

REPRESENTATIVE FOR PETITIONER: Mary Ann Boulac, Attorney

REPRESENTATIVE FOR RESPONDENT: Frank J. Agostino, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

ST. JOSEPH REGIONAL)	Petition Nos.: 71-018-08-2-8-00002
MEDICAL CENTER, INC.)	71-018-08-2-8-00005
)	
Petitioner)	County: St. Joseph
)	
v.)	Township: Portage
)	
)	Parcel Nos.: 185021073501
)	1850240860
)	
ST. JOSEPH COUNTY)	
ASSESSOR)	
)	
Respondent)	Assessment Year: 2008
)	

Appeal from the Final Determination of
St. Joseph County Property Tax Assessment Board of Appeals

October 25, 2010

FINAL DETERMINATION

The Indiana Board of Tax Review (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

Introduction

1. St. Joseph Regional Medical Center, Inc. sought an exemption for portions of medical pavilions that it rented to physicians and other medical providers. Because St. Joseph did not show that those parts of the pavilions were substantially related to or supportive of its inpatient hospital or that they were otherwise used or occupied for exempt purposes, St. Joseph failed to make a prima facie case.

BACKGROUND AND PROCEDURAL HISTORY

2. St. Joseph filed Form 136 petitions with the St. Joseph County Property Tax Assessment Board of Appeals (“PTABOA”) seeking an exemption for the subject parcels. On May 27, 2010, the PTABOA issued Form 120 determinations finding that each parcel was 63% exempt and 37% taxable.¹
3. On January 6, 2009, St. Joseph filed Form 132 petitions with the Board claiming that each parcel was exempt under Ind. Code § 6-1.1-10-16. *Board Ex. A*. The Board has jurisdiction over St. Joseph’s appeals under Ind. Code § 6-1.5-4-1(a). On July 29, 2010, the Board held an administrative hearing through its duly designated Administrative Law Judge, Jennifer Bippus.
4. The following people were sworn in at the hearing:

For St. Joseph:

Michael Boardley, Controller, St. Joseph Regional Medical Center, Inc.

Mary Ann Boulac, counsel for St. Joseph Regional Medical Center, Inc.

¹ Those allocations reflect what the parties agreed were the PTABOA’s official determinations. The Form 120 determination attached to St. Joseph’s Pet. No. 71-018-08-2-8-00002 shows a slightly different allocation for the parcel ending in 501: 64% exempt and 36% taxable. That Form 120 determination is undated. Petitioner’s Ex. 6 contains a copy of a Form 120 determination that lists the parcel as 63% exempt and 37% taxable, but it also indicates that the determination was mailed on May 27, 2010—more than a year after St. Joseph filed its Form 132 appeal with the Board.

For the Assessor:

David Wesolowski, St. Joseph County Assessor

Ross A. Portolese, PTABOA member

Kevin Klaybor, PTABOA member.

5. The parties offered the following exhibits:

For St. Joseph:

- Petitioner Exhibit 1: Letter from Internal Revenue Service,
- Petitioner Exhibit 2: Articles of Incorporation of St. Joseph's Hospital of South Bend,
- Petitioner Exhibit 3: Bylaws of Saint Joseph's Regional Medical Center-South Bend Campus, Inc.,
- Petitioner Exhibit 4: Consolidating Balance Sheet FY 2007 and Consolidating Statements of Operations FY 2007,
- Petitioner Exhibit 5: Form 136 Application for Property Tax Exemption,
- Petitioner Exhibit 6: Form 120 Notice of Action on Exemption Application,
- Petitioner Exhibit 7: Form 132 Petition to the Indiana Board of Tax Review for Review of Exemption and hearing notice,
- Petitioner Exhibit 8: May 12, 2008 Square Footage Report,
- Petitioner Exhibit 9: Responsibility Summary reports,
- Petitioner Exhibit 10: Printout of MACOG map of area.

For the Assessor:

The Assessor did not offer any exhibits.

6. The following additional items are officially recognized as part of the record of proceedings and labeled Board Exhibits:

- Board Ex. A: Form 132 petitions
- Board Ex. B: Hearing notices dated June 8, 2010,
- Board Ex. C: Order on conducting exemption hearings, dated July 20, 2010,
- Board Ex. D: Notice of Appearance by Frank Agostino,
- Board Ex. E: Assessor's witness list,
- Board Ex. F: Hearing sign-in sheet.

