

STATE OF MICHIGAN  
COURT OF APPEALS

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GROSSE POINTE ACADEMY,

Petitioner-Appellant,

v

TOWNSHIP OF GROSSE POINTE,

Respondent-Appellee.

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UNPUBLISHED  
November 2, 2004

No. 248340  
Michigan Tax Tribunal  
LC No. 00-289211

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

Petitioner appeals from a judgment issued by the small claims division of the Michigan Tax Tribunal (MTT) denying petitioner's claim for a property tax exemption.<sup>1</sup> We affirm.

We review this Tax Tribunal decision to determine if the tribunal made an error of law or adopted a wrong legal principle. *Meijer, Inc v Midland*, 240 Mich App 1, 5; 610 NW2d 242 (2000). We will affirm the decision if it is supported by competent, material, and substantial evidence on the whole record. *Id.* Substantial evidence is that which a reasonable mind would accept as sufficient to support the decision; it must be more than a scintilla of the evidence, but may be substantially less than a preponderance of the evidence. *Great Lakes Div of Nat'l Steel Corp v Ecorse*, 227 Mich App 379, 388-389; 576 NW2d 667 (1998).<sup>2</sup> Statutory interpretation is a question of law that is reviewed de novo on appeal, although this Court will "generally defer to the Tax Tribunal's interpretations of the statutes it administers and enforces." *Schultz v Denton Twp*, 252 Mich App 528, 529; 652 NW2d 692 (2002).

Petitioner claimed a tax exemption under MCL 211.7n. That statute provides in part:

Real estate or personal property owned and occupied by nonprofit . . .  
educational . . . institutions incorporated under the laws of this state with the

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<sup>1</sup> This appeal is of right and is being decided without oral argument pursuant to MCR 7.214(E).

<sup>2</sup> "Failure to base a decision on competent, material, and substantial evidence constitutes an error of law requiring reversal." *Meijer, Inc, supra*.

buildings and other property thereon while *occupied by them solely for the purposes for which the institutions were incorporated is exempt from taxation under this act.* (Emphasis added.)

Petitioner must meet three criteria to qualify for an exemption under § 7n: (1) the real estate must be owned and occupied by the exemption claimant, (2) the exemption claimant must be a nonprofit educational institution, and (3) the property must be occupied by the claimant solely for the purposes for which the institution was incorporated. Cf. *Engineering Soc’y of Detroit v Detroit*, 308 Mich 539, 550; 14 NW2d 79 (1944). “Exemption does not follow from the mere fact of ownership by one of the institutions named, but is based on and only applies to ownership combined with occupation for the purposes of its incorporation.” *Webb Academy v Grand Rapids*, 209 Mich 523, 528; 177 NW 290 (1920). The fact that petitioner is exempt from income tax under 501(c)(3) does not, standing alone, give it a right to a property tax exemption. *American Concrete Inst v State Tax Comm*, 12 Mich App 595, 605-606; 163 NW2d 508 (1968).

Here, the taxed property is located in a different municipality, more than two miles from the academy, and is used almost exclusively as a residence by petitioner's headmaster. The primary purpose for which it is occupied is not to promote the education of children or to provide instruction, but to house the academy's headmaster and his family. Although some school-related functions are held on the property, they are only incidental to the primary residential purpose and are not related to education per se. Therefore, the MTT did not err in finding that the property was not exempt under § 7n.<sup>3</sup>

Affirmed.

/s/ Richard Allen Griffin  
/s/ Henry William Saad  
/s/ Peter D. O'Connell

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<sup>3</sup> If the taxed property is used for the primary purpose of the institution's incorporation, the fact that it is incidentally used to also provide housing to its employees will not defeat an exemption. *Webb Academy, supra* at 539, 541. Cf. *Oakwood Hosp Corp v State Tax Comm*, 374 Mich 524, 530; 132 NW2d 634 (1965) (hospital campus owned by charitable institution exempt despite presence of six houses for employees' residential use).