

REPRESENTATIVES FOR PETITIONER:
Earle F. Hites, Attorney, Hodges & Davis;
David H. Kreider, Attorney, Hodges & Davis

REPRESENTATIVES FOR RESPONDENT:
Dock McDowell, Jr., Attorney, Dock McDowell Law Firm

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

THE METHODIST	)	Petition No.: 45-006-00-2-8-00001
HOSPITALS, INC.,	)	Parcel: 15-26-0491-0001
	)	Duplicate No.: 15-982392
)	
Petitioner,	)	Petition No.: 45-030-00-2-8-00002
	)	Parcel: 08-15-0689-0001
)	
v.	)	Petition No.: 45-030-00-2-8-00003
	)	Parcel: 08-15-0689-0002
	)	Duplicate No.: 08-980490
)	
LAKE COUNTY	)	Petition No.: 45-030-00-2-8-00004
PROPERTY TAX ASSESSMENT	)	Parcel: 08-15-0689-0003
BOARD OF APPEALS,)	
	)	County: Lake
)	
Respondent.	)	Townships: Calumet and Ross
)	
	)	Assessment Year: 2000

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

September 21, 2004

FINAL DETERMINATION

The Indiana Board of Tax Review (the "Board") having 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 was:

Whether the offices known as Primary Care Associates should be tax-exempt.

PROCEDURAL HISTORY

2. Pursuant to Ind. Code § 6-1.1-11-7, The Methodist Hospitals, Inc., (the “Petitioner”) filed Form 132 Petitions for Review of Exemption, petitioning the Board to conduct an administrative review of the above petitions. The underlying Form 136 Applications for Property Tax Exemption (Form 136 application) were filed on May 10, 2000. The Lake County Property Tax Assessment Board of Appeals (PTABOA) denied the application and sent notice on December 31, 2002. The Form 132 petitions were filed on January 27, 2002.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on November 5, 2003 in Crown Point, Indiana before Ellen Yuhan, the duly designated Administrative Law Judge (the “ALJ”) authorized by the Board under Ind. Code § 6-1.5-3-3. Due to the length of the hearing, a continuance was scheduled for the remaining petitions. The hearing was resumed on April 19, 2004 and again continued. The hearing was concluded on April 28, 2004.
4. The following persons were sworn in as witnesses and presented testimony at the November 5, 2003 hearing:

For the Petitioner:

John C. Diehl, Vice-President, Methodist Hospital

Verna Meacham, Vice-President, Methodist Hospital¹

¹ Ms. Meacham did not present testimony regarding these parcels.

For the Respondent:

Carol-Ann Seaton, Lake County PTABOA member

Betty Wilusz, Deputy Assessor, Lake County

Sharon Fleming, Deputy Assessor, Lake County

Danny Cruz, Assistant Supervisor, Calumet Township Assessor's office

5. The following exhibits were presented for the Petitioner on November 5, 2003:

Petitioner's Exhibit A – Articles of Incorporation

Petitioner's Exhibit B – Articles of Amendment

Petitioner's Exhibit C – By-laws, amended May 3, 1999

Petitioner's Exhibit D – By-laws, amended June 3, 2002

Petitioner's Exhibit E – Internal Revenue 501(c)(3) letter

Respondent's Exhibit 1 – Photographs of 1212 N. Broad, Griffith, IN

Respondent's Exhibit 2 – Photographs of 8777 Broadway², Merrillville, IN

Respondent's Exhibit 3 – Professional Services Employment Agreement

Respondent's Exhibit 4A – PTABOA minutes for December 12, 2002

Respondent's Exhibit 4B – PTABOA agenda for April 4, 2003

Respondent's Exhibit 5 – Copies of W-2 forms

Respondent's Exhibit 6 – Letter to Mr. Kreider from Terrance Bronowski dated
September 5, 2002

Respondent's Exhibit 7 – Letter to Mr. Kreider from Terrance Bronowski dated
September 20, 2002

Respondent's Exhibit 8 – Letter to Terrance Bronowski from John Diehl dated
October 11, 2002

Respondent's Exhibit 9 – Letter to John Diehl from Terrance Bronowski, dated
November 22, 2002, regarding 3717 Grant Street

Respondent's Exhibit 10 – Letter to John Diehl from Terrance Bronowski, dated
November 22, 2002, regarding 650 Grant Street

² Throughout the proceedings the Respondents referred to this as 8777 Broadway; this is the address on the building as shown in Respondent's Exhibit 2. The petition shows the address as 8877 Broadway.

