax year in its ruling on petitioners' motion for summary disposition. "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." MCL 205.737(5)(a). If an appeal is added, then the petitioner or respondent may request that any subsequent year be excluded from the appeal. *Id.* "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." MCL 211.2(2).

Here, although the 2022 tax year was included in the Tax Tribunal's decision on summary disposition, petitioners moved for summary disposition only on their claims for tax years 2020 and 2021, and they provided evidence only for those two years. When a party moves under MCR 2.116(C)(10), the moving party "must specifically identify the issues as to which the moving party believes there is no genuine issue as to any material fact." MCR 2.116(G)(4). Additionally, the moving party is required to submit affidavits or other documentary evidence "in support of the ground asserted" in its (C)(10) motion. MCR 2.116(G)(3).

"If the moving party fails to properly support its motion for summary disposition, the nonmoving party has no duty to respond, and the trial court should deny the motion." *Barnard Mfg Co, Inc v Gates Performance Engineering, Inc*, 285 Mich App 362, 370; 775 NW2d 618

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[1] Given our de novo review, whether the Tax Tribunal erred in applying the wrong standard is largely beside the point on appeal.

(2009). Petitioners failed to support, or even identify, tax year 2022 in its summary disposition motion. Therefore, the Tax Tribunal erred by awarding summary disposition to petitioners with respect to the 2022 tax year. See *Meyer v City of Ctr Line*, 242 Mich App 560, 575; 619 NW2d 182 (2000).

C. TAX YEARS 2020 AND 2021

Moving to tax years 2020 and 2021, respondent challenges multiple facets of the Tax Tribunal's decision that petitioners were entitled to a tax exemption under MCL 211.7o. Petitioners have the burden of proving an entitlement to an exemption as the parties claiming such exemption. *GMAC LLC v Treasury Dep't*, 286 Mich App 365, 374-375; 781 NW2d 310 (2009).

Because the Hospital owned the property and made that property available to the Corporation, two related provisions of MCL 211.7o are relevant on appeal. A nonprofit charitable institution may be tax-exempt under MCL 211.7o(1) if the following elements are met:

> (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 v City of Cadillac*, 474 Mich 192, 203; 713 NW2d 734 (2006).]

For its part, MCL 211.7o(3) separately provides that property owned by one nonprofit charitable institution and occupied by a different nonprofit entity may also be tax-exempt:

> Real or personal property owned by a nonprofit charitable institution or charitable trust that is leased, loaned, or otherwise made available to another nonprofit charitable institution or charitable trust or to a nonprofit hospital or a nonprofit educational institution that is occupied by that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution solely for the purposes for which that nonprofit charitable institution, charitable trust, nonprofit hospital, or nonprofit educational institution was organized or established and that would be exempt from taxes collected under this act if the real or personal property were occupied by the lessor nonprofit charitable institution or charitable trust solely for the purposes for which the lessor charitable nonprofit institution was organized or the charitable trust was established is exempt from the collection of taxes under this act.

Therefore, to qualify for tax exemption under MCL 211.7o(1) or (3), an entity must: (1) be a nonprofit charitable institution; (2) own property, lease property, be loaned property, or otherwise have property made available to it; (3) occupy that property; and (4) have that occupation be solely for the purposes for which that entity was organized or established. If the property is leased, loaned, or otherwise made available to the occupant entity, then (5) the property must also be subject to exemption had the owner-entity occupied the property solely for the purposes for which the owner entity was organized or established. MCL 2.117o(1), (3).

Because each entity claiming an exemption under MCL 211.7o must independently meet the exemption requirements, both the Hospital and the Corporation must meet the appropriate requirements. See *Trinity Health-Warde Lab, LLC v Pittsfield Charter Twp*, 317 Mich App 629, 634-636; 895 NW2d 226 (2016). There does not appear to be any question with respect to the Hospital's ownership of the property or the Corporation's right to use the property. Thus, we focus on the matters raised on appeal, namely whether the entities were nonprofit charities and whether they occupied the property for their incorporated purposes.

1. CHARITABLE INSTITUTIONS

To determine whether a petitioner qualifies as a charitable institution under MCL 211.7o, our Supreme Court in *Wexford* set forth the following six factors to consider:

> (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 that 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.
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> (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. [474 Mich at 215 (cleaned up).]

