

REPRESENTATIVE FOR PETITIONER:

Paul Jones, Ice Miller LLP

REPRESENTATIVE FOR RESPONDENT:

Marilyn S. Meighen, Meighen & Associates, P.C.

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Imaging Center of North Central)	Petition: 34-002-08-2-8-00002
Indiana, Inc.,)	
)	
Petitioner,)	Parcel: 34-09-11-100-018.000-002
)	34-92-00-715-700.000-002
)	(Personal property)
v.)	
)	
)	County: Howard
Howard County Assessor,)	Township: Center
)	
Respondent.)	Assessment Year: 2008
)	

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

May 16, 2011

FINAL DETERMINATION

The Board has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The issue presented for consideration by the Board is whether the Petitioner's real and personal property qualifies for a property tax exemption under Indiana Code § 6-1.1-10-4, because it is owned by a political subdivision. Alternatively, the Petitioner argues it is entitled to exemption under Indiana Code § 6-1.1-10-18.5 because the property is supportive of the inpatient facility of Howard Community Hospital and Indiana Code § 6-1.1-10-16 because the property is owned, occupied, and used for charitable purposes.

PROCEDURAL HISTORY

2. The Petitioner, Imaging Center of North Central Indiana, Inc. (the Imaging Center), filed an exemption application for its real and personal property for 2008. The Howard County Property Tax Assessment Board of Appeals (PTABOA) issued its assessment determination denying the exemption on March 31, 2009. The Petitioner filed its Petition for Review of Exemption on May 14, 2009.
3. Pursuant to Indiana Code § 6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge, Carol Comer, held a hearing on February 14, 2011, in Kokomo, Indiana.
4. The following persons were sworn as witnesses:

For the Petitioner:

James Alender, President and Chief Executive Officer of Howard
Regional Health System,

No witnesses presented testimony for the Respondent.

5. The Petitioner submitted the following exhibits:¹

- Petitioner Exhibit A – Letters from the Internal Revenue Service granting the Petitioner its 501(c)(3) status,
- Petitioner Exhibit B – Letter from the State of Indiana granting an exemption from Indiana sales tax,
- Petitioner Exhibit C – 2007 Articles of Incorporation,
- Petitioner Exhibit D – Bylaws of Imaging Center of North Central Indiana, Inc.,
- Petitioner Exhibit E – Hospital license for Howard Regional Health System for 2008, 2009 and 2010,
- Petitioner Exhibit F – Indiana Code §16-22-2,
- Petitioner Exhibit G – Letter from the Internal Revenue Service stating Howard Regional Health System meets the criteria for classification as an affiliate of a government unit,
- Petitioner Exhibit H – Bylaws and organizing documents of Howard County Hospital,
- Petitioner Exhibit I – 1992 Articles of Incorporation for Imaging Center of North Central Indiana, Inc., and 2007 Membership Withdrawal Agreement,
- Petitioner Exhibit I-1 – Membership Withdrawal Agreement,
- Petitioner Exhibit I-2 – Articles of Amendment and Restatement of the Articles of Incorporation (2007),
- Petitioner Exhibit I-3 – State Certificate of Amended and Restated Articles of Incorporation,
- Petitioner Exhibit I-4 – First Amended and Restated Bylaws of Imaging Center (2007),
- Petitioner Exhibit I-5 – Unanimous Written Consent of the Board of Directors of the Imaging Center of North Central Indiana, Inc., approving the Amended and Restated Articles and approving the Membership Withdrawal Agreement,
- Petitioner Exhibit I-6 – Unanimous Written Consent of the Members of Imaging Center of North Central Indiana, Inc., approving the Amended and Restated Articles and approving amending the Corporation’s bylaws,
- Petitioner Exhibit I-7 – Resolutions of the Board of Directors of St. Joseph Hospital and Health Center, Inc.,
- Petitioner Exhibit I-8 – Resolutions of the Board of Trustees of Howard Community Hospital,
- Petitioner Exhibit I-9 – St. Joseph’s Withdrawal Letter,
- Petitioner Exhibit I-10 – I-14 – Resignation letters,
- Petitioner Exhibit J – Howard Regional Health System’s Consolidated Financial Statements and Employee Information (redacted),
- Petitioner Exhibit K – Property record card for the Imaging Center of North Central Indiana, Inc.,

¹ The Petitioner did not offer a “Petitioner Exhibit M.”