Respondent's Exhibit 11 – Letter indicating that the staff of the PTABOA was recommending denial of an exemption for parcel 25-45-0124-0022 (not the subject of these appeals)

Respondent's Exhibit 12 – Letter indicating that the staff of the PTABOA was recommending denial of exemptions for five parcels, 1212 N. Broad Street, 120 E. 89th Street, 8899 Broadway, 8777 Broadway and 1619-1635 W. 5th Avenue

Respondent's Exhibit 13 – Letter indicating that the staff of the PTABOA was recommending denial of exemptions for 1619-1635 W. 5th Avenue, 3717 Grant Street, 3769-3793 Grant Street, and 3777-3779 Grant Street

6. The following additional items are officially recognized as part of the record of proceedings and labeled Board exhibits:
 - A. Copy of the Form 132 petition with attachments
 - B. Notices of Hearing – various dates due to rescheduling
 - C. Letter from the Lake County PTABOA dated May 19, 2003
 - D. Board response to Lake County PTABOA letter dated May 27, 2003

7. The subject properties are physicians' offices known as Primary Care Associates. The Calumet Township property is located at 1212 N. Broad Street, Griffith, IN. The Ross Township property, which consists of three parcels, is located at 8777 Broadway, Merrillville, IN.

8. The ALJ did not conduct an on-site inspection of the subject property.

9. The Lake County PTABOA determined the land, improvements, and personal property to be 100% taxable for 2000.

10. The Petitioner contends that the land, improvements, and personal property should be 100% tax exempt for 2000.

OBJECTIONS

New Evidence and Testimony

11. Respondent objected to Petitioner's presentation of several items of testimony and evidence on the grounds that it had not been previously presented to the PTABOA. *McDowell argument*. Counsel for the Respondent suggested that it was unfair and inappropriate for the Board to consider evidence that was not before the PTABOA. *McDowell argument*.
12. Respondent misunderstands the nature of proceedings before the Board. Ind. Code § 6-1.1-15-4(k) states: "A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals." *Id.* The Board's proceedings are *de novo* unless all parties agree to limit the scope of the appeal to the issues raised before the PTABOA. Ind. Code § 6-1.1-15-4(k). Even then, new and different evidence can be presented to the Board.
13. The Board finds no indication in the record that the parties agreed to any limitation on issues or evidence to be presented to the Board. Petitioner was well within its rights to present evidence that was not before the PTABOA. Respondent's objection is overruled.

Impartiality of the Administrative Law Judge

14. Respondent objected several times to Administrative Law Judge Ellen Yuhan hearing the case.
 - (a) In a letter dated May 19, 2003, Sharon Fleming of the PTABOA asked that a person who is not from Lake County be assigned to the case. *See Board Exhibit C*. The Board responded with a May 27, 2003, letter that explained:

[b]ecause we are a small agency with limited staff, it is our practice to assign cases to the nearest field personnel. If you believe that it is inappropriate for Ms. Yuhan to conduct the hearing, please convey your specific reasons in writing to the

Indiana Board of Tax Review. Unless you show good cause for the change of ALJ in this case, Ms. Yuhan will conduct the hearing.

See Board Exhibit D. The Board did not receive a response to that letter. As Respondent did not respond with specific reasons behind its motion, the Board finds no reason to reverse this decision.