7. The PTABOA issued determinations exempting 63% of each parcel's land and improvements and finding the other 37% taxable. St. Joseph contends that each parcel's land and improvements should be 100% exempt.

8. Neither the Board nor the ALJ inspected the subject parcels.

Findings of Fact

9. St. Joseph is a not-for-profit corporation that, among other things, operated a hospital on LaSalle Street during the times relevant to these appeals. *Boulac testimony*. The hospital has since moved. *Id.* The subject parcels contain three medical pavilions. One is located at 811 Madison Street adjacent to where the hospital was before it moved. The other two parcels are located across the street at 707 Cedar Street. *Id.*; *Pet'r Exs. 5, 10*.
10. The hospital directly occupied and used approximately 63% of the pavilions. *See Pet'r Ex. 8; Boulac testimony*. St. Joseph rented the remaining 37% to doctors or other tenants who St. Joseph did not employ. *Id.* St. Joseph did not receive any of the tenants' income, and St. Joseph charged what it thought was market rent. *Boulac testimony*. Nonetheless, the pavilions operated at a loss, at least if one counts the depreciation that St. Joseph claimed on the pavilions as an expense. *Boulac testimony; Boardley testimony; Pet'r Ex. 9*.
11. According to Ms. Boulac, tenant-doctors at the pavilions (1) were available for the hospital's residents, (2) "did some teaching" in conjunction with being tenants, and (3) "were supportive of the emergency room staff if they were needed." *Boulac testimony*. The record, however, contains no specifics on those points. For example, it does not show in what capacity or how frequently those tenant-doctors were available to the hospital's residents. Similarly, it does not show how or when they were "supportive" of the hospital's emergency room staff. Finally, there is nothing to show what those tenant-doctors taught, whom they taught it to, or when they taught it.²

² In a brief that St. Joseph did not separately offer as an exhibit, Ms. Boulac asserted that tenant-doctors "provide pro bono medical services at the Chapin Street Clinic operated by the property owner." Because Ms. Boulac made that factual assertion in a brief that she did not offer as an exhibit, the Board does not consider it as evidence.

Conclusions of Law and Analysis

12. Generally, all tangible property in Indiana is taxable. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004)(citing Ind. Code § 6-1.1-2-1). The legislature, however, has exercised its power under Article 10, section 1 of our state's constitution to exempt certain types of property. Thus, among other statutes, the legislature enacted Ind. Code § 6-1.1-10-16—the statute under which St. Joseph claims its exemption.³ When read together with Ind. Code § 6-1.1-10-36.3, that statute exempts all or part of a building that is owned, occupied, and predominately used for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c)(4) (“Property that is predominantly used or occupied for a purpose other than one (1) of the stated purposes is not exempt from any part of the property tax.”). The exemption also generally extends to the land on which an exempt building sits and personal property contained therein. *Indianapolis Osteopathic Hospital*, 818 N.E.2d at 1015. Regardless of the type of property at issue, a taxpayer bears the burden of proving that its property is exempt. *Id.*
13. Although St. Joseph offered little evidence to show that the hospital located near the subject parcels qualified for an exemption, the Assessor does not appear to dispute that point. Indeed, the PTABOA granted an exemption to the portions of the pavilions that the hospital used and occupied, presumably because St. Joseph used both the hospital building and those portions of the pavilions for exempt purposes. St. Joseph, however, claims that the portions of the pavilions that it rented to doctors and other tenants should also be exempt because those tenants supported the hospital's exempt activities.
14. Generally, non-profit hospitals maintained to “relieve the destitute and deserving” are charitable. *Indianapolis Osteopathic Hospital, Inc.* 818 N.E.2d at 1015. Other property owned by a non-profit hospital, however, “does not automatically receive a charitable purpose exemption.” *Id.* Instead, Ind. Code § 6-1.1-16-10(h) provides:

³ Indiana Code § 6-1.1-10-18.5 also provides an exemption for property owned by an Indiana not-for-profit corporation and used to operate a hospital licensed under Ind. Code § 16-21. St. Joseph, however, did not claim an exemption under Ind. Code § 6-1.1-10-18.5.