On appeal, respondent challenges the Tax Tribunal's analyses on the second, fifth, and sixth factors, as well as the Tribunal's overall conclusion that petitioners were charitable organizations.

On the second factor, respondent argues that because there are noncharitable purposes listed in the articles of incorporation, petitioners are not charitable institutions. Whether petitioners were organized for charity depends on what is considered charity and charitable uses. Because we focus on the overall nature, "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." *Id.* at 212.

When looking at the overall nature of an entity, if it provides the community with medical services that relieve persons from disease, suffering, or constraint, thereby lessening the government's burden, then it is a charitable use. *Id.* at 219; *McLaren Regional Med Ctr v City of Owosso (On Remand)*, 275 Mich App 401, 414; 738 NW2d 777 (2007). Necessary ancillary services that support the provision of medical services to the community, such as essential administrative services, also constitute charity. *Saginaw Gen Hosp v City of Saginaw*, 208 Mich App 595, 599-600; 528 NW2d 805 (1995). More specifically, this Court has held previously that an entity that performs consolidated administrative duties for nonprofit hospitals may constitute a charity. *Hosp Purchasing Serv of Mich v City of Hastings*, 11 Mich App 500, 505-510; 161 NW2d 759 (1968).[2]

Respondent's argument fails to recognize that we must consider the overall nature of the entities instead of focusing on one or two particular facets. This is in part because a noncharitable function may well be performed to sustain and operate a charity. The Court in *Wexford* explained that the entity must be organized "chiefly," though not "solely," for charity. 474 Mich at 215. To remain in operation, a charity may need to engage in certain ancillary noncharitable functions, for example, to offset costs. See *Baruch SLS, Inc v Tittabawassee Twp*, 500 Mich 345, 357; 901 NW2d 843 (2017) ("Charitable institutions incur costs in the provision of their services. Requiring them to provide their services entirely for free, without regard for their ability to do so, is unrealistic and unsustainable."). The question is, therefore, whether the chief purposes of the petitioners are charitable.

Here, both the Hospital and the Corporation are organized chiefly for charity. The Hospital's articles of incorporation provide that its purposes include furthering charitable works and delivering healthcare services. The presence of ancillary administrative purposes in its articles does not indicate that the Hospital's chief purpose as a hospital is not charitable. As for the Corporation, its articles of incorporation provide that it will support charitable purposes and operate exclusively for the benefit of organizations that carry out the healthcare mission. The essential support of other charities may in and of itself be charitable work, see *Hosp Purchasing Serv*, 11 Mich App 508, and the Corporation is organized to provide this support. Therefore, there is no genuine issue of material fact that the chief purposes of the Hospital and Corporation are charitable.

Moving to the fifth *Wexford* factor—charge no more than what is needed for successful maintenance—the Supreme Court in *Wexford* recognized that "profitability has a different meaning for [a charitable] institution than it would for an entity whose goal it was to reward its agents or shareholders with profits." 474 Mich at 218. Because of this, the Supreme Court refused to place "an extraordinary—and ultimately detrimental—burden on charities to continually lose

[2] Respondent argues that *Hospital Purchasing* is not binding on the Court because it was decided before November 1, 1990. "[P]re-November 1, 1990 decisions are binding unless the Court is convinced that a decision is no longer correct, and warrants reversal under the relevant stare decisis considerations." *Plachta v Plachta*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 374260); slip op at 4. We find no reason to depart from *Hospital Purchasing*, so we follow it as binding on this Court.

money to benefit from tax exemption." *Id.*; see also *Baruch*, 500 Mich at 357. If an institution has a net financial gain in a particular period, then investment of that gain "back into the institution to maintain its viability" is evidence of a charitable nature. *Id.* Further, if there are no stockholders and no person that receives pecuniary benefits from operations except for "modest salaries paid to necessary employees," then an entity is not operated for profit. *Gull Lake Bible Conference Ass'n v Ross Twp*, 351 Mich 269, 274; 88 NW2d 264 (1958).

