

PT 09-16

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

v.

**HOOPESTON COMMUNITY MEMORIAL
HOSPITAL d/b/a HOOPESTON REGIONAL
HEALTH CENTER**

Applicant

Docket # 08-PT-0018

Tax Year 2006

RECOMMENDATION FOR DISPOSITION

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Denise K. Bates of Thomas, Mamer & Haughey, LLP for Hoopeston Community Memorial Hospital d/b/a Hoopeston Regional Health Center

Synopsis:

Hoopeston Community Memorial Hospital d/b/a Hoopeston Regional Health Center (“applicant” or “Health Center” or “HRHC”) filed two applications for property tax exemptions for the year 2006 for two parcels of property located in Vermillion County. One parcel is used for the Charlotte Ann Russell Medical Center (“CAR Medical Center” or “clinic”), and the other one is used for an independent living center. The Vermillion County Board of Review (“County”) recommended that both parcels receive a full year exemption. The Department of Revenue (“Department”) disagreed

with the County's decision and found that the property is neither owned by a charitable organization nor used for charitable purposes. The applicant timely protested the Department's decision, and an evidentiary hearing was held. At the hearing, the applicant withdrew its request for an exemption for the parcel that is used for an independent living center. (Tr. p. 14) The applicant contends that the parcel that has the CAR Medical Center is owned by a charitable organization and is used exclusively for charitable purposes pursuant to section 15-65 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*) After reviewing the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The property is owned by the applicant, Hoopeston Community Memorial Hospital d/b/a Hoopeston Regional Health Center, which includes Hoopeston Community Memorial Hospital and Nursing Home, Country Terrace, and Hoopeston Medical Center d/b/a Charlotte Ann Russell Medical Center.¹ (Dept. Ex. #1, pp. 26-30, 39-40)
2. The applicant's bylaws, which were last amended on March 30, 2006, include the following mission statement:

Hoopeston Regional Health Center's mission is to serve the citizens of Hoopeston and surrounding communities with dignity, courtesy, and respect endeavoring to meet their healthcare needs throughout their lifetime. (Dept. Ex. #1, pp. 39-40)

3. The bylaws also include the following as the applicant's purpose, in relevant part:

Hoopeston Regional Health Center exists to provide comprehensive health care services through the Hoopeston Community Memorial Hospital and Nursing Home, Charlotte Ann

¹ The hospital is a 25 bed hospital that provides inpatient and outpatient services. The nursing home is a 75 bed long-term care facility, and Country Terrace is a 30 unit independent living facility. (App. Ex. K10)

Russell Medical Center and Country Terrace independent living facility.

As a means to this end, Hoopeston Regional Health Center:

- a. Maintains a health care facility that includes inpatient beds and medical services for the maintenance and restoration of health, seeking to provide those served with a high quality of comprehensive health care;
- b. Carries on any educational activities related to rendering care to the sick and injured, or the promotion of health, that in the opinion of the Board of Directors may be justified by the facilities, personnel, funds, and other requirements that are or can be made available;
- c. Participates, when feasible, in any activity designed and carried on to promote the general health of the communities served.

Notwithstanding any other provision of these Bylaws..., Hoopeston Regional Health Center shall admit and treat individuals without regard to race, color, handicap, age, sex, national origin, creed, or religious beliefs of persons admitted or treated, nor be engaged in sectarian instruction (except for pastoral services of the kind permitted or provided by hospitals generally)....

The Hoopeston Regional Health Center ... is organized for philanthropic, scientific, and educational purposes as a not-for-profit 501(c)(3) corporation. Its activities shall be conducted in such a manner that no part of its net earnings shall inure to the benefit of its incorporators. (Dept. Ex. #1, p. 40)

4. The applicant's charity care policy that became effective on January 23, 2003

provides, in part, as follows:

Hoopeston Regional Health Center affirms and maintains its commitment to serve our community in a manner consistent with our mission, vision, and value statements. These statements emphasize our commitment to meet the healthcare needs of our community through the provision of quality patient care. Within the limits of our resources, the use of our facility's services and efforts will be provided to aid all persons, regardless of their financial resources.

Financial assistance will be based solely on financial resources and will not be abridged on the basis of age, sex, race, color, creed, or

national origin. Necessary medical services shall be available to all individuals under this policy. HRHC will refer individuals to alternative programs or services within the community where appropriate programs and services are available. HRHC will also actively pursue and assist the individual in pursuing alternative sources of payment from third parties (i.e., Medicaid). Both of these actions are intended to allow HRHC to provide the maximum level of financial assistance within the limits of its resources.

HRHC will ensure individuals seeking financial assistance will be treated with dignity, sensitivity, and confidentiality.