Petitioner Exhibit L – The Petitioner’s personal property tax return for 2008,
Petitioner Exhibit N – Application for Property Tax Exemption, Form 136,
Petitioner Exhibit O – Notice of Action on Exemption Application, Form 120,
Petitioner Exhibit P – Amended Petition to the Indiana Board of Tax Review for
Review of Exemption,
Petitioner Exhibit Q – Financial Statement of Imaging Center of North Central
Indiana, Inc.,
Petitioner Exhibit R – Memorandum of Law,
Petitioner Exhibit S – 2008 Benefits to the Community including charity care,
Petitioner Exhibit T – Photographs of the subject property.

6. The Respondent did not submit any exhibits.
7. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:
 - Board Exhibit A – Form 132 Petition,
 - Board Exhibit B – Notice of Hearing - Reschedule dated December 15, 2010,
 - Board Exhibit C – Order Regarding Conduct of Exemption Hearing,
 - Board Exhibit D – Petitioner’s Motion for Leave to Amend Petition,
 - Board Exhibit E – Order Granting Petitioner’s Motion for Leave to Amend Petition.
8. The subject property is a medical imaging facility known as the Imaging Center of North Central Indiana, Inc., located at 2201 West Boulevard in Kokomo, Indiana, and the personal property located therein.
9. For 2008, the Howard County PTABOA determined the property to be 100% taxable.
10. For 2008, the Petitioner claims its real and personal property is 100% exempt.

JURISDICTIONAL FRAMEWORK

11. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under

any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Indiana Code § 6-1.1-15. See Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN

12. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. See *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); see also, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
13. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. See *Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
14. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. See *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's case. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

BASIS OF EXEMPTION AND BURDEN

15. The general rule is that all property is subject to taxation. Ind. Code § 6-1-1-2-1. The General Assembly may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Ind. Const., Art. 10, § 1. This provision is not self-enacting. The General Assembly must enact legislation granting an exemption.
16. All property receives protection, security, and services from the government, such as fire and police protection, and public schools. These governmental services carry with them a corresponding obligation of pecuniary support in the form of taxation. When property

is exempt from taxation, the effect is to shift the amount of taxes a property owner would have paid to other parcels that are not exempt. *See generally, National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E.2d 218 (Ind. Tax Ct. 1996).

17. Worthwhile activity or noble purpose alone is not enough. An exemption is justified because it helps accomplish some public purpose. *Miniature Enthusiasts*, 671 N.E.2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E.2d 850, 854 (Ind. Tax Ct. 1990)).
18. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statutory authority for the exemption. *Indianapolis Osteopathic Hospital, Inc. v. Department of Local Government Finance*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004); *Monarch Steel v. State Board of Tax Commissioners*, 611 N.E.2d 708, 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E.2d 936, 938 (Ind. Tax Ct. 1987).

PETITIONER'S CONTENTIONS

19. The Petitioner's counsel contends that the Petitioner's real and personal property is 100% exempt pursuant to Indiana Code § 6-1.1-10-4 because it is owned by the county hospital which is a political subdivision of the State of Indiana. *Jones argument*. Further, Mr. Jones argues, the property is exempt under Indiana Code § 6-1.1-10-18.5 because the property is substantially related to, and supportive of, the inpatient facilities at the Hospital. *Id.* Petitioner's counsel also contends the property is 100% exempt pursuant to Indiana Code § 6-1.1-10-16 because it is owned, occupied, and used for charitable purposes. *Id.*
20. The Petitioner's counsel argues that the Board of Trustees of Howard Community Hospital, doing business as Howard Regional Health System (the Hospital), is a political subdivision under Indiana Code § 16-22 and therefore, its property is exempt. *Jones*

argument. A political subdivision is defined as a “county, township, city, town, separate municipal corporation, special taxing district, or school corporation.” *Id.*; citing Indiana Code § 6-1.1-1-12. The term “separate municipal corporation” includes a local hospital authority, or corporation, that may sue or be sued. *Id.*; citing Ind. Code § 36-1-2-10. Because the Hospital is a “separate municipal corporation,” Mr. Jones argues, the Hospital is a “political subdivision” and property owned by a political subdivision is exempt from property taxation. *Id.*; citing Indiana Code § 6-1.1-10-4; *Petitioner Exhibit R.*

