# STATE OF MICHIGAN

# COURT OF APPEALS

| | |
|---|---|
| GREAT LAKES COMMUNITY NONPROFIT HOUSING CORP., | UNPUBLISHED June 16, 2005 |
| Petitioner-Appellant, | |
| v | No. 254247 Michigan Tax Tribunal |
| CITY OF HOWELL, | LC No. 00-290395 |
| Respondent-Appellee. | |

Before: Hoekstra, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Petitioner, a non-profit corporation providing low-income and special needs housing in the city of Howell, appeals as of right from a decision of the Michigan Tax Tribunal finding that petitioner is not entitled to exemption from ad valorem real property taxation under MCL 211.7o because it is not a charitable organization within the meaning of that statute. We affirm.

MCL 211.7o(1) provides that property "owned and occupied by a nonprofit charitable institution while occupied by the nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of tax . . . ." The test for determining the applicability of this exemption focuses on whether the organization's activities, taken as a whole, provide a charitable gift for the benefit of the general public without restriction. See *Retirement Homes of the Detroit Annual Conference of the United Methodist Church, Inc v Sylvan Twp*, 416 Mich 340, 349; 330 NW2d 682 (1982). Here, the tribunal found that, although "the evidence taken as a whole shows that [petitioner] is a responsible landlord and good corporate citizen," its activities do not equate to the provision of a charitable gift and, therefore, "[p]etitioner is not a charitable or benevolent organization within the meaning of MCL 211.7o." On appeal, petitioner argues that the tribunal erred in reaching its conclusion in this regard. We disagree.

The standard governing our review of the tribunal's decision is set forth in *Rose Hill Center, Inc v Holly Twp*, 224 Mich App 28, 31; 568 NW2d 332 (1997):

> Judicial review of a determination by the Tax Tribunal is limited to determining whether the tribunal made an error of law or applied a wrong [legal] principle. Generally, this Court will defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer. The factual findings of the tribunal are final,

> provided that they are supported by competent, material, and substantial evidence on the whole record. [Citations omitted.]

In concluding that petitioner's activities do not equate to the provision of a charitable gift, the tribunal relied heavily on the fact that petitioner does not offer its housing and associated services "without restriction." *Retirement Homes, supra*. As found by the tribunal, the evidence plainly shows that petitioner rejects housing applications from potential tenants who either cannot afford the monthly rent or are unable to live independently. Our Supreme Court has upheld the denial of charitable tax exemptions for similar housing organizations on the ground that the organizations discriminate in the provision of their housing based on ability to pay or live independently. See *Michigan Baptist Homes & Development Co v Ann Arbor*, 396 Mich 660, 671; 242 NW2d 749 (1976); *Retirement Homes, supra* at 350. Because the tribunal's decision is supported by both the record and applicable law, we find no error in its conclusion that the housing provided by petitioner does not equate to a charitable gift for purposes of exemption from taxation under MCL 211.7o. *Rose Hill Center, supra*.[1]

We similarly find no error in the tribunal's rejection of petitioner's claim that the ancillary services provided by petitioner to its tenants constitute a charitable gift. Petitioner claims, as it did below, that its solicitation of donations for its residents, as well as its free maintenance and repair services, rent assistance program, and waiver of security deposits upon necessity, constitute a charitable gift for purposes of exemption under MCL 211.7o. In rejecting this claim the tribunal found that petitioner does not raise a significant amount revenue from charitable contributions, and that the remainder of the services cited by petitioner are typical of those offered by landlords to obtain a tenant's business and, therefore, do not amount to a charitable gift. The tribunal further found that, because petitioner does not itself provide community support services nor does it compensate the relevant governmental agencies for providing these services, its tenant referrals for such services do not equate to a charitable gift. The tribunal's findings in these regards are again supported by the record and consistent with the narrow interpretation required of exemption statutes, and are thus entitled to deference by this Court. See *Michigan United Conservation Clubs v Lansing Twp*, 423 Mich 661, 664; 378 NW2d 737 (1985) (tax emption statutes must by strictly construed in favor of the taxing authority); see also *Rose Hill Center, supra*. Accordingly, we find no error in the tribunal's ultimate determination that petitioner is not a charitable organization within the meaning of MCL 211.7o.

Because we find no error in the tribunal's ultimate determination that petitioner is not a charitable organization for purposes of the exemption provided for under MCL 211.7o, we do not address petitioner's remaining issues.

---

[1] In so finding, we reject petitioner's reliance on *Huron Residential Services for Youth, Inc v Pittsfield Charter Twp*, 152 Mich App 54, 57; 393 NW2d 568 (1986) and *Auditor General v RB Smith Memorial Hosp Ass'n*, 293 Mich 36, 38; 291 NW 213 (1940), wherein the petitioners provided residential and hospital services regardless of the recipients ability to pay. As previously noted, petitioner provides its housing and associated services based on the ability of a prospective tenant to pay the monthly rental charge, a restrictive criteria that distinguishes the instant matter from the cases cited by petitioner.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly