

REPRESENTATIVE FOR PETITIONER:

Bodie J. Stegelmann, Yoder, Ainlay, Ulmer & Buckingham, LLP

REPRESENTATIVE FOR RESPONDENT:

Jerri Brown, LaGrange County Deputy Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Goshen Hospital Association, Inc.,)	Petition No. 44-014-10-2-8-00001
)	Parcel No. 44-05-02-300-000.039-015 and
Petitioner,)	Parcel No. 44-115-00022-07
)	
v.)	
)	LaGrange County
LaGrange County Assessor,)	Newbury Township
)	2010 Assessment
Respondent.)	

Appeal from the Final Determination of the
LaGrange County Property Tax Assessment Board of Appeals

February 7, 2013

FINAL DETERMINATION

The Indiana Board of Tax Review (Board) has reviewed the evidence and arguments presented in this case. The Board now enters its findings of fact and conclusions of law.

ISSUE

Is the Petitioner’s real and personal property owned, occupied, and used for charitable purposes so that it is exempt from property tax under Ind. Code § 6-1.1-10-16?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

HEARING FACTS AND OTHER MATTERS OF RECORD

1. The subject property is a physicians' office ("Shipshewana Physicians' Office") owned by the Petitioner/hospital association and located at 450 East County Lane in Shipshewana. The physicians do not rent this office space for their own practice. They work for the Petitioner as employees.
2. The Petitioner filed an Application for Property Tax Exemption, Form 136, with the LaGrange County Assessor on April 30, 2010. It claimed the Petitioner serves a charitable purpose by providing healthcare to the general public, and therefore, both the real and personal property should be 100% exempt pursuant to Ind. Code § 6-1.1-10-16. According to this application, the 2010 total assessed value of the real property is \$1,107,800. The 2010 assessed value of the personal property is \$163,440.
3. On December 27, 2010, the LaGrange County Property Tax Assessment Board of Appeals (PTABOA) issued determinations that the real and personal property is 100% taxable.
4. On February 3, 2011, the Petitioner filed a Petition for Review of Exemption, Form 132, seeking the Board's review of those determinations.
5. The Board's designated Administrative Law Judge, Jaime S. Harris, held the hearing on November 14, 2012. She did not conduct an on-site inspection of the property.
6. The Vice President and General Legal Counsel for Goshen Hospital Association, Inc., Alan L. Weldy, was sworn as a witness for the Petitioner. County Assessor Patricia A. Monroe and Deputy Assessor Jerri Brown were sworn as witnesses for the Respondent.

7. The Petitioner presented the following exhibits:
 - Exhibit 1 – Employment Agreement of Thomas A. Pechin, M.D.,
 - Exhibit 2 – Employment Agreement of Kerry Keaffaber, M.D.,
 - Exhibit 3 – Income Statements for Subject Property from 2007 through 2009,
 - Exhibit 4 – Affidavit of Alan L. Weldy,
 - Exhibit 5 – Notice of Action on Exemption Application (Form 120) issued by the PTABOA,
 - Exhibit 6 – Cover Letter and 2009 Application for Property Tax Exemption (Form 136),
 - Exhibit 7 – Letter from Alan L. Weldy to the Indiana Board of Tax Review (IBTR) with attached Petition for Review of Exemption.

8. The Respondent presented the following exhibits:
 - Exhibit 1 – Completed Form 136 with Property Record Card (PRC),
 - Exhibit 2 – Letter to Petitioner dated August 10, 2010,
 - Exhibit 3 – Letter from Petitioner dated August 17, 2010, with balance sheets,
 - Exhibit 4 – Letter to Petitioner dated September 20, 2012,
 - Exhibit 5 – Letter from Petitioner dated October 11, 2010, with Affidavit and 3 Sets of Attachments,
 - Exhibit 6 – Email from Debra Filley dated October 10, 2010,
 - Exhibit 7 – Form 120 – Personal Property (44-115-00022-07),
 - Exhibit 8 – Form 120 – Real Property (44-05-02-300-000.039-015),
 - Exhibit 9 – Letter and Form 132 (for both personal and real property) dated February 1, 2011,
 - Exhibit 10 – IBTR Notice of Hearing on Petition dated August 10, 2012,
 - Exhibit 11 – Copy of I.C. § 6-1.1-10-16,
 - Exhibit 12 – Copy of I.C. § 16-18-2-52.5,
 - Exhibit 13 – IBTR Final Determination - *Parkview Memorial Hospital, Inc. v. Allen County PTABOA*,
 - Exhibit 14 – IBTR Final Determination - *The Methodist Hospitals v. Lake County PTABOA*,
 - Exhibit 15 – IBTR Final Determination - *St. Margaret Mercy Healthcare Centers v. Lake County PTABOA*.