This section [I.C. § 6-1.1-16] 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:

(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.

I.C. § 6-1.1-10-16(h). Thus, the mere fact that a licensed not-for-profit hospital owns property, even property occupied by hospital-employed physicians, does not automatically make that property exempt. Instead, the property must be either “substantially related to or supportive of the in-patient facility of the hospital,” or be used to provide certain defined types of charity care or community benefits.

15. For purposes of Ind. Code § 6-1.1-10-16(h), a hospital’s “inpatient facility” is not the “entire hospital,” but only that part where “admitted patients are provided overnight accommodations, meals and medical treatment.” *Methodist Hospitals, Inc. v. Lake County Property Tax Assessment Bd. of Appeals*, 862 N.E.2d 335, 339 (Ind. Tax Ct. 2007). And to be “substantially related to or supportive of” a hospital’s inpatient facility, a property must be “associated, to a considerable degree, to a hospital’s inpatient facility” or “provide[] considerable aid to, or promote[] to a considerable degree, the interests of a hospital’s inpatient facility.” *Id.*

16. In *Methodist Hospitals*, Methodist, which owned and operated two acute care hospitals, sought to exempt two Primary Care Associates (“PCA”) medical offices that it also owned and operated. 862 N.E.2d at 336. Methodist employed the physicians and other staff members at the PCAs and performed banking and other administrative functions for the PCAs. *Id.* Although Methodist did not send patients to the PCAs, PCA physicians

could admit their patients to Methodist's hospitals and could treat inpatients at those hospitals. *Id.*

17. Based on the totality of the circumstances, the Tax Court found that Methodist had not shown that the PCAs were substantially related to or supportive of Methodist's inpatient facilities. *Id.* at 340. Methodist's actions in performing the PCAs' administrative functions did not show a relationship between the PCAs and Methodist's inpatient facilities. *Id.* Similarly, although the PCAs may have supported Methodist's overall continuum of care by offering services to people from all over the region and admitting patients to Methodist's hospitals, the court refused to presume a substantial relationship merely because Methodist and the PCAs engaged in the same type of business activity. *Id.* at 339-40. Finally, while PCA physicians treating inpatients showed at least some relationship to Methodist's inpatient facilities, it did not show a substantial relationship to those facilities. To the contrary, the PCA physicians provided a substantial amount of care to members of the public. *Id.*

18. Here, St. Joseph offered little evidence to show how its tenants used the subject parcels to support St. Joseph's inpatient facility. At most, Ms. Boulac testified that tenants (1) were available for the hospital's residents, (2) "did some teaching" in conjunction with being tenants, and (3) "were supportive of the emergency room staff if they were needed." But Ms. Boulac did not identify which tenants actually performed those services or how often they did so. Nor did she testify that the tenants performed any of those services during the year leading up to the March 1, 2008 assessment date at issue in these appeals. Ms. Boulac's vague testimony did not show that the tenants considerably aided or promoted the inpatient portion of St. Joseph's hospital. To the contrary, because the tenants' practices were independent from St. Joseph, the Board infers that, like the PCA physicians in *Methodist*, they provided substantial care to members of the public rather than to inpatients at St. Joseph's hospital. Finally, the fact that the pavilions may have operated at a loss does nothing to bolster the relationship between the pavilions' leased offices and inpatient part of St. Joseph's hospital.

19. Thus, St. Joseph failed to make a prima facie case that the subject parcels were “substantially related to or supportive of” its inpatient facility. And St. Joseph did not argue that the subject parcels were exempt on any ground other than that they were related to St. Joseph’s hospital. For example, St. Joseph did not claim that the subject parcels qualified for exemption because they were independently used to provide charity care or community services as outlined in Ind. Code § 6-1.1-16-10(h)(10 and (2). In any event, Ms. Boulac’s vague testimony about the services that the doctor-tenants performed would not have supported such a claim.

Summary of Final Determination

20. Because St. Joseph did not show that the portions of the subject parcels that it rented out were substantially related to or supportive of its inpatient hospital, it failed to make a prima facie case that those portions should be exempt from property taxes. The Board therefore affirms the PTABOA’s determinations.

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

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

IMPORTANT NOTICE

- 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>