S T A T E O F M I C H I G A N

C O U R T O F A P P E A L S

STAR INTERNATIONAL ACADEMY, Petitioner-Appellee,	UNPUBLISHED April 17, 2014
v CITY OF DEARBORN HEIGHTS, Respondent-Appellant.	No. 314036 Michigan Tax Tribunal LC No. 00-383246

Before: OWENS, P.J., and MURRAY and RIORDAN, JJ.

PER CURIAM.

Respondent, city of Dearborn Heights, appeals as of right from a judgment entered by the Michigan Tax Tribunal, which exempted real property owned by petitioner, Star International Academy, from ad valorem taxation pursuant to MCL 380.503(9), of the Revised School Code. We affirm.

Star, a non-profit educational institution, owns real property in Dearborn Heights. The subject property consists of an 11,747 square foot building situated on 1.9 acres of land. The building is occupied by Hamadeh Educational Services, Incorporated (HES), a for-profit management company that provides management services to four public school academies (PSAs), including Star. The building mainly contains offices used to manage the PSAs, such as human resources and accounting services. Both Star and HES were founded by Nawal Hamadeh, who is the CEO of both entities, as well as the superintendent for Star.

Star applied for a tax exemption from property taxes on the subject property in 2009, which the city denied because the property was not occupied by Star. Star appealed to the tribunal seeking an exemption for the 2010, 2011, and 2012 tax years, which determined that as a PSA, Star was exempt from ad valorem taxation on its property pursuant to MCL 380.503(9). On appeal to this Court, the city first argues that the tribunal erred by holding that because Star was a PSA, all property it owned was exempt from taxation pursuant to MCL 380.503(9). The city argues that the statute requires a PSA to own and occupy the property to be exempt from taxation.

"Absent fraud, this Court's review of a Tax Tribunal decision is limited to determining whether 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). However, whereas here, the issue involves

statutory interpretation, this is a question of law that we review de novo. *Joseph v Auto Club Ins Ass'n*, 491 Mich 200, 205; 815 NW2d 412 (2012).

The primary goal when interpreting statutes is to determine the legislative intent, which is best indicated by the language of the statute itself. *Joseph*, 491 Mich at 205-206. "The words used by the Legislature are given their common and ordinary meaning. If the statutory language is unambiguous, we presume that the Legislature intended the meaning that it clearly expressed, and further construction is neither required nor permitted." *Id.* at 206. Statutes that exempt taxation are narrowly construed in favor of the taxing authority. *Moshier v Whitewater Twp*, 277 Mich App 403, 409; 745 NW2d 523 (2007). Additionally, while "this Court will generally defer to the Tax Tribunal's interpretation of a statute that it is charged with administering and enforcing," this rule does "not permit a strained construction adverse to the Legislature's intent." *Id.* (quotation marks and citations omitted).

MCL 380.503(9) provides,

> A public school academy is exempt from all taxation on its earnings and property. Instruments of conveyance to or from a public school academy are exempt from all taxation including taxes imposed by 1966 PA 134, MCL 207.501 to 207.513. Unless the property is already fully exempt from real and personal property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, property occupied by a public school academy and used exclusively for educational purposes is exempt from real and personal property taxes levied for school operating purposes under section 1211, to the extent exempted under that section, and from real and personal property taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. A public school academy may not levy ad valorem property taxes or another tax for any purpose. However, operation of 1 or more public school academies by a school district or intermediate school district does not affect the ability of the school district or intermediate school district to levy ad valorem property taxes or another tax.

The tribunal determined that, according to the first sentence, all property owned by a PSA is exempt from taxation, and the remaining provisions of the statute do not impose an occupancy requirement. The city, however, argues that this interpretation ignores the third sentence of MCL 380.503(9), which states, "property occupied by a public school academy and used exclusively for educational purposes is exempt from real and personal property taxes." According to the city, this sentence requires that the PSA also occupy the property to be exempt from taxation. However, the city isolates a portion of that sentence and fails to read the statute in its entirety. The plain language of the statute shows the Legislature's intent to exempt PSAs from taxation on all property it owns, regardless of occupancy. The statute clearly states that a PSA is exempt "from *all* taxation on its earnings and property." Nowhere does the statute state that a PSA has to occupy the property to be exempt from taxation on its property. Rather, the remaining provisions of the statute state that instruments of conveyance to or from a PSA are exempt from taxation, including those imposed under the real estate transfer tax. Additionally, the statute provides that unless the property is already exempt from real and personal property taxes under the General Property Tax Act (GPTA), property that is occupied by a PSA and used exclusively for educational purposes, is exempt from real and personal property taxes imposed