9. The following additional items are recognized as part of the record:
 - Board Exhibit A – Notice of Hearing,
 - Board Exhibit B – Petition for Review (Form 132),
 - Board Exhibit C – Hearing Sign-In Sheet.

OBJECTIONS

10. Ms. Brown objected to Petitioner's Exhibits 1 through 7 because she did not receive them at least 5 business days before the hearing. In response to the that objection, Mr. Stegelmann stated the notice of hearing on the petition indicated that at least five days prior to the hearing the parties need to exchange evidence and summaries of witness testimony. Petitioner never received this information from Respondent. Ms. Brown ignored the allegation of not providing the Assessor's evidence prior to the hearing and merely stated that according to 52 IAC 2-7-1, the summary is no longer required.

11. According to 52 IAC 2-7-1(b)(1), copies of documentary evidence must be provided to the opposing party at least five days prior to the hearing. Failure to comply with this requirement can be grounds to exclude the evidence. 52 IAC 2-7-1(f). The purpose of this requirement is to allow parties to be informed, avoid surprises, and promote an organized, efficient, fair consideration of cases. Summaries of witness testimony are no longer required under the rules.

12. While Petitioner's exhibits could be excluded for failure to provide them at least five days prior to the hearing, the Board will allow them. The Respondent received Petitioner's evidence on November 8, 2012, and the hearing was set for November 14, 2012. Therefore, there were three business days in which to review the evidence (six days total including the weekend and Veteran's Day). This situation can be distinguished from cases in which a party waits until the day of the hearing to provide evidence to the opposing party. Here, the Petitioner attempted to comply with the statutory requirements by providing the evidence by email and regular mail. The Respondent failed to prove that it suffered any harm or prejudice as a result of the Petitioner's failure to exchange the evidence five days prior to the hearing. Respondent had ample time to review the Petitioner's exhibits because there was not an extensive amount of materials to examine.

13. The Respondent did not provide the Assessor's exhibits to the Petitioner prior to the hearing. This is a far more serious violation than that of the Petitioner. The Respondent

made no effort whatsoever to comply with the statutory requirements regarding the exchange of evidence. Nevertheless, because there was no testimony during the hearing regarding any of Respondent's exhibits, Petitioner suffered no actual harm or prejudice by not receiving these exhibits prior to the hearing.

14. Both parties made technical errors in not providing the evidence to the opposing party at least five days prior to the hearing. However, no prejudice was suffered by either party. The Board will therefore allow the exhibits of both parties to be entered into evidence.

SUMMARY OF THE PETITIONER'S CASE

15. The subject property is exempt from property tax under IC § 6-1.1-10-16(h) as the property is substantially related to or supportive of the Goshen Hospital Association, Inc. ("Goshen Hospital") inpatient facility in Elkhart County. Furthermore, and under the same statute, this facility provides charity care, benefits the people of LaGrange County, and also provides community services that benefit the residents of LaGrange County. *Stegelmann argument.*
16. The Petitioner, Goshen Hospital, is an Indiana Non-Profit Corporation, based in Goshen. It owns real property in Elkhart County, LaGrange County, Noble County, and Kosciusko County. It operates approximately seventeen (17) physician offices in these counties and operates a 120 bed inpatient hospital facility in Goshen that is licensed by the State of Indiana. The Petitioner owns both the real and personal property that is the subject of this case. Specifically, Goshen Hospital owns and operates the physician offices and practices of Thomas A. Pechin, M.D. and Kerry Keaffaber, M.D. ("Shipshewana Physicians' Office") that utilize the subject property. The Petitioner provides a place for its employees, including the aforementioned doctors, to work for Goshen Hospital. *Weldy testimony; Pet. Ex. 1, 2.*
17. The Shipshewana Physicians' Office is part of an integrated healthcare system in which Goshen Hospital pays the salaries of the physicians practicing at the subject office. The
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Petitioner provides the nursing, medical, and support staff for the Shipshewana Physicians' Office. Goshen Hospital supplies the personal property and equipment for the Shipshewana Physicians' Office and performs all billing functions for the office. The Petitioner also provides employee benefits, computer services, and information technology support for the subject office. *Weldy testimony; Pet. Ex. 1, 2.*