(b) On November 5, 2003, at the hearing, counsel for the Respondent, Dock McDowell, moved for “withdrawal of the submission of the matter to [ALJ Yuhan]. It strikes me and my clients that [ALJ Yuhan] may have a predisposition to prejudge this matter or bias towards our clients, if you won’t try and let us present our case.” *McDowell argument.* McDowell further stated “I move for the withdrawal of the submission of the matter to the hearing officer for perceived biasness [sic]” and explained that he felt he had been interrupted needlessly and that ALJ Yuhan had indicated disinterest in continuing with the proceedings. *McDowell argument.* ALJ Yuhan recessed the hearing and telephoned Board member Betsy Brand to discuss the motion. After discussion of the motion, ALJ Yuhan returned on the record, noted that the matter had been discussed and that she had been instructed to proceed with the hearing, and denied the motion.

(c) On April 28, 2004, at the third convening of the hearing, McDowell again objected to ALJ Yuhan’s handling of the case after she had warned counsel for both parties to refrain from insulting each other and the witnesses. McDowell said “[w]e now ask for the withdrawal of submission of this case to you . . . [b]ecause you have interjected your bias and your prejudice into this case, by suggesting and characterizing the commentary of counsel as being insulting.” *McDowell argument.* ALJ Yuhan noted the motion for the record and denied the motion as having been ruled on twice previously.

15. Ind. Code § 4-21.5-3-10 provides guidance on the disqualification of an administrative law judge, allowing disqualification for “(1) bias, prejudice, or interest in the outcome of the proceeding; (2) failure to dispose of the subject of a proceeding in an orderly and

reasonably prompt manner after a written request by a party; or (3) any cause for which a judge of a court may be disqualified.” *Id.*

16. The Board has thoroughly examined the record in light of the allegations against ALJ Yuhan. The Board finds no evidence that ALJ Yuhan’s actions presented bias or prejudice against either party. Respondent failed to give specific reasons at the hearing to support its allegations. The Board finds no evidence that ALJ Yuhan has any pecuniary or other interest in the outcome of the proceeding.
17. The Board further finds that ALJ Yuhan disposed of the subject proceedings in an orderly and reasonably prompt manner – even though no written request was made by either party. Review of the record shows that ALJ Yuhan remained patient and level-headed throughout the rather lengthy and heated proceedings. The hearing was delayed in that the parties were forced to reconvene twice in order to conclude their cases, but such delay was directly attributed to the actions of counsel, not ALJ Yuhan.
18. The Board finds no conflicts or grounds for disqualification under the rules of court to disqualify ALJ Yuhan. The record does not support Mr. McDowell’s allegations, and the motion to remove ALJ Yuhan from the proceedings is denied.

JURISDICTIONAL FRAMEWORK

19. 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 Ind. 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

20. A Petitioner seeking review of a determination of the county Property Tax Assessment Board of Appeals has the burden to establish a prima facie case proving, by a preponderance of the evidence, 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).
21. 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.”).
22. 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 evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

CONSTITUTIONAL AND STATUTORY BASIS FOR EXEMPTION

23. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. IND. CONST. Art. 10, § 1.
24. Article 10, § 1 of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption.
25. In Indiana, use of property by a nonprofit entity does not establish any inherent right to exemptions. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how property is used, but on how money is spent. *Raintree Friends Housing*,

Inc. v. Indiana Dep't of Revenue, 667 N.E.2d 810 (Ind. Tax 1996) (non-profit status does not entitle a taxpayer to tax exemption). In determining whether property qualifies for an exemption, the predominant and primary use of the property is controlling. *State Bd. of Tax Comm'rs v. Fort Wayne Sport Club*, 258 N.E.2d 874, 881 (Ind. Ct. App. 1970); Ind. Code § 6-1.1-10-36.3.

BASIS OF EXEMPTION AND BURDEN

26. In Indiana, the general rule is that all property in the State is subject to property taxation. *See* Ind. Code § 6-1.1-2-1.
27. 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 – taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *See generally, Nat'l Assoc. of Miniature Enthusiasts v. State Bd. of Tax Comm'rs*, 671 N.E.2d 218 (Ind. Tax 1996).
28. The transfer of this obligation to non-exempt properties should never be seen as an inconsequential shift. This is why worthwhile activities or noble purpose alone is not enough for tax exemption. Exemption is granted when there is an expectation that a benefit will inure to the public by reason of the exemption. *See Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Comm'rs*, 550 N.E.2d 850, 854 (Ind. Tax 1990).
29. 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 statute under which the exemption is being claimed. *Monarch Steel v. State Bd. of Tax Comm'rs*, 611 N.E.2d 708, 714 (Ind. Tax 1993); *Indiana Assoc. of Seventh Day Adventists v. State Bd. of Tax Comm'rs*, 512 N.E.2d 936, 938 (Ind. Tax 1987).