21. The Petitioner’s witness testified that the Hospital’s bylaws state “The hospital is owned by the Board of Trustees pursuant to the Indiana County Hospital Law and is organized and is to be operated for the purpose of providing to the general public inpatient and outpatient diagnostic and treatment facilities and services generally recognized as hospital services, and other related health care facilities and services under the direction and supervision of the patients’ attending health care providers, irrespective of race, color, or creed and consistent with all applicable laws.” *Alender testimony; Petitioner Exhibit H.* In addition, the bylaws state “The hospital is organized exclusively for charitable, education, and scientific purposes. The hospital will be operated in such a manner as to qualify for tax exemption under Section 501(c)(3) of the Internal Revenue Code.” *Id.* According to Mr. Alender, the Hospital provides acute inpatient and outpatient services, imaging, diagnostic services, and research and provides those services regardless of the patient’s ability to pay for those services. *Alender testimony.* The Petitioner’s counsel argues that, in the event there are insufficient funds to provide these services and meet operating expenses, the Hospital has the ability to request financial support from the county. *Jones argument; Petitioner Exhibit F.*²
22. Mr. Alender testified that the Imaging Center is an Indiana nonprofit corporation and a 501(c)(3) exempt organization that was originally founded in 1992 as a joint venture between the Hospital and St. Joseph Hospital and Health Center, Inc., which is an Indiana

² According to Mr. Alender, Indiana Code § 16-22-3-27, titled “Tax levy support of the hospital,” states that “the governing board may request support from the county, either by appropriation from the county general fund or by a separate tax levy...”

nonprofit and 501(c)(3) charity, as a means of providing radiology services to Howard County. *Alender testimony; Petitioner Exhibits A, C, I and R.* On December 31, 2007, St. Joseph withdrew as a member and the Hospital acquired St. Joseph's interest in the Imaging Center. *Alender testimony; Petitioner Exhibits I and R.* At that time, Mr. Alender testified, the Imaging Center became a wholly owned subsidiary of the Hospital, which is its sole member. *Id.* Thus, while the property may be titled in the name of the Imaging Center, Mr. Jones argues, it became the property of the Hospital when the Hospital became the sole member of the Petitioner. *Jones argument.*

23. Mr. Alender testified that the Imaging Center is essentially treated as a department of the Hospital and exists to provide services to the Hospital. *Alender testimony; Petitioner Exhibit R.* The Hospital appoints the Board of the Imaging Center through the Hospital's Board of Trustees; the Hospital bills for the imaging services provided by the Imaging Center; and the Imaging Center is staffed by Hospital employees. *Alender testimony; Petitioner Exhibits J and R.* According to Mr. Alender, while the Imaging Center has its own financial statements, as a blended component unit of the Hospital, it is included in the consolidated financial statements of the Hospital and any loss incurred by the Imaging Center rolls to the Hospital's financial statements. *Id.* Therefore, Mr. Jones argues, the Imaging Center is owned, used, and occupied by a political subdivision. *Petitioner Exhibit R.*
24. In addition, Mr. Alender testified, having the Imaging Center relieved the need for substantial renovations that would have been required for the Hospital to provide the imaging services offered by the Imaging Center. *Alender testimony.* According to Mr. Alender, the renovations would have been at considerable cost to the county and therefore, he argues, a government burden is relieved by having the Imaging Center provide those imaging services. *Id.*
25. The Petitioner's counsel argues that, even if the Imaging Center is considered to be a separate entity, the object of Article X § 1 of the Constitution and Indiana Code 6-1.1-10-4 to "protect and enhance public resources" would be contravened if property that is owned by a political subdivision and which is used for public purposes could be taxed

simply because the property is held in a separate entity. *Jones argument; Petitioner Exhibit R.* According to Mr. Jones, the economic reality of denying a tax exemption for the Imaging Center is that “public resources” belonging to the Hospital and to Howard County, both of which are political subdivisions, would be subject to local property tax. *Id.* Essentially, Mr. Jones argues, the county would be taxing the county. *Id.*; citing *Bonney v. Indiana Finance Authority*, 849 N.E.2d 473 (Ind. 2006).