18. The Petitioner, Goshen Hospital, owns the Shipshewana Physicians' Office's medical records. Goshen Hospital requires Dr. Pechin and Dr. Keaffaber to maintain active medical staff privileges at its inpatient hospital facility, and requires them to see or arrange appropriate physician coverage for inpatients and outpatients at its inpatient hospital facility. Neither Dr. Pechin nor Dr. Keaffaber maintains active medical staff privileges at any other inpatient hospital facility. *Weldy testimony; Pet. Ex. 1, 2.*
19. Goshen Hospital operates its physician offices, including the subject office, at a net operating loss. The Petitioner, however, receives referrals to its inpatient hospital facility from the physician offices it owns, including from the Shipshewana Physicians' Office. While Goshen Hospital does not require Dr. Pechin and Dr. Keaffaber to refer their patients for treatment at the Goshen Hospital inpatient hospital facility, they refer their patients to this facility approximately 90-95% of the time, with the remaining percentage of referrals being for services, such as heart procedures, that Goshen Hospital does not perform. *Weldy testimony; Pet. Ex. 1, 2, 3.*
20. Goshen Hospital owns various physician practices, including the Shipshewana Physicians' Office, in order to remain competitive in the market place by assuring itself of a steady stream of referrals to its inpatient hospital facility from the various physician practices. The primary purpose of the Shipshewana Physicians' Office is to support the Goshen Hospital inpatient hospital facility by referring patients. The inpatient hospital facility could not survive financially without these referrals. *Weldy testimony.*
21. The subject property is located in a Health Care Professional Shortage Area. In 2010, the Shipshewana Physicians' Office was designated as a Rural Health Clinic by the federal government, which increases access to care for Medicare, Medicaid, underinsured, and

uninsured patients. This designation increases the level of care and services for underserved Shipshewana residents. The Shipshewana Physicians' Office accepts Medicare and Medicaid patients and provides services to these patients with government reimbursements for services in amounts less than Goshen Hospital's actual cost of providing the services. *Weldy testimony; Pet. Ex. 4.*

22. Goshen Hospital maintains a policy to grant indigent allowances or hardship adjustments to patients incapable of paying for their personal medical care and who are unable to qualify for financial assistance through federal and state government assistance programs. Goshen Hospital, which includes physicians' offices such as the subject property, maintains a sliding scale fee schedule indexed to the federal poverty guidelines for the indigent allowances or hardship adjustments. *Weldy testimony; Pet. Ex. 4.*
23. Organization wide in 2010, Goshen Hospital provided unreimbursed medical services valued at \$5,337,750. The Shipshewana Physicians' Office provided unreimbursed medical services in the amount of \$12,001. Patients of the Shipshewana Physicians' Office receive unreimbursed services at Goshen Hospital's inpatient hospital facility, but Goshen Hospital does not specifically track the physicians' office that refers the patients to the inpatient hospital facility. *Weldy testimony; Pet. Ex. 4.*
24. Goshen Hospital conducts no-cost community wellness programs at the Shipshewana Physicians' Office. *Weldy testimony.*
25. Goshen Hospital operates the Shipshewana Physicians' Office as part of its mission to provide medical care to the communities it serves. *Weldy testimony; Pet. Ex. 4.*
26. The subject property is used 100% for the physicians' medical practice and ancillary services. No evidence was submitted to show any non-exempt use of the facility. *Weldy testimony.*
27. Goshen Hospital receives a charitable purpose exemption from property taxes for all of its other physician offices and for its 120-bed inpatient hospital facility. *Weldy testimony.*

28. The subject property was 100% exempt in 2009. The operation of the Shippshewana Physicians' Office has not changed in any substantive way between March 1, 2009, and March 1, 2010. *Weldy testimony.*