The Board of Directors of the Hoopston Regional Health Center will approve an annual financial assistance aggregate limit in conjunction with the budget process. Once this limit has been reached, no additional financial assistance will be granted for that fiscal year. ... (App. Ex. G1)

5. The applicant's charity care policy states that eligibility is based on the federal poverty income guidelines. The policy also states that no charity care consideration will be given for, *inter alia*, "[a]ccounts already considered bad debt and/or referred for collection." It states that exceptions to this may only be made with prior written approval of the Administrative Team. (App. Ex. G1-3)
6. The separate charity care policy for the CAR Medical Center states, in part, as follows:

It is the Hoopston Regional Health Care's policy to provide essential services regardless of the patient's needs for financial assistance. Discounts are offered depending upon household income and size. A sliding fee schedule is used to calculate the basic discount and is updated each year using the federal poverty guidelines. Once approved, the discount will be honored for six months, after which the patient must reapply. (App. Ex. E1)
7. Patients who need financial assistance must complete an application, which includes submitting required documentation. (App. Ex. E1, E5)

8. The CAR Medical Center is a one-story building that was constructed in 2000 with no basement. It has approximately 9,436 square feet of space. A parking lot is adjacent to the building. (Dept. Ex. #1, p. 37)
9. The building has offices and patient treatment areas for family care physicians and physician's assistants, along with their staff. The medical services are coordinated with the services provided by the hospital located directly west of the building. (Dept. Ex. #1, p. 36)
10. The clinic has a sign relating to discounted fees that states as follow:

Charlotte Ann Russell Medical Center Discount Fee Policy

It is our policy to provide uninsured patients essential medical care.

Discounts are offered depending upon family income and size. The basic discount is updated each year using the federal poverty guidelines. (App. Ex. H; Tr. p. 32)

11. Invoices that are sent to patients of the CAR Medical Center indicate the following options for paying the account:

Payment Arrangements – If you do not qualify for any of the assistance below and you cannot make payment in full, payment arrangements are available. Please call to setup a monthly payment and due date for the balance you owe.

Charity Care – We offer Charity Care on a couple of levels, based on income and available cash/assets. Charity Care is an application process. If you need financial assistance with your bill please contact us.

All Kids – This is a program that the State of Illinois offers in an effort to ensure health insurance coverage for all children. If your child does not have insurance or you cannot afford the deductibles, co-pays or co-insurance left by your employer/private health insurance please call to inquire about the All Kids program. Coverage is also available for eligible parents/caregivers.

Medical Assistance – We are able to offer you limited assistance with the State of Illinois’ Medical Assistance Program. If you feel you may qualify for help under this program due to financial hardship, or medical disability please call.

Uninsured Discount – If you do not have insurance, we have a 20% uninsured discount available for most services. If this applies to you, please sign, date and return the coupon below with your bill.² Please contact us to make payment arrangements on the balance if it is not feasible for you to pay the balance in full. (App. Ex. I)

12. The fiscal year for the applicant begins on October 1 and ends on September 30 of each year. (Dept. Ex. #1, p. 50)
13. The applicant’s audited financial statement for the fiscal year ending September 30, 2006, which includes the CAR Medical Center, shows the Statement of Operations as follows:

Unrestricted Revenues, Gains and Other Support	
Net patient service revenue	\$12,648,400
Other	<u>705,912</u>
	13,354,312
Expenses	
Salaries and wages	6,147,830
Employee benefits	1,053,602
Purchased services and professional fees	2,343,260
Depreciation and amortization	456,000
Interest	427,880
Provision for uncollectible accounts	514,207
Supplies and other	<u>2,759,783</u>
	13,702,562
Operating Loss	(348,250)
Other Income	
Interest income	68,852
Contributions	1,352
Income from trust	<u>84,958</u>
	155,162

² By signing the coupon, the patient verifies that he or she does not have any insurance (including Medicare, Medicaid, commercial, worker’s compensation, auto, or any other liability insurance) that should be billed for the charges. (App. Ex. I)

Deficiency of Revenues Over Expenses Before Cumulative Effect of Changes in Accounting	(193,088)
Cumulative Effect of Changes in Accounting	<u>(92,367)</u>
Deficiency of Revenues Over Expenses (App. Ex. K7)	(285,455)

14. The applicant's audited financial statement for the fiscal year ending September 30, 2006 includes the following concerning charity care:

The [applicant] provides charity care to patients who are unable to pay for services. The amount of charity care is included in net patient service revenues and is not separately classified from the provision for uncollectible accounts. (App. Ex. K12)

15. The applicant is served by two admitting physicians and two physician's assistants, whose patients comprise the majority of the applicant's net patient service revenue. (App. Ex. K18)

16. The unaudited cost schedule for CAR Medical Center for the fiscal years ending September 30, 2006 and 2007 shows the following:

	2006	2007
<u>Revenue</u>		
Hoopston Medical Center	\$1,307,651	1,008,091
Deductions from Revenue	<u>-</u>	<u>(4,253)</u>
Total Revenue	1,307,651	1,012,344
<u>Expenses</u>		
Salaries and FICA	952,619	742,022
Repairs and Maintenance	605	220
Utilities	10,155	5,636
Supplies	33,031	28,566
Supplies – Drugs	24,916	16,363
Purchased Services	8,139	5,234
Dues and Subscriptions	3,562	1,272
Education and Training	12,759	5,733
Travel	301	11,935
Insurance – Professional Liability	61,912	15,519
Licenses and Taxes	1,236	1,103
Misc. Expense	<u>-</u>	<u>141</u>

