

REPRESENTATIVE FOR PETITIONER:

Robert A. Hicks, HALL, RENDER, KILLIAN, HEATH & LYMAN, P.S.C.

REPRESENTATIVES FOR RESPONDENT:

Steve Carter, ATTORNEY GENERAL OF INDIANA

Andrew W. Swain, DEPUTY ATTORNEY GENERAL

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

INDIANAPOLIS OSTEOPATHIC)	Petition Nos.: 49-900-99-2-8-10000R
HOSPITAL INC., d/b/a WESTVIEW)	49-900-00-2-8-10000R
HOSPITAL and HEALTH INSTITUTE)	
OF INDIANA, INC.,)	County: Marion
)	
Petitioner,)	Township: Wayne
)	
v.)	Parcel Nos.: 9062611
)	9032611
DEPARTMENT OF LOCAL)	1121595
GOVERNMENT FINANCE,)	
)	Assessment Years: 1999 and 2000
Respondent.)	
)	

On Remand from the Indiana Tax Court
Cause No. 49T10-0012-TA-127

**REFERRAL TO THE MARION COUNTY
PROPERTY TAX ASSESSMENT BOARD OF APPEALS**

Pursuant to the decision of the Tax Court in the above matter dated December 9, 2004, and Ind. Code § 6-1.1-15-8, the Indiana Board of Tax Review (the Board) refers the exemption claims in this matter for 1999 and 2000 to the Marion County Property Tax Assessment Board of Appeals (the PTABOA) to make another determination consistent with the Tax Court's decision.

Facts and Procedural History

1. Indianapolis Osteopathic Hospital, Inc., d/b/a Westview Hospital (Westview) and Health Institute of Indiana, Inc. (HII) (collectively, the Petitioners) appeal the final determinations of the State Board of Tax Commissioners (State Board) assessing their real and personal property for the 1999 and 2000 tax years. The issue before the Tax Court was whether the Petitioners' property qualifies for the charitable purpose exemption as provided in Indiana Code §6-1.1-10-16.
2. Westview is an Indiana not-for-profit corporation that owns and operates Westview Hospital in Indianapolis, Indiana. It is recognized by the Internal Revenue Service as a 501(c)(3) organization. HII is also an Indiana not-for-profit corporation with 501(c)(3) status. HII owns and operates a 158,000 square foot sports club and medical pavilion (facility) on Westview's campus. During the years at issue, Westview owned a 70% share of HII, as well as the land on which HII's improvement is constructed.
3. Of the facilities 158,000 square feet, 74% is devoted to use as a sports club (Healthplex). The other 26% is devoted to use as the medical pavilion (MP).

The 1999 Appeal

4. The Petitioners requested a 100% exemption for the Healthplex, a 91% exemption for the MP, and a 100% exemption for all personal property for tax year 1999. The Marion County Property Tax Assessment Board of Appeals (PTABOA) allowed only a 9% exemption on the entire improvement. The PTABOA did not address the personal property exemption sought by Petitioners.
5. The Petitioners appealed to the State Board of Tax Commissioners (State Board). In a final determination issued on October 11, 2000, the State Board upheld the PTABOA's determination. The State Board also held Petitioners' personal property was entitled to a 9% exemption.

6. Petitioners sought a rehearing with the State Board. On November 21, 2000, the State Board issued a second final determination in which it removed the 9% exemption entirely. On December 20, 2000, the Petitioners initiated an original tax appeal.

The 2000 Appeals

7. The Petitioners applied for the charitable purpose exemption on its land, improvement, and personal property for the 2000 tax year. On June 26, 2000, the PTABOA allowed a 9% exemption on Petitioners' improvement. The PTABOA denied the exemption for the land and personal property.
8. Petitioners then appealed to the State Board. In a final determination dated September 17, 2001, the State Board denied Petitioners' requests for exemptions. Petitioners then initiated an original tax appeal on October 31, 2001.
9. The Tax Court consolidated the 1999 and 2000 appeals on December 31, 2000. The Tax Court heard oral arguments on July 28, 2003, and issued its decision on December 9, 2004.

Discussion of Remanded Issue

10. The Tax Court addressed three issues in its decision. First, whether the Healthplex qualified for an exemption. Second, whether the MP qualified for an exemption. Third, whether denying Petitioners the charitable purpose exemption for the Healthplex violated Article 1, §23 of the Indiana Constitution.
11. The Tax Court held the State Board did not err when it determined that the Healthplex portion of the facility did not qualify for the charitable purpose exemption. Therefore, the Tax Court AFFIRMED that portion of the State Board's final determinations and no change should be made in regard to that portion of the property.

12. The Tax Court held the State Board abused its discretion in determining that none of the MP qualified for the charitable purpose exemption. The Tax Court held that it was clear from the record that 37% of the MP is used 100% of the time by various departments of Westview Hospital. The Tax Court held that the record clearly indicates the boardroom is used 98% of the time for hospital administrative meetings. Therefore, the Tax Court REVERSED the State Board's final determination and held the MP portion of the facility is entitled to a 38% exemption.
13. Finally, the Tax Court held that Petitioners did not show that Indiana Code §6-1.1-10-16, as applied, violates Article 1, § 23 of the Indiana Constitution.
14. Accordingly, the Board orders the Marion County Property Tax Assessment Board of Appeals to grant a 38% exemption for the MP portion of the facility, consistent with the Tax Court decision for the 1999 and 2000 assessments.

Therefore, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the Marion County Property Tax Assessment Board of Appeals to make another determination regarding these exemptions for 1999 and 2000 that is consistent with this referral and the Tax Court's decision.

Issued: _____

Commissioner, Indiana Board of Tax Review

- Appeal Rights -

You may petition for judicial review of the final determination pursuant to the provisions of Indiana Code § 6-1.1-15-9. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.