

STATE OF MICHIGAN
COURT OF APPEALS

LAKE CHARTER TOWNSHIP,

Petitioner-Appellee,

v

CITY OF BRIDGMAN,

Respondent-Appellant.

UNPUBLISHED

August 8, 2000

No. 217708

Michigan Tax Tribunal

LC No. 0-238072

Before: Meter, P.J., and Griffin and Talbot, JJ.

PER CURIAM.

Respondent City of Bridgman appeals as of right the judgment of the Michigan Tax Tribunal finding that real property owned by petitioner Lake Charter Township and leased to the State of Michigan was exempt from ad valorem taxation under MCL 211.7m; MSA 7.7(4j). We affirm.

This dispute was submitted to the Tax Tribunal on stipulated facts. In 1993 petitioner, a municipal corporation, bought more than seventeen acres of real property in respondent's city limits. Petitioner obtained a special use permit from respondent to construct a building on the property to be leased and operated by the State of Michigan as a police post. After the building was constructed, petitioner leased the property and building to the state through the Department of Management and Budget. The property is used as a police post, which both parties agree is a "public purpose" of the state.

The state took possession of the land and building under the lease in July 1995. On December 31, 1995, respondent reclassified the property from tax exempt to "commercial" and assessed and levied taxes on it.¹ After an unsuccessful appeal to respondent's board of review, the township petitioned the Tax Tribunal in June 1996, claiming that the property was exempt from taxation under MCL 211.7m; MSA 7.7(4j). Respondent answered that petitioner's lease of the property to the state destroyed the exemption that would have been available pursuant to the statute. After a hearing, the tax

¹ A conference room in the police post, designated for use by the general public, was excluded from the assessment.

tribunal granted petitioner's request and held that the property was exempt from ad valorem taxation under MCL 211.7m; MSA 7.7(4j).

On appeal, respondent argues that the tribunal erroneously extended § 7m to exempt the leased property in question. Absent fraud, this Court's review of Tax Tribunal decisions is limited to determining whether the tribunal erred in applying the law or in adopting a wrong legal principle. *Benedict v Dep't of Treasury*, 236 Mich App 559, 563; 601 NW2d 151 (1999). Generally, this Court will defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer. *Rose Hill Center, Inc v Holly Township*, 224 Mich App 28, 31; 568 NW2d 332 (1997). The tribunal's factual findings are conclusive if supported by competent, material, and substantial evidence on the whole record. *Benedict, supra* at 563.

The exemption set forth in § 7m of the General Property Tax Act, MCL 211.1 *et seq.*; MSA 7.1 *et seq.* entitled "local government units or agencies" provides in pertinent part:

Property owned by, or being acquired pursuant to, an installment purchase agreement by a county, township, city, village, or school district used for public purposes and property owned or being acquired by an agency, authority, instrumentality, nonprofit corporation, commission, or other separate legal entity comprised solely of, or which is wholly owned by, or whose members consist solely of a political subdivision, a combination of political subdivisions, or a combination of political subdivisions and the state and is used to carry out a public purpose itself or on behalf of a political subdivision or a combination is exempt from taxation under this act. Parks shall be open to the public generally [MCL 211.7m; MSA 7.7(4j) (Emphasis added).]

The interpretation and application of statutes are questions of law subject to de novo review. *Lincoln v General Motors Corp*, 461 Mich 483, 489-490; 607 NW2d 73 (2000); *Rose Hill Center, supra* at 32. The primary goal of judicial interpretation of statutes is to ascertain and give effect to the intent of the Legislature in enacting a provision. *Frankenmuth Mutual Ins Co v Marlette Homes, Inc*, 456 Mich 511, 515; 573 NW2d 611 (1997). The first criterion in determining intent is the specific language of the statute. *In re MCI Telecommunications Complaint*, 460 Mich 396, 411; 596 NW2d 164 (1999). If the statutory language is clear and unambiguous, judicial construction is neither required nor permitted, and courts must apply the statute as written. *Rose Hill Center, supra* at 32. If reasonable minds can differ regarding the meaning of a statute, however, judicial construction is appropriate. In general, tax exemption statutes must be strictly construed in favor of the taxing unit. *Id.* "However, this rule does not permit a strained construction adverse to the Legislature's intent." *Id.* at 32-33.