SUMMARY OF THE RESPONDENT'S CASE

29. The Petitioner owns entities that are not tax exempt. Taxes are paid on the real estate that these entities own. For example, the Petitioner currently has a physicians' office in New Paris that is jointly owned by the hospital and one of the physicians that practices in that office. The Petitioner, therefore, pays taxes on that office. *Brown cross-examination; Weldy testimony.*
30. The physicians who practice at the subject property are not required to send their patients to Goshen Hospital. As a result, the physicians' office is not substantially related to the inpatient facility. *Brown cross-examination; Weldy testimony.*
31. Goshen Hospital is not on trial in this case. It is a question of whether or not the clinic itself actually qualifies as a charitable entity that is at issue. As Mr. Weldy explained, a large portion of the business at the clinic is Amish related, which results in cash paid out of pocket. Ultimately only 1.01% of care at the subject property is considered charity care. *Brown testimony; Pet'r Ex. 7.*
32. The Petitioner did not establish that the real or personal property is owned, occupied, and used predominantly for a charitable purpose. *Brown argument.*

STATUTE

33. The most pertinent sections of the relevant exemption statute are as follows:

IC 6-1.1-10-16

Exemption of building, land, and personal property used for various purposes; termination of eligibility for exemption

Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

* * *

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

* * *

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-2 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

(1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or

(2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

ANALYSIS

34. As a general proposition, all tangible property in Indiana is subject to property taxation. Ind. Code § 6-1-1-2-1. Nevertheless, property that is owned, occupied, and used for charitable purposes can get an exemption from property taxation by Ind. Code § 6-1.1-

- 10-16. To qualify for this exemption, the property must be predominantly used or occupied for one or more of the listed purposes. Ind. Code § 6-1.1-10-36.3.
35. Tax exemption statutes are strictly construed against the person claiming the exemption. *Trinity Episcopal Church v. State Bd. of Tax Comm'rs*, 694 N.E.2d 816, 818 (Ind. Tax Ct. 1998); *Sangralea Boys Fund, Inc. v. State Bd. of Tax Comm'rs*, 686 N.E.2d 954, 956 (Ind. Tax Ct. 1997). But those provisions are not to be construed so narrowly that the legislature's purpose is defeated or frustrated. *Id.* Furthermore, the listed exempt purposes are to be construed broadly and in accordance with their constitutional meaning. "[T]he proper focus of any inquiry into the propriety of an exemption is whether the use of the property furthers exempt purposes." *Trinity Church*, 694 N.E.2d at 818 (citing *Sangralea*, 686 N.E.2d at 957).
36. A taxpayer seeking exemption bears the burden of proving that the requirements for exemption are satisfied. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004); *Monarch Steel v. State Bd. of Tax Comm'rs*, 611 N.E.2d 708, 714 (Ind. Tax Ct. 1993); *Indiana Ass'n of Seventh Day Adventists v. State Bd. of Tax Comm'rs*, 512 N.E.2d 936, 938 (Ind. Tax Ct. 1987).
37. When an exempt hospital owns other property, that other property does not automatically receive a charitable purposes exemption. One way the charitable purposes exemption will apply to other property owned by an exempt hospital is when the other property is substantially related to or supportive of the inpatient facility of the hospital. I.C. § 6-1.1-10-16(h). Indiana's property tax statutes do not define what it means to be "substantially related to or supportive of a hospital's inpatient facility" under I.C. § 6-1.1-10-16(h). *Methodist Hosps., Inc. v. Lake County Prop. Tax Assessment Bd. of Appeals*, 862 N.E.2d 335 (Ind. Tax Ct. 2007). In *Methodist Hosps.*, however, the Court used the rules of statutory construction to hold that "the phrase means that the other property is associated, to a considerable degree, to a hospital's inpatient facility or that the other property provides considerable aid to, or promotes to a considerable degree, the interests of a hospital's inpatient facility." A hospital's inpatient facility is that portion of a hospital

where admitted patients are provided overnight accommodations, meals, and medical treatment. *Id.*

