

PT 02-22
Tax Type: Property Tax
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

ST. JOHN'S HOSPITAL)	A.H. Docket #	01-PT-0005
Applicant)	Docket #	99-84-95
v.)		
)	P. I. #	14-27-336-015
)		
)	Barbara S. Rowe	
THE DEPARTMENT OF REVENUE)	Administrative Law Judge	
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Richard J. Wilderson of Graham & Graham, for St. John's Hospital; Mr. George Logan, Special Assistant Attorney General, for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held on October 10, 2001, to determine whether Sangamon County Parcel Index No. 12-27-336-015 qualified for exemption during the 1999 assessment year.

Mr. James A. Nachtwey, assistant administrator of St. John's Hospital, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant was the owner of the parcel during the 1999 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether this parcel was used by the applicant for exempt purposes during the 1999 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemption for the cardiac rehabilitation area, the conference room, and a proportionate amount of the common area be granted. In support thereof, I make the following

findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that a portion of Sangamon County Parcel Index No. 14-27-336-015 did not qualify for a property tax exemption for the 1999 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 11)

2. On March 9, 2000, the Department received the request for exemption of Sangamon County Parcel Index No. 14-27-336-015 from the Sangamon County Board of Review. The board recommended granting an exemption for 80% of the property. On December 21, 2000, the Department denied in part the requested exemption finding 37% of the property and 37% of the parking ramp is taxable, and 63% of those areas are exempt. On January 2, 2001, the applicant timely protested the partial denial and requested a hearing. The hearing on October 10, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by a warranty deed dated December 1, 1993. Located on the subject property is a 164,485 square foot 44 story building known as the Prairie Heart Institute. The building was constructed out of the general funds of the applicant. (Dept. Ex. No. 1; Tr. p. 27)

4. Applicant concedes that 32,145 square feet of the building does not qualify for exemption as it is leased to non-exempt entities for non-exempt use. The 32,145 square foot area is located on located on the 3rd, 4th and 5th floors. The applicant's position is that 132,340 square feet, or 80% of the building and site are exempt. (Dept. Ex. No. 1; Tr. pp. 12-13, 40).

5. The Prairie Heart Institute building is attached to and part of the applicant's main hospital building. The area at issue herein is located on the first floor of the building and is comprised of the cardiac rehabilitation area, the conference room, and the common area.

6. The first floor of the Prairie Heart Institute contains the areas at issue and a shelled space of 4,085 square feet. At the hearing in this matter, the applicant conceded that the shelled space is not in exempt use. The area at issue is therefore comprised of applicant's cardiac rehabilitation service area of 7,578 square feet; the conference center of 5,441 square feet; and the common area of 12,164 square feet. (Dept. Ex. No. 1; Tr. pp. 12-13)

7. Applicant's cardiac rehabilitation program has been in existence for 20 years. The first permanent location was established in 1988 in the Pavilion, another building owned by the applicant. Prior to that it was located in the applicant's hospital building. (Applicant's Ex. No. 5; Tr. pp. 16, 37-38)

8. The cardiac rehabilitation program conducted on the subject premises offers specialized therapy and rehabilitation for heart surgery patients. (Applicant's Ex. No. 5; Tr. pp. 17-18)

12. The applicant has 14 to 18 staff dedicated to the cardiac rehabilitation program. The staff are trained and licensed. The patients are monitored before, during, and after exercise by the staff. (Tr. pp. 17, 25-26)

13. The medical director of the Cardiac Rehabilitation Department is a physician specializing in preventative cardiology. Other physicians are available in the event of a problem with a patient in the program. (Tr. pp. 26-27)

9. In order to participate in the program, a patient must have a physician's order. A medical record is kept of every patient in the program. Patients are charged for the services provided in the cardiac rehabilitation program. (Applicant's Ex. No. 4; Tr. pp. 18-19, 23, 36-37)

9. The program and the applicant are licensed under the Department of Public Health and the Joint Commission on Accreditation of Healthcare Organizations. (Tr. pp. 18-19)

14. Applicant's heart program is the largest in the State of Illinois. The cardiac rehabilitation program is part of the applicant's general operation. (Tr. p. 27)

11. The applicant charges for its services, but no one is turned away because of an inability to pay. The applicant offers a substantial amount of uncompensated health care to the

community. In 1999 that amount was \$28,954,098.00, of which \$13,274,787.00 was for uncollectible accounts. (Applicant's Ex. No. 2; Tr. p. 24)

15. Applicant's first floor 5,441 square foot conference center is used for education purposes. (Applicant's Ex. No. 3; Tr. pp. 29-35)

16. The applicant is required by the Joint Commission on Accreditation of Healthcare Organizations and the Department of Public Health to provide continuing medical education for its medical staff and all employees. The conference room is used for those classes. The room is internally connected through visual devices with the cath labs and surgery areas so students with the SIU school of medicine¹ can observe procedures. Community groups that have educational seminars on health care issues and policies also use the room. The applicant controls the scheduling of the room. No charges are made for the use of the room. (Applicant's Ex. No. 3; Tr. pp. 29-35)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining

¹ One of applicant's affiliates. (Tr. pp. 29-30).

whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 ILCS 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if, upon making application for the exemption, the applicant provides affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code . . . and either (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based upon an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services

Here, the appropriate exemption applies to "institutions of public charity." Our courts have long refused to apply this exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Methodist Old People's Home"). They have also ascribed to the following definition of "charity" originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893):

... a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government.