Respondent first argues that the tribunal's determination regarding the requirements needed to qualify for an exemption under § 7m constituted "very creative editing" that was not supported by the plain language of the statute. We disagree. Relying on prior tax tribunal decisions, the tribunal found that as applied to the circumstances of this case only two criteria must be satisfied before an exemption is granted under the statute: (1) the property must be

owned by a township and (2) the property must be used for a public purpose. We conclude that the tribunal's interpretation comports with the plain language of the statute and, hence, the intent of the Legislature. In this case, it is undisputed that petitioner is a township, that petitioner owns the property, and that the use of the property as a police post is a public purpose of the state.

Respondent next argues that the tribunal erred in rejecting his claim that the exemption did not apply because petitioner did not own or utilize the property for its own public purpose. We disagree. The statute unambiguously provides that the property owned by the township be used for "a" public purpose. There is no language suggesting that the Legislature intended that petitioner township use the property for a public purpose unique to the township. *In re Schnell*, 214 Mich App 304, 310; 543 NW2d 11 (1995) (courts may not speculate as to the probable intent of the Legislature beyond the words expressed in the statute). That the legislature did not intend such a result with respect to local government units is further evidenced by the numerous exemptions that make ownership and use coextensive. See, e.g., MCL 211.7n; MSA 7.7 (4k) (property owned by nonprofit cultural or educational organizations); MCL 211.7o; MSA 7.7(4l) (property of nonprofit charitable institutions); MCL 211.7r; MSA 7.7(4-o) (clinic, hospital or public health property). *Farrington v Total Petroleum, Inc*, 422 Mich 201, 210; 501 NW2d 76 (1993) (the omission of a provision in one part of the statute which is included in another part should be construed as intentional). Thus, had the Legislature intended the construction of §7m sought by respondent, it could have easily written the statute to so provide. The Legislature did not take that approach, and we are without authority to rewrite the statute as respondent suggests.²

In a related argument, respondent contends that in granting the exemption, the tribunal ignored the standard set forth in *Saginaw General Hospital v Saginaw*, 208 Mich App 595; 528 NW2d 805 (1995). Respondent maintains that *Saginaw* mandates that with respect to § 7m, the primary use of the property must be reasonably necessary for fulfilling, or reasonably incident to, the primary purpose of the organization claiming the exemption. We disagree.

In *Saginaw*, this Court addressed whether a free standing day-care center for the exclusive use and benefit of hospital employees was exempt from taxation under the hospital or public health property exemption, MCL 211.7r; MSA 7.7(4-o). The *Saginaw* panel held that "[i]n granting a tax exemption

² Respondent relies on the Charter Township Act, MCL 42.1 *et seq.*; MSA 5.46(1) *et seq.* in support of its argument that the leasing of real estate to the state is not a "public purpose" of petitioner and that, pursuant to § 14 of the act, petitioner's authority to lease property is predicated on the property not being needed for a public purpose of petitioner. See MCL 42.14; MSA 5.46(14) ("[e]ach charter township shall have power to acquire property for public purposes by purchase, gift, condemnation, lease, construction, or otherwise . . . and may sell and convey *or lease any such property or part thereof which is not needed for public purposes*"). However, respondent's position lacks merit given the plain language of the statute which does not require that the public purpose be unique to petitioner township. Further, unlike the tribunal, we have not engaged in an analysis regarding whether the police post was used for a public purpose of petitioner because, in our view, such an analysis is not compelled by the statute.

to the hospital, only those facilities that are reasonably necessary for the competent operation of the hospital should receive tax exempt status.” *Id.* at 599. Under this standard the Court concluded that the day-care center was exempt from taxation because it qualified as property used “for hospital or health purposes.” *Id.* at 599-601. Respondent here, urges this Court to apply the “reasonably necessary for the competent operation of the hospital” concept in the present case to conclude that the property should not be exempt from taxation because the police post is not reasonably necessary to the governance of the township. We decline respondent’s invitation because the *Saginaw* panel based its holding on the language of a different exemption, which exempts real estate and property “used for hospital or public health purposes” and expressly excludes from that exemption, “excess acreage not actively utilized for hospital or public health purposes.” Section § 7m does not contain analogous language. Therefore, we conclude that *Saginaw* is not applicable, and defendant’s argument on this issue is without merit.

Respondent next argues that the exemption does not apply because the lease was a commercial transaction which generated income to petitioner – a fact which the tribunal ignored in rendering its decision. We disagree.