26. Alternatively, the Petitioner’s counsel argues that the Petitioner’s property is exempt under Indiana Code § 6-1.1-10-18.5(b). *Jones argument; Petitioner Exhibit R.* Indiana Code § 6-1.1-10-18.5(b) provides that “tangible property is exempt from property taxation if it is: (1) owned by an Indiana nonprofit corporation; and (2) used by that corporation in the operation of a hospital licensed under IC 16-21.” *Id.* Mr. Jones argues that the first test is met because the property is owned by the Imaging Center, which is an Indiana nonprofit corporation, and the second test is met because the Imaging Center is used by Hospital employees in the operation of the Hospital. *Id.* According to Mr. Jones, the successful operation of many parts of the Hospital depends on the scans provided by the Imaging Center because a significant number of medical decisions are made on the basis of such scans. *Id.* Furthermore, Mr. Jones argues, the Imaging Center has operated at a substantial loss since its formation, including a net operating loss of \$586,000 in the year at issue. *Id.* Therefore, he contends, the primary purpose of the Imaging Center, if not the only purpose, must be to support the Hospital. *Id.*
27. Finally, Mr. Jones argues that the Imaging Center qualifies for exemption under Indiana Code § 6-1.1-10-16 because it is owned, used, and occupied for charitable purposes. *Jones argument.* According to the Petitioner’s witness, the Imaging Center is bound by the Hospital’s charity policies and therefore the Imaging Center must take all patients regardless of their ability to pay, race, creed, or color. *Alender testimony.* In 2008, Mr. Alender testified, the Hospital provided charity care in the amount of \$8,169,873. *Id.*; *Petitioner Exhibit S.* While Mr. Alender admitted that the charity care was provided by the Hospital and not specifically by the Imaging Center, he argued that the Imaging Center provided other types of services and community benefits, including participating

in direct events that reflected the facility's commitment to the community in education and health care. *Id.*

28. In response to questioning, Mr. Alender testified that the Imaging Center is approximately five miles from the Hospital and is not obligated to exclusively provide imaging services to the Hospital, but provides services to any patient with a written physician order. *Alender testimony*. In addition, Mr. Alender testified that the Hospital installed imaging equipment sometime after December 31, 2007. *Id.* According to Mr. Alender, while the Imaging Center provides all of its imaging services on outpatient basis, the Imaging Center acts as a "back up" for the Hospital's inpatient facility. *Id.*

RESPONDENT'S CONTENTIONS

29. The Respondent's counsel argues that a relationship between the Hospital and the Imaging Center is not enough to qualify the Imaging Center for an exemption. *Meighen argument*. According to Ms. Meighen, while the Hospital may be a county hospital and a political subdivision, the Imaging Center is a separate corporation. *Id.* Thus, the Imaging Center is not a municipal corporation itself. *Id.* Further, because the Imaging Center is a separate corporation, its property is not legally owned by the Hospital. *Id.*
30. Similarly, Ms. Meighen argues, merely because the Hospital "owns" the Imaging Center, the Imaging Center's property is not automatically entitled to exemption. *Meighen argument*; citing *St. Mary's Medical Center v. State Bd. of Tax Comm'rs*, 571 N.E.2d 1247 (Ind. 1991), *Indianapolis Osteopathic Hospital v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004) and *Alte Salem Kirsch v. State Bd. of Tax Comm'rs*, 733 N.E.2d 40 (Ind. Tax Ct. 2000). According to Ms. Meighen, to be exempt, "other property" owned by a hospital must meet the predominant use test showing that the property is "substantially related to or supportive of" an inpatient facility or that the property supports charity care or provides or supports community benefits under Indiana Code § 6-1.1-10-16 and § 6-1.1-10-18.5. *Meighen argument*. Ms. Meighen argues that the Petitioner has not proven that there is a substantial connection between the Imaging

Center and the Hospital's inpatient facility. *Id.* Further, she contends, the charity care and community benefits must be a meaningful contribution sufficient to justify the loss of tax revenue. *Id.* In the Petitioner's case, Ms. Meighen argues, the "charity care" is provided by the Hospital and the "community benefits" provided by the Imaging Center are de minimus. *Id.*

31. Finally, Ms. Meighen argues that, for a 2008 exemption, the property must be predominantly used for an exempt purpose during the period of March 1, 2007, through March 1, 2008. *Meighen argument*, citing *Brothers of the Holy Cross v. St. Joseph PTABOA*, 878 N.E.2d 548 (Ind. Tax Ct.2007). According to Ms. Meighen, the Imaging Center did not become a wholly owned subsidiary of the Hospital until January 1, 2008. *Meighen argument*.