The Illinois Supreme Court has effectuated this definition by observing that all institutions of public charity share the following distinctive characteristics:

The organization:

- 1) must benefit an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare-or in some way reduce the burdens of government;
- 2) must have no capital, capital stock, or shareholders and earn no profits or dividends;
- 3) must derive its funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters;
- 4) must dispense charity to all that need and apply for it, and must not provide gain or profit in a private sense to any person connected with it; and,
- 5) must not place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; and
- 6) the term “exclusively used” means the primary purpose for which the property is used and not any secondary or incidental purpose.
Methodist Old Peoples Home at 157.

Although the criteria cited in Methodist Old Peoples Home are not an exclusive rigid formula, they are guidelines that help to analyze whether an applicant is a charitable organization. Du Page Co. Bd. of Rev. v. Joint Comm'n, 274 Ill.App.3d 461 (2nd Dist. 1995) (*leave to appeal denied*, 164 Ill.2d 561)

The Department granted the applicant a partial property tax exemption. The issue herein concerns the Department’s denial of exemption of 37% of the building and parking lot. Thus the Department has determined that the applicant is a charitable organization and the only question before me is whether the conference room, cardiac rehabilitation area, and the common areas consisting of the entrance, waiting area, restrooms, and elevator, were used primarily for charitable purposes in 1999.

Cardiac patients use the cardiac rehabilitation area after surgery for therapy, exercise, and rehabilitation under a physician's care. Licensed staff monitors the area. The conference room is used for meetings about health care related matters, education of medical students, and continuing education of the applicant's staff. The applicant is required by the Joint Commission on Accreditation of Healthcare Organizations and the Department of Health to provide continuing medical education for its entire staff. The conference room is used for those classes. Members of the community and other organizations with health care issues use the room for educational purposes. The applicant does not charge for the use of the room. The room is internally connected through visual devices to other areas of applicant's facilities so that medical students can observe procedures conducted by medical staff. I therefore find that the applicant uses the conference room and cardiac rehabilitation area in furtherance of its charitable purposes.

The applicant charges fees for its services. That would seem to contradict the guideline that suggests that in order to qualify for a charitable property tax exemption an applicant should be an organization that dispenses charity to all that need and apply for it and must not place obstacles in the way of those who need and would avail themselves of the charitable benefits dispensed. Although the applicant expects payment for its services, the Illinois courts have held that charging fees to a person who has the ability to pay will not destroy a charitable exemption. Small v. Pangle, 60 Ill.2d 510 (1975). In addition, the applicant has shown that it gave away more than twenty-eight million dollars worth of health care during the taxable year at issue.

I therefore find that the applicant has established that the use of the conference room and cardiac rehabilitation area benefit an indefinite number of people, that in the use of those areas the applicant dispenses charity to all that need and apply for it, that the applicant places no obstacles in the way of those who need and avail themselves of applicant's services, and that the primary use of those areas are charitable.

Regarding the common area of 12,164 square feet, the applicant has shown that a percentage of the first floor and building is in exempt use and a percentage is not. The applicant agrees that of the 164,485 square feet of the entire building, 36,230 square feet are not in exempt

use.² By subtracting 36,230 square feet from the total square footage of 164,485, an amount of 128,225 square feet are left. Subtract the 12,164 square foot common area amount from that 128,225 square feet and you have 116,091 square feet of the building that has been shown to be in exempt use. Divide 116,091 by 152,321, the total square footage of the building less the common area³, and it equals 76%, the percentage of the building in exempt use. Multiply that 76% times the common area of 12,164 square feet, and it equals 9,245 square feet. That is the amount of the common area in exempt use. The 9,245 square feet plus the 116,091 square feet that have already been found to be exempt, equals 125,336 square feet.

Therefore 125,336 square feet of the total 164,485 square feet qualifies for exemption. This amount equals 76% of the building. It is therefore recommended that 76% of the building and parking lot located on Sangamon County Parcel Index No. 14-27-336-015 be exempt from taxation for the 1999 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
April 8, 2002

² The 36,230 square feet is the addition of the 32,145 area that is leased and the 4,085 shelled space.

³ $164,485 - 12,164 = 152,321$