In light of our previous analysis, we are not persuaded by respondent’s claim that this result is somehow mandated by the statute which, according to respondent, “allows for exemption where the property is owned individually or in a combination of political subdivisions with a clear thought that it would not be a commercial lease of the facility; but, a joint use without charge.” We are similarly not persuaded by respondent’s reliance on *Hospital Purchase Service of Michigan v City of Hastings*, 11 Mich App 500, 508; 161 NW2d 759 (1968), where this Court based its holding – that the portion of a facility leased to the state was not exempt from taxation – solely on the express language of an exemption not at issue in this case.³

Respondent has provided no relevant authority or argument to sustain his claim. See *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (“[i]t is not sufficient for a party ‘simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and

³ In *Hospital Purchase Service*, the plaintiff leased a portion of the charitable medical facility it owned and operated to the Secretary of State for use as a driver’s license bureau. *Id.* at 502, 508. This court held that the portion of the facility leased to the state and from which the plaintiff derived an income was not exempt from taxation under CLS 1961, § 211.7 (see now MCL 211.7n; MSA 7.7(4k), MCL 211.7o; MSA 7.7(4l)). *Id.* at 508-509. In reaching this conclusion, the Court relied on the language of the exemption, which provided in part that exemption of property shall be granted to “[s]uch real estate as shall be owned and occupied by . . . charitable . . . institutions . . . incorporated under the laws of this state with the buildings and other property thereon *while occupied by them solely for the purposes for which they were incorporated.*” *Id.* at 508. (Original emphasis.) Because § 7m does not contain the limiting language expressly relied upon by the Court in *Hospital Purchase Service*, respondent’s reliance on that case is misplaced.

elaborate for him his arguments, and then search for authority either to sustain or reject his position”). Nevertheless, we are not convinced that the collection of rent destroys entitlement to an exemption under § 7m where the property is being used for a public purpose, and where uncontroverted testimony established that the police post provides a substantial benefit to the surrounding communities and police departments, including petitioner township.⁴ See, e.g., *Kalamazoo v Richland Twp*, 221 Mich App 531, 532, 536-537; 562 NW2d 237 (1997) (a golf course owned by a municipality and operated for public use which generated income through the collection of greens fees and membership fees was exempt from taxation under § 7m).

Finally, respondent contends that the tribunal erred in concluding that the property was not exempt from taxation under § 222 of the Management and Budget Act, MCL 18.1101 *et seq.*; MSA 3.516(101) *et seq.*, pertaining to “installment lease agreements.” The statute provides:

Property acquired for the state or a state agency through an installment lease agreement is public property and shall be considered exempt for purposes of the general property tax act, Act No. 206 of the Public Acts of 1893, being sections 211.1 to 211.157 of the Michigan Compiled Laws, if the state as lessee under the installment lease agreement is required to pay any taxes or reimburse the lessor for any payments the lessor has made. [MCL 18.1222; MSA 3.516(222).]

Respondent’s contention regarding the applicability of this exemption is premised on its assertion that the procedural provisions of the Management and Budget Act regarding the taxation of state facilities, being subject matter specific, prevailed over the general exemption of the property act. According to respondent, petitioner was not entitled to an exemption under this provision because it was undisputed that the lease did not require the state to pay any taxes or reimburse petitioner for any payments the lessor made. The tribunal found that § 222 did not apply because the terms of the lease did not resemble an “installment lease agreement” providing for state ownership and control at the end of the agreement. Irrespective of the tribunal’s determination regarding the “installment lease agreement” (a term which is not defined in the statute), we agree that § 222 did not apply in this case because it does not address the issue of “public use,” upon which petitioner claims an exemption.

For the foregoing reasons, we cannot conclude that the Tax Tribunal erred in ruling that

⁴ The tribunal noted that the police officers from the Baroda-Lake Township, Stevenson-Lincoln Township and State police departments testified that the surrounding community receives a benefit from the presence of the police post; that the officers from the surrounding townships testified that area law enforcement personnel benefit from the ability to use the facility’s holding cells and its technologically advanced equipment; and, that all officers agreed that local law enforcement agencies would not be able to provide these services to their residents without the state’s involvement and that the facility serves an auxiliary purpose to the current police protection of the area. Contrary to respondent’s contention, the tribunal’s findings with respect to the benefits sustained from the police post were supported by competent, material and substantial evidence. *Benedict, supra* at 563.

petitioner's property as leased to the state was exempt from taxation pursuant to § 7m.

Affirmed.

/s/ Patrick M. Meter
/s/ Richard Allen Griffin
/s/ Michael J. Talbot