ANALYSIS

32. The Petitioner argues that the Imaging Center's real and personal property are exempt because the property is owned by a political subdivision and the property also qualifies for exemption under Indiana Code § 6-1.1-10-18.5 and § 6-1.1-10-16. The Respondent, however, contends the Petitioner is a separate legal entity from the political subdivision and does not qualify for exemption under any of the statutes cited by the Petitioner.
33. The Petitioner's evidence established that the Hospital is a political subdivision and the Respondent agreed that the Hospital is a political subdivision. Under Indiana Code § 6-1.1-10-4, property owned by a political subdivision is exempt from taxation, except as otherwise provided by law. The question, therefore, is whether the Imaging Center, as a wholly owned subsidiary of the Hospital, is also a political subdivision for the purposes of property tax exemption.
34. The Petitioner presented evidence that the Imaging Center was built, in part, with Hospital funds and Hospital funds were used to buy out St. Joseph's interest in the property. The Petitioner also established that, since the termination of the joint venture with St. Joseph Hospital, the Imaging Center has been a wholly owned subsidiary of the

Hospital. Further, the Hospital appoints the Board of Directors of the Imaging Center; the Imaging Center's employees are Hospital employees; and the Hospital does all billing for the Imaging Center. According to the Petitioner's witness, the Hospital is in "complete control" of the Imaging Center. While the Imaging Center has its own financial statements, as a blended component unit of the Hospital, it is included in the consolidated financial statements of the Hospital. The Hospital ultimately provides all of the funding for the Imaging Center and any loss incurred by the Imaging Center rolls to the Hospital's consolidated financial statements. The Hospital's financial statements are in turn included in the comprehensive annual financial report of Howard County.

35. The Board is not convinced that it should disregard the separate corporate form of the Imaging Center and find that it is a "municipal corporation" simply because the Hospital, which is its sole member, qualifies as a "municipal corporation" of Howard County. However, the Board finds the circumstances in *Bonney v. Indiana Finance Authority*, 849 N.E.2d 473 (Ind. 2006), sufficiently analogous to the facts at issue to be instructive here. In *Bonney*, the Indiana Supreme Court analyzed whether the Constitution prohibited the State of Indiana from exempting the private lessee of the Indiana Toll Road from property taxes for the toll road property. 849 N.E.2d at 487. The trial court, relying on *Chadwick v. City of Crawfordsville*, 24 N.E.2d 937 (Ind. 1940), held that the constitutional limit on exemptions "turns on the character of the property, not its ownership." *Id.* Because the toll road would retain its "municipal purpose" after the lease, the trial court found that the fact that a private lessee would operate the toll road was irrelevant. *Id.* On appeal, the plaintiffs argued to the Indiana Supreme Court that cases upholding a tax exemption against a constitutional challenge cited both the ownership and use of a property. *Id.* at 487-488. The Supreme Court acknowledged that public ownership was "ordinarily sufficient for exemption," but did not agree it was necessary. *Id.* at 488. The Court held that "as the trial court noted, the 'use' of the property is by the language of Section 1 the controlling factor. The lease will continue the property in the same use – a public highway – and as such is a permissible exemption." *Id.* The Court further found that "If a lease by the State requires that property be taxed, the effect would be to lower the rent the lessee would be willing to

pay, or to subject the State to local property taxes. Neither would further the object of Article X to protect and enhance public resources.” *Id.*

36. Here, as the Petitioner argues, while the real and personal property at issue in this appeal are owned by the Imaging Center, the Imaging Center is a wholly owned subsidiary of the Hospital and the Hospital funds the Imaging Center. Therefore, any tax imposed on the Imaging Center, is in essence paid by the Hospital – which is a political subdivision of Howard County. Although *Bonney* addressed the situation of a county taxing the state, the Board finds that the same analysis would apply here: a county taxing a county does not “further the object of Article X to protect and enhance public resources.” 849 N.E.2d at 488. Thus, the Board finds that the Petitioner established a prima facie case its property should be exempt. In so holding, the Board does not seek to expand any existing exemption or to create a new category of exemption for property used for “municipal purposes.” But in the narrow case where the end result of denying an exemption is that the county is taxing the county, the Board finds that the property must be exempt. This is further supported by the Petitioner’s evidence that the Hospital can appropriate funds from the county’s general fund or levy a tax to cover any shortfall thus leading to the absurd result where the county assessor denies an exemption for the Imaging Center and the Hospital then levies a tax on the county’s residents to pay such tax.
37. Because the Board finds that the Petitioner’s property is exempt under Indiana Code § 6-1.1-10-4, the Board need not address whether the Imaging Center’s property would also be exempt under Indiana Code § 6-1.1-10-16 or § 6-1.1-10-18.5.
38. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Insurance Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). To rebut or impeach the Petitioner’s case, the Respondent has the same burden to present probative evidence that the Petitioner faced to raise its prima facie case. *Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 (Ind. Tax Court 2005). Here, the Respondent’s counsel did not dispute the evidence of the Imaging Center’s ownership. Nor did the Respondent