by MCL 380.1211, the 18-mill school operating tax, and by MCL 211.901 to 211.906, the 6-mill state education tax. This exception would apply to property that is not owned by a PSA; for example, where an otherwise taxable property owner leases property to a PSA. It would provide the property owner with a tax break where the owner otherwise did not qualify for a tax exemption under the GPTA. The plain language of this provision does not require a PSA to own and occupy the property to be exempt from taxation. Had the Legislature intended PSAs to own and occupy the property to be exempt from taxation it could have stated so. Rather, it specifically stated in the first sentence of the statute that a PSA is exempt from all taxation on its property. Therefore, we find that the tribunal's decision comports with the Legislature's intent, and the tribunal did not make an error of law in holding that the subject property was exempt from taxation.

The city also argues that the tribunal's interpretation of MCL 380.503(9) is inconsistent with MCL 211.7n, of the GPTA, which requires the property to be occupied by the educational institution in addition to ownership. MCL 211.7n provides,

> Real estate or personal property owned and occupied by nonprofit theater, library, educational, or scientific 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 the institutions were incorporated is exempt from taxation under this act. In addition, real estate or personal property owned and occupied by a nonprofit organization organized under the laws of this state devoted exclusively to fostering the development of literature, music, painting, or sculpture which substantially enhances the cultural environment of a community as a whole, is available to the general public on a regular basis, and is occupied by it solely for the purposes for which the organization was incorporated is exempt from taxation under this act.

"Statutes that address the same subject matter or share a common purpose are *in pari materia* and must be read collectively as one law, even when there is no reference to one another." *Menard Inc v Dep't of Treasury*, 302 Mich App 467, 472; 838 NW2d 736 (2013). Whether statutes may be viewed as consistent or inconsistent with each other, the primary goal is to reconcile the statutes. See *People v Knox*, 115 Mich App 508, 513; 321 NW2d 713 (1982) ("It is a settled principle of construction that where a statute can be construed as consistent or inconsistent with other statutory provisions the courts should construe the provisions as consistent with one another.").

Keeping in mind the goal of reconciliation, we find that MCL 211.7n acts as a general rule, with MCL 380.503(9) being an exception to that general rule in that the occupancy requirement does not apply to PSAs. MCL 211.7n applies to, among other entities, educational institutions, and provides a property tax exemption if the educational institution owns and occupies the property. However, MCL 380.503(9) further refines that requirement and exempts PSAs, a subcategory of educational institutions, from taxation on all property it owns, regardless if it occupies the property. Given that MCL 380.503(9) was enacted after MCL 211.7n, it would be reasonable to conclude that although PSAs would ordinarily be subject to taxation on property it owned and did not occupy under the GPTA, the legislature intended to provide an exception to that rule by enacting MCL 380.503(9) and exempting PSAs from taxation on all property they

own. Therefore, contrary to the city's assertion, the tribunal's interpretation of MCL 380.503(9) is not inconsistent with MCL 211.7n.

Finally, the city argues that the tribunal erred by declining to address whether the property was subject to taxation pursuant to MCL 211.181(1), which provides,

> Except as provided in this section, if real property exempt for any reason from ad valorem property taxation is leased, loaned, or otherwise made available to and used by a private individual, association, or corporation in connection with a business conducted for profit, the lessee or user of the real property is subject to taxation in the same amount and to the same extent as though the lessee or user owned the real property.

The city argues that the tribunal should have determined that the property user, HES, was subject to taxation because it was a private corporation conducting a for-profit business. However, HES was not a party to this case. "Michigan courts have consistently recognized that [a] court may not make an adjudication affecting the rights of a person or entity not a party to the case." *Shouneyia v Shouneyia*, 291 Mich App 318, 323; 807 NW2d 48 (2011). Although Nawal Hamadeh was the CEO of both Star and HES, the two are separate entities that operate in different manners. If the tribunal decided that MCL 211.181(1) applied to this case, taxes would be assessed to HES and not Star.[1] Therefore, because the applicability of MCL 211.181(1), would affect an entity that is not a party to this case, the tribunal did not err by declining to address this issue.

Affirmed. Petitioner, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Donald S. Owens
/s/ Christopher M. Murray
/s/ /Michael J. Riordan

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[1] We note that if the city wished to tax the user of the property, it should assess and collect taxes pursuant to MCL 211.182(1), which provides,

> Taxes levied under this act shall be assessed to the lessees or users of real property and shall be collected at the same time and in the same manner as taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.