ANALYSIS

Whether the offices known as Primary Care Associates should be tax-exempt.

30. The Petitioner contends that the subject properties should be 100% exempt from property taxation as they are part of a continuum of care supportive of the inpatient facility of the hospital. *See Board Ex. A.* The Petitioner contends that the subject offices are managed, treated, and accounted for like any other department of the hospital. *Id.*
31. The Respondent contends that the Petitioner has not proven that the services conducted at the subject properties include the provision of charity care and care for the indigent nor that the services are reasonably necessary to the hospital's function. *McDowell argument.*
32. The applicable rules and case law governing this Issue are:

Ind. Code § 6-1.1-10-16

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.

Ind. Code § 6-1.1-10-36.3

Sec. 36.3. (a) Property is predominantly used or occupied for one of the stated purposes if it is used or occupied for one or more of those purposes during more than 50% of the time that it is used or occupied in the year that ends on the assessment date of the property.

Ind. Code § 6-1.1-10-16(h)/Ind. Code § 6-1.1-10-18.5(a)

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 16-21-1 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 provides or supports the provision of charity care, or provides or supports the provision of community benefits including research, education, or government sponsored indigent health care.

***St. Mary's Medical Center of Evansville v. State Bd. of Tax Comm'rs and the Vanderburgh County Bd. of Review*, 534 N.E.2d 277 (Ind. Tax 1989)**

The office buildings must be reasonably necessary for the maintenance of the charitable purpose and the resulting benefit from the use of the buildings must inure to the public.

33. The Petitioner presented the following evidence and testimony in regard to this issue:
- A. Methodist Hospital is a not-for-profit corporation; it is one entity, which covers different locations. *Diehl testimony.*
 - B. The subject properties are known as Primary Care Associates. The medical offices provide primary care medical services as part of a continuum of care, which supports the Hospital's in-patient care facilities. Methodist Hospital owns the buildings and the physicians who practice there are employees of Methodist. No part of these is leased to physicians who are independent contractors. Methodist operates Primary Care Associates like any other department of the Hospital. There is no difference in the way it is managed, treated, or accounted for in our books and records. *Diehl testimony.*
 - C. Fees rendered for the services at these offices belong to the Hospital. The Hospital bills the patient and the third-party payers. *Diehl testimony. Respondent's Exhibit 3, Section 2.1. Attachment to Board Exhibit A.*
 - D. The Hospital has a benefit program for the physicians and pays for their professional liability insurance. *Diehl testimony. Respondent's Exhibit 3, Sections 7-8. Attachment to Board Exhibit A.* The Hospital makes available and maintains such facilities and equipment as is necessary to provide medical services. *Diehl testimony. Respondent's Exhibit 3, Section 12, Attachment to Board Exhibit A.*
 - E. The employment agreement with the physician states that the physician shall provide specialty related care to members of the community without regard to ability to pay or the availability of third-party reimbursement. *Diehl testimony. Respondent's Exhibit 3, Section 2.5. Attachment to Board Exhibit A.*
 - F. All of the operations combined account for millions of dollars in charity care. However, he is unable to allocate a percentage of that charity care to a specific location, as there is no specific document maintained by Methodist that details charity care to a specific site. *Diehl testimony.*
 - G. The compensation section of the employment agreement was redacted. The W-2 forms were for 2001; they were also redacted as confidential and irrelevant to these proceedings. *Diehl testimony. Respondent's Exhibit 3, Section 9. Respondent's Exhibit 5. Attachment to Board Exhibit A.*

