

COA Opinion: “Vacant” and “unoccupied” are not synonymous in the application of the homestead exemption

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In *Eldenbrady v. Albion*, No. 297735, the Court of Appeals considered petitioners’ appeal from a Michigan Tax Tribunal ruling refusing them an extension of their homestead exemption on a parcel of land adjoining their home. An abandoned school building exists on the lot. To qualify for a homestead exemption under MCL 211.7dd(c), a parcel must be zoned residential, contiguous to the primary residence of the petitioners, and unoccupied. The parcel was indisputably zoned residential and contiguous to petitioners’ primary residence, but the parties contested whether the building was unoccupied. The Michigan Tax Tribunal denied an extension of petitioners’ exemption, finding that since there was a building on the parcel, the parcel was not “vacant” and did not qualify for the exemption.

In a published decision, the Court of Appeals reversed the Michigan Tax Tribunal. Noting that the statute defining the exemption used the term “unoccupied” and the Michigan Tax Tribunal had used the word “vacant” in its ruling, the Court of Appeals engaged in a thorough discussion of the different ways in which the courts and the legislature use the two words. The Court of Appeals determined that the word “vacant” means “completely empty,” while the word “unoccupied” means “not routinely characterized by the presence of human beings.” As a result, the Court of Appeals found that the Michigan Tax Tribunal misinterpreted the law by using “vacant” as a synonym for “unoccupied,” and the mere presence of an abandoned building on a lot did not render it unoccupied.