present evidence contradicting Mr. Alender's testimony that the Hospital funds the Imaging Center and therefore denying the exemption results in the county taxing the county. Instead, Ms. Meighen merely argued that the Imaging Center was a separate entity from the Hospital and therefore the Petitioner was not a municipal corporation entitled to exemption. As the Board found above, however, while the separate legal status of the Imaging Center is significant, the property must still be exempt because it is used for a "municipal purpose" and to hold otherwise would result in the situation of the county taxing the county.

39. Ms. Meighen also argues that a property must be owned, occupied and predominately used for an exempt purpose during the relevant tax year, which, she argues, is the fiscal year ending on the March 1 assessment date. *Meighen argument*. According to Ms. Meighen, because the property was not wholly owned by the Hospital until January 1, 2008, it was not "predominantly" owned, occupied and used by a municipal corporation during the period of March 1, 2007, to March 1, 2008.
40. Indiana Code § 6-1.1-10-36.3(a) states "For purposes of this section, property is predominantly used or occupied for one (1) or more stated purposes if it is used or occupied for one (1) or more of those purposes during more than fifty percent (50%) of the time that it is used or occupied in the year that ends on the assessment date of the property." Ind. Code § 6-1.1-10-36.3(a). The language of the statute is clear: a property must be used "more than 50% of the time *that it is used or occupied* in the year that ends on the assessment date." *Id.* (emphasis added). If the Board interpreted the requirements of the statute in the way the Respondent urges – that a property must be predominantly used for an exempt purpose for the entire year prior to the assessment date, no non-profit entity regardless of its charitable, religious or educational intent, would be entitled to an exemption until its second year of operation. The Legislature could not have intended such a result. *See also Alte Salems Kirche, Inc. v. State Bd. of Tax Comm'rs*, 694 N.E.2d 810 (Ind. Tax Ct. 1998) ("Evidence of events occurring in other tax years should be considered if relevant to a fact existing during the tax year. ... This is particularly true in cases where property is claimed to be exempt under section 6-1.1-10-16. In these cases,

the central question is the purpose for which the property is being used. Events occurring outside of the tax year at issue may shed a great deal of light on the purpose for which the property is used during that tax year.”).

41. Ms. Meighen’s citation to *Brothers of the Holy Cross v. St. Joseph PTABOA*, 878 N.E.2d 548 (Ind. Tax Ct.2007) does not further her argument. In that case, the Petitioner sought an exemption for its retirement villas for 2002. 878 N.E.2d at 551. As evidence in support of the exemption, the Petitioner introduced newsletters and activity calendars for the property from 2003 to 2005. *Id.* Rather than supporting the property’s exempt purpose, however, the newsletters and activity calendars showed that the programs and amenities the Petitioner pointed to as proving its property’s exempt purpose did not begin or were not built until after the assessment date – sometimes years after the assessment date at issue. *Id.* at 551-552. That is not the situation here. The Imaging Center was owned, occupied and used by a municipal corporation for a municipal purpose as of the assessment date. Nothing in *Brothers of the Holy Cross* suggests that because the Imaging Center was not wholly owned by the Hospital for an entire year prior to the assessment date it therefore could not be predominantly used for an exempt purpose.³

SUMMARY OF FINAL DETERMINATION

42. The Petitioner raised a prima facie case that the subject property is owned, used, and occupied for an exempt purpose. The Respondent failed to rebut the Petitioner’s case. The Board finds in favor of the Petitioner and holds that the Imaging Center’s land, improvements, and personal property are 100% exempt for the 2008 assessment year.

This Final Determination of the above captioned matters is issued by the Indiana Board of Tax Review on the date first written above.

³ The Respondent’s counsel also argues that the Petitioner failed to show its property is “substantially related to or supportive of” the inpatient facility or that the property supports charity care or provides or supports community benefits as required under Indiana Code § 6-1.1-10-16 or § 6-1.1-10-18.5. Because the Board finds the property at issue to be exempt under Indiana Code § 6-1.1-10-4, it need not address these arguments.

Chairman, 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>>