- H. The community benefits plan outlines the things Methodist is going to do to serve the community health needs. It is prepared for the organization as a whole, and not separately identified by individual pieces. As part of Methodist Hospital, Primary Care would have participated in the community benefits plan. *Diehl testimony*.
 - I. The Petitioner submitted a State Board of Tax Commissioners' determination in the matter of the 1995 petition for Sisters of Saint Francis Health Services and maintains that the facts of that case are the same as the facts in this appeal. *Board Exhibit A - Attachment to Form 132, Exhibit F*.
34. The Respondent presented the following evidence and testimony in regard to this issue:
- A. The Petitioner did not submit any documentation regarding indigent care, charity care, or community benefits. The Petitioner never provided any information to prove that the subject properties were used for an exempt purpose. *Seaton, Wilusz, and Fleming testimony*.
 - B. The subject properties are not supportive of the hospital. If these offices closed, the hospital would still be able to function. *Seaton, Wilusz, and Fleming testimony*.

Analysis of Issue

35. In order to be exempt in whole or part from property taxation, the Petitioner must meet one or more of the following three standards or tests:
- a. The "predominant use" standard as set forth in Ind. Code § 6-1.1-10-36-3.
 - b. The "substantial relation" standard as set forth in Ind. Code § 6-1.1-10-16(h)
 - c. The "charity care" or "community benefit" obligation as set forth in Ind. Code § 6-1.1-10-16(h).

Predominant Use

36. A "predominant use" test was adopted for determining whether property qualifies for exemption under Ind. Code § 6-1.1-10. "Although charitable giving might serve as evidence to support claimed charitable use of the facility, the statutory test since 1983 has

been predominant use of the facility, not distribution of income for charitable purposes.”
State Bd. of Tax Comm'rs v. New Castle Lodge #147, 765 N.E.2d 1257, 1263 (Ind. 2002).

37. Pursuant to Ind. Code § 6-1.1-10-36.3, property is predominantly used or occupied for one or more stated purposes if it is used or occupied for one 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. Property that is predominantly used or occupied for purposes other than one of the stated purposes is not exempt from any part of the property. *Id.*
38. The Petitioner presented evidence and the testimony of Mr. Diehl to establish that the Hospital did not lease the premises to the physicians; the offices are occupied entirely by physicians and staff members employed by Methodist Hospital. The Petitioner included one redacted Professional Services Employment Agreement (*Attachment to Board Exhibit A*) to show that the physicians are required to provide charity care and that the hospital bills and collects for all services. Primary Care Associates is one part of the continuum of patient services offered by the hospital in many locations.
39. The Professional Employment Service Agreement also states that the hospital shall make available such facilities and equipment as is necessary for the provision of services.³ The hospital shall also be responsible for maintaining the facilities and equipment at the hospital's expense. *Attachment to Board Exhibit A, at 15.*
40. The Petitioner did not present any evidence, nor is there anything in the record, indicating that the predominant use of the subject property is for an exempt purpose. The predominant use of the property is to provide medical services to all patients. The fact that an unspecified number of patients fall into the category of charity care does not make the facility predominantly used for charity. Incidental charity of an indeterminable amount belies the predominant use test.

³ The Agreement submitted also includes a section for compensation that was redacted by Petitioner's attorney. Although Respondent's counsel spent considerable effort probing this point, the Board finds the compensation paid to the physicians to be irrelevant to the determination of the charitable use of the property.

Reasonably Necessary or Substantially Related

41. The “reasonably necessary” test, applied by the Tax Court in *LeSea Broadcasting Corp. v. State Bd. of Tax Comm’rs*, 535 N.E.2d 637 (Ind. Tax 1988), held that property is exempt if its ownership, use, and occupancy are reasonably necessary to further the exempt purpose. For physicians’ offices, such as those at issue here, a similar standard has been codified in Ind. Code § 6-1.1-10-16(h). The property must be “substantially related to or supportive of the in-patient facility of the hospital.”
42. In *St. Mary’s Medical Center v. State Bd. of Tax Comm’rs*, 571 N.E.2d 1247 (Ind. 1991), the Supreme Court affirmed a prior Tax Court decision that the nexus between the use and occupancy of the subject buildings by physicians and the hospital’s exempt purpose was insufficient as a basis for exempt status. The facts and circumstances of the instant matter are directly on point to the *St. Mary’s* decision.
43. The subject property, which houses the Primary Care Associates, was not shown to be reasonably necessary for the maintenance of the Petitioner’s exempt purpose as required by *St. Mary’s Medical Center*.