Wexford found that "a charitable institution can have a net gain—it is what the institution does with the gain that is relevant." 474 Mich at 218 (cleaned up). The same logic applies to payment of employees. A charitable institution can pay their employees and executives for the work they provide; what is relevant is whether the compensation is necessary and reasonable in amount. See *Gull Lake*, 351 Mich at 274. Moreover, the relevant focus is not on the absolute level of compensation, but rather on the compensation relative to other employees or officers in comparable positions and industries. Like any market participant, a charitable institution must compete for adequate and necessary talent to further the charitable activities of the entity. One need not be a pauper or take a vow of poverty to work at a charitable institution.

On appeal, respondent essentially argues that certain executive salaries are unreasonable, but it fails to provide evidence of what a reasonable salary would be. In contrast, petitioners have provided evidence of the reasonableness of their executive compensation by comparison to an executive's compensation in a similarly situated for-profit entity. Based on the record evidence, it appears that petitioners' executives earned about a tenth of the compensation that comparable executives received, thereby demonstrating the reasonableness of such compensation.

Similarly, respondent's arguments relating to petitioners' net assets are also unavailing. The relatively modest level of net assets indicate that petitioners are reinvesting earnings back into the institutions for their future success, and there is nothing in the record to suggest anyone is profiting from this reinvestment. The presence of net positive assets does not in-and-of itself show that the entities are charging more than is needed to maintain their charitable activities. Taken together, the relatively modest compensation and net assets, together with the absence of anyone receiving financial profits from petitioners' activities, show that there is no genuine issue of material fact that the fifth *Wexford* factor favors petitioners.

As for the sixth factor, the underlying principle is that the property is used to "benefit the general public without restriction." *Retirement Homes of Detroit Annual Conference of United Methodist Church, Inc v Sylvan Twp, Washtenaw Co*, 416 Mich 340; 330 NW2d 682, 348 (1982). The relevance of various attributes of petitioners "depend[] on their importance when considered as part of the broader picture." *Wexford*, 474 Mich at 218. Here, the broader picture shows that the Hospital and the Corporation intend to be, and conduct themselves as, charitable institutions. Working together, petitioners provide healthcare services to the relevant communities. That one entity is responsible for the more administrative (albeit still necessary) aspect of the services does not negate the charitable natures. As with the second and fifth factors, there is no genuine issue of material fact that the sixth factor favors petitioners.

Taken together, the *Wexford* factors show that petitioners are charitable institutions under MCL 211.7o. There is no dispute that petitioners are nonprofit institutions (factor one) and that they do not discriminate in their charitable activities (factor three). Given our analysis, it is clear that petitioners relieve persons from diseases and suffering (factor four). And as we have already explained, factors two, five, and six favor petitioners. Accordingly, the Tax Tribunal did not err when finding that there is no genuine issue of material fact that petitioners are charitable institutions.

2. OCCUPANCY

Besides their charitable natures, respondent also challenges petitioners' occupancy of the property. As noted earlier, to be exempt under MCL 211.7o(1), the property must be "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 organized or established. Similarly, to be exempt under MCL 211.7o(3), the charitable institution must occupy the property "solely for the purposes" for which that institution was organized or established.

Therefore, under either subsection, the occupancy requirement has two separate but related components: actual occupancy by the institution, and occupancy "in furtherance of and for the purposes for which plaintiff was incorporated." *Liberty Hill Housing Corp v City of Livonia*, 480 Mich 44, 54 & 58 n 15; 746 NW2d 282 (2008) (cleaned up); see also *Wexford*, 474 Mich at 203 (identifying (i) "must be owned and occupied by the exemption claimant," and (ii) "occupied by the claimant solely for the purposes for which it was incorporated," as two separate components).

The "charitable institution must maintain a regular physical presence on the property to occupy the property under MCL 211.7o." *Liberty Hill*, 480 Mich at 62. A charitable institution does not occupy a piece of property when it leases it to others and has no regular physical presence on the property. *Id.* But the charitable institution need not be constantly on every portion of the property to have maintained a physical presence on the property as a whole:

> A charitable institution's members, employees, or volunteers may dwell on the property or at least be habitually 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. [*Id* at 60.]

Here, there is no genuine issue of material fact that the Hospital and the Corporation each had a physical presence at the property. The record confirms that the Hospital was physically present on the property with respect to its hospital departments housed there, and the Corporation was physically present to operate its billing services center. This is not the case of a charitable institution never present on the property, unlike the situation in *Liberty Hill*.