38. The doctors practicing at the Shipshewana Physicians' Office are employees of the Petitioner and the billing for said doctors is carried out by the Petitioner. Goshen Hospital also provides nursing, medical, and support staffing to the subject office. The Petitioner considers the physicians' practices to be part of an integrated health care system. All of Petitioner's physician offices are on the same computer network so that data can be analyzed in order to make sure they are providing care at the appropriate benchmarks. Consequently, the hospital and offices do not really operate as separate entities. They operate as one entity with the same mission, which is to improve the health of the community they serve.
39. The Shipshewana Physicians' Office makes indirect financial contributions in the form of additional inpatient admissions that offset their negative financial performance. Although their employment contracts do not require the physicians to refer their patients to Goshen Hospital for necessary treatment, Dr. Pechin and Dr. Keaffaber refer their patients to that facility approximately 90-95% of the time. The remaining 5-10% of referrals pertains to services that the Goshen Hospital does not perform. This high percentage of referrals is compelling evidence that the subject physician's office supports Goshen Hospital's inpatient facilities. The Petitioner submitted evidence that the physicians' practices lost money on their own.
40. The ownership and use of the Shipshewana Physicians' Office is necessary for Goshen Hospital's continued viability. It would be extremely difficult for the hospital to survive without referrals from the subject office's doctors. Goshen Hospital consists of 120 beds. The weight of the evidence convincingly establishes that in order to remain viable and generate revenue, the hospital depends on these referrals.
41. Therefore the primary purpose of the Shipshewana Physicians' Office is to support the hospital. *St. Margaret Mercy Healthcare Centers, Inc. v. Lake County*, Pet. 45-008-00-2-8-00001 (July 8, 2008).

42. Alternatively, property can qualify for an exemption under I.C. § 6-1.1-10-16(h) if the property “provides or supports the provision of charity care...or ...community benefits[.]” While the statute does not specify a minimum amount of charity care and community benefit necessary to qualify for an exemption, there must be some meaningful benefit to the community in order to justify the tax-exempt status.
43. Here, the Petitioner has a policy that grants indigent allowances or hardship adjustments to patients who are incapable of paying their personal medical care and unable to qualify for financial assistance through federal and state government assistance programs. Goshen Hospital has a sliding scale fee schedule indexed to the federal poverty guidelines for the indigent allowances or hardship adjustments.
44. The Petitioner conducts no-cost community wellness programs at the Shipshewana Physicians’ Office.
45. The area where the subject property is located is a Health Care Professional Shortage Area. The Shipshewana Physicians’ Office was designated as a Rural Health Clinic in 2010. Rural Health Clinics increase access to Medicaid, Medicare, underinsured, and uninsured patients.
46. The Board finds that the Petitioner, Goshen Hospital, presented evidence sufficient to establish that Shipshewana Physicians’ Office is substantially related to and supportive of the Goshen Hospital’s inpatient facility. Alternatively, Shipshewana Physicians’ Office supports Goshen Hospital’s provision of charity care and community benefits sufficient to entitle the Goshen Hospital to a property tax exemption for the subject property under Indiana Code § 6-1.1-10-16(h).
47. The Goshen Hospital established a prima facie case showing that it is entitled to a property tax exemption.¹ The burden, therefore, shifted to the Respondent to rebut the

¹ This was not just a case of Petitioner meeting the bare minimum requirements for an exemption. In fact, there was an overwhelming conglomeration of evidence that justified an exemption for the subject property, the accuracy of which was not seriously disputed by the Respondent.

Goshen Hospital's evidence. The Respondent presented no evidence to rebut Goshen Hospital's evidence. The Deputy Assessor, Jerri Brown, gave no direct testimony and merely handed a packet of exhibits to the ALJ without going through any of them. This is an ineffective approach when seeking to prove that the subject property should be 100% taxable.

48. It is the Respondent's duty to walk the Board through its analysis. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004). In other words, the Respondent must explain its evidence. *See Wash. Twp. Assessor v. Kimball Int'l, Inc.*, 866 N.E.2d 405 (Ind. Tax Ct. 2007). The Deputy Assessor failed to show how the evidence she presented proved that the subject property should be 100% taxable.
49. Therefore the Board finds for the Petitioner.

SUMMARY OF FINAL DETERMINATION

50. The evidence presented supports a finding that the Goshen Hospital's real and personal property located at 450 East Country Lane, Shipshewana in LaGrange County is 100% tax exempt.

This Final Determination of the above captioned matter is issued on the date first written above.

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>