Charity Care

44. Ind. Code § 6-1.1-10-16(h) and Ind. Code § 6-1.1-10-18.5(a) create an alternative route to exempt status for physicians offices, even if the property is not “substantially related” to the hospital’s exempt purpose, if the property provides or supports the provision of charity care or community benefits.
45. While the statute does not specify a minimum amount of charity care and community benefit necessary to qualify for exemption, there must be some meaningful contribution, if the purpose of tax-exempt status is to be served. The taxpayer must demonstrate that it provides “a present benefit to the general public . . . sufficient to justify the loss of tax

revenue.” *Nat’l Assoc. of Miniature Enthusiasts*, 671 N.E.2d at 221 (quoting *St. Mary’s Medical Center*, 534 N.E.2d at 279).

46. While the Petitioner contends that the physicians are required to provide charity care, no specific information was submitted to show what charity care, if any, was provided at Primary Care Associates.
47. The old State Board of Tax Commissioners (STBC) decision in *St. Francis (Board Exhibit A - Attachment to Form 132, Exhibit F)* concluded that offices could be exempt if they support charity. Methodist argues that the *St. Francis* decision should control in this case. The precise factual basis of the SBTC’s decision in *St. Francis* is not clear. Findings that the doctors’ employment contract required them to “support” charity, and that support was part of the Hospital’s overall charitable mission, were important, but do not answer the more in depth threshold questions that have subsequently been found necessary under the standards developed by the Board. The Board’s decisions in *Parkview Health System Inc.* (Petition # 02-065-99-2-8-00001, *et al.*, March 26, 2003) apply the more probing tests: (1) predominant use, (2) substantially related and reasonably necessary, and (3) level of charity care. These are statutory requirements supported by, and reflected in, case law. *See* Ind. Code § 6-1.1-10-16(h)(1); *State Bd. of Tax Comm’rs v. New Castle Lodge #147*, 765 N.E.2d 1257, 1263 (Ind. 2002); *LeSea Broadcasting Corp. v. State Bd. of Tax Comm’rs*, 535 N.E.2d 637 (Ind. Tax 1988); *Nat’l Assoc. of Miniature Enthusiasts v. State Bd. of Tax Comm’rs*, 671 N.E.2d 218 (Ind. Tax 1996).
48. Whether the SBTC felt the evidence in *St. Francis* met these tests cannot be known conclusively, and at this point is not directly relevant to the Board’s evaluation. In any case, the old and new decisions are not fundamentally inconsistent. *Parkview* and other more recent Board decisions simply expand on what must be demonstrated in order to allow the Board to conclude that the offices support charity. To require evidence that a meaningful amount of charity is required before the Board can conclude that the offices are “supportive” of charity is not unreasonable. Additionally, a more strict review seems to be supported by the specific provisions of Ind. Code § 6-1.1-10-16(h)(1) when it puts

emphasis on the providing of “financial support for health care services for individuals who are indigent.” This standard effectively calls for some level of review of financial records, and a demonstration of actual financial support, rather than a vague contractual statement of potential support.

49. The Petitioner failed to supply any type of documentation to prove that the Primary Care Associates provided any charity care or health care for the indigent for the year under appeal. The Petitioner did not submit a community benefits plan or financial information documenting the level of benefits provided to the public by Primary Care Associates.

SUMMARY OF FINAL DETERMINATION

50. The property in question does not qualify for exemption pursuant to Ind. Code § 6-1.1-10-16. The Petitioner did not provide evidence to show the amount of charity and community benefits. The subject property was not shown to be predominantly used, nor is it reasonably necessary, for the exempt purpose of Methodist Hospitals, Inc. Accordingly, the decision of the Lake County PTABOA is upheld and the property remains 100% taxable.

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

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. 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 of the date of this notice.