A genuine issue of material fact does exist, however, with regard to the extent of petitioners' occupancy—specifically, whether petitioners occupied the entire portion of the property or left some portion as dedicated vacant space. As our Supreme Court made clear in *Liberty Hill*, "The term 'occupy' requires more than merely having the 'right to occupy.' As we have explained, the charitable institution must also *actually* occupy the property, i.e., maintain a regular physical presence there." 480 Mich at 58 n 15 (emphasis added). An unused, vacant portion of property, historically idle and dormant with no indication that it will be used in the reasonable future, is not being actually occupied for a charitable purpose. See *id.*; cf. *Gull Lake Bible Conference Ass'n v Ross Twp*, 351 Mich 269; 88 NW2d 264 (1958) (affirming exemption for portions of land owned and used by the plaintiffs and recognizing that "nearby vacant lots" were not exempt, though the latter issue was not raised on appeal).

The record shows that the Hospital consistently used 5,381 square feet of the property for its charitable purpose. The record further shows that the Hospital intermittently used other portions of the property throughout the relevant time-period, though the precise dates are a bit fuzzy (e.g., it is unclear what "well into" 2021 means). Petitioners acknowledge that, before the Corporation began using the property, the portion not used by the Hospital was treated as vacant and listed on the city's tax rolls.

With respect to the portion not used by the Hospital, the record is unclear whether the entire portion was actually occupied or, rather, some subset of the property was left for all practical purposes as unused, vacant space. The original affidavit provided by petitioners stated that the entire portion not used by the Hospital was "made available" to the Corporation, but this fails to explain whether the Corporation actually occupied the entire portion for its charitable purpose.

The affidavit also introduced some ambiguity by referencing the Hospital's increased usage during certain periods of time. If the Hospital did in fact increase its occupancy during certain periods, this either means that the Corporation decreased its occupancy of certain space during those periods or the Corporation was never occupying that space in the first place. The former possibility implies some kind of "amoeba-like" occupancy of the remaining portion by the Corporation, with the Corporation's occupancy expanding or contracting on a month-by-month or even day-by-day basis, depending on the then-current needs of the Hospital. If this is how petitioners actually occupied the property, the specifics of this type of dynamic arrangement are wholly missing from the current record. The supplemental affidavit of the Corporation's senior vice president, wherein it was asserted that the Corporation occupied "all portions" of the property not used by the Hospital "through the daily presence" of Corporation employees, falls far short of the necessary clarification. *Kozak v City of Lincoln Park*, 499 Mich 465, 468; 885 NW2d 443 (2016) ("An affidavit that contains mere conclusory statements is insufficient to support a motion for summary disposition.").

Prior to 2019, much of the property had been vacant and on the city's tax rolls. On this record, after the Corporation entered the property, it is certainly possible that the Corporation actually occupied the entire remaining portion of 110,615 square feet; it is also equally possible that the Corporation actually occupied some subset of this square footage and that a portion of what was vacant prior to 2019 remained vacant in 2020 and 2021. On the current record, this matter remains an open question of fact.

Accordingly, the Hospital has established that it occupied 5,381 square feet of the property solely for its charitable purpose, and, therefore, summary disposition was appropriate for that portion of the property. For the remaining 110,615 square feet, there remains a genuine issue of material fact on whether either petitioner actually occupied the space. Therefore, the Tax Tribunal erred in granting summary disposition with respect to the occupancy requirement of MCL 211.7o(1) or (3) beyond the Hospital's use of 5,381 square feet.

III. CONCLUSION

For the reasons provided here, we reverse the Tax Tribunal with respect to tax year 2022. With respect to tax years 2020 and 2021, we affirm in part and reverse in part the Tax Tribunal's grant of summary disposition to petitioners. The parties made additional arguments on appeal under MCL 211.7s and 211.9; because the Tax Tribunal did not rule on either of these grounds, we decline to take them up in the first instance on appeal.

Affirmed in part and reversed in part. We do not retain jurisdiction.

/s/ Brock A. Swartzle
/s/ Thomas C. Cameron
/s/ Mark T. Boonstra