Total Expenses	1,109,235	833,744
Net Profit (App. Ex. N)	\$198,416	178,600

17. During 2006, approximately 14,081 patients received treatment at the CAR Medical Center. (Dept. Ex. #1, p. 114)
18. The two physicians who are employed by the applicant are the primary care physicians for CAR Medical Center. They do not pay rent for the use of CAR Medical Center, and no other primary care physician is allowed to rent space at the clinic. (Dept. Ex. #1, p. 106; Tr. p. 25)
19. The clinic provides the billing services for its two primary care physicians. These physicians are required to follow the clinic's charity care policy. (Dept. Ex. #1, pp. 107-109; Tr. p. 31)
20. In addition to the two primary care physicians, visiting specialty physicians pay rent to the applicant for the use of three exam rooms and one office at the CAR Medical Center.³ (App. Ex. B; Tr. p. 39)
21. The CAR Medical Center allows visiting specialty physicians to use its facility so that patients can receive specialty services in the same location where they receive the rest of their primary health care.⁴ (Tr. pp. 23-24)
22. During 2006, the clinic had a total of 9 visiting physicians. They used the clinic at different hours and on different days, but they shared the same office and exam

³ The applicant provided a floor plan of the clinic that highlights the portion used by the visiting physicians. The highlighted portion includes three exam rooms and two offices. (App. Ex. D1) The testimony and the policy concerning physician office rentals, however, indicate that only one office is rented by the visiting physicians. (App. Ex. B; Tr. p. 39)

⁴ The specialties include general surgery, neurology, mental health, podiatry, cardiology, and OB/Gyn. (Tr. p. 24)

- rooms. The applicant does not pay the visiting specialty physicians to work at the clinic. (Dept. Ex. #1, p. 106; App. Ex. A; Tr. pp. 26, 38-39)
23. The billing for the visiting physicians is completed by their own practices; the applicant has no control over their billing procedures. The visiting physicians are not required to follow the applicant's charitable policies. The clinic receives no payment for the patients who are treated by the specialty physicians on the property. (Dept. Ex. #1, pp. 107-108; Tr. pp. 26, 31-32)
24. The CAR Medical Center's policy for Physician Office Rental states that a visiting physician "will be charged \$5 per square foot annually for the office and 3 exam rooms." The charge is based on the number of days per month that the specialist is planned to provide services. If the CAR Medical Center also provides supplies or staff, then the charges for those resources are added to the office rental fees. (App. Ex. B)
25. During 2006, two of the nine visiting physicians were from Carle Clinic. The agreement that the applicant has with Carle states that Carle pays rent at a rate of \$100 for every 3 hours of use. The applicant is responsible for the utilities, telephone, internet connection, supplies, and support services. (App Ex. C; Tr. p. 38)
26. During 2006, the total amount of rent received from the visiting physicians was \$7,280.⁵ (App. Ex. A)

⁵ This rental income is not separately shown on the unaudited cost schedule for CAR Medical Center. (App. Ex. L, N)

27. The applicant has no capital, capital stock, or shareholders and is exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code pursuant to a determination made by the IRS. (Dept. Ex. #1, pp. 39-53, 75)

28. The applicant is exempt from retailers' occupation taxes and use taxes pursuant to a determination made by the Department on February 27, 2004. (Dept. Ex. #1, p. 74)

CONCLUSIONS OF LAW:

Article IX, section 6 of the Illinois Constitution of 1970 authorizes the General Assembly to grant property tax exemptions in limited circumstances and provides, in part, as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. Ill. Const. 1970, art. IX, §6.

Pursuant to this constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides, in relevant part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity. 35 ILCS 200/15-65(a).

Property may be exempt under this subsection if it is (1) owned by an entity that is an institution of public charity; (2) actually and exclusively used for charitable purposes; and (3) not used with a view to profit. *Id.*; Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 270 (1996). Whether property is actually and exclusively used

for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968). If the primary use of the property is charitable, then the property is “exclusively used” for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill. App. 3d 658, 661 (1st Dist. 1982). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987).

In Methodist Old Peoples Home, *supra*, the Supreme Court provided guidelines for determining charitable ownership and use. The guidelines are as follows: (1) whether the organization’s gift benefits an indefinite number of people, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government; (2) whether the organization has no capital, capital stock or shareholders and earns no profits or dividends; (3) whether the organization’s funds are derived mainly from public and private charity and are held in trust for the objects and purposes expressed in its charter; (4) whether charity is dispensed to all who need and apply for it and without obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; (5) whether the organization does not provide gain or profit in a private sense to any person connected with it; and (6) whether the primary purpose for which the property is used and not any secondary or incidental purpose is charitable. *Id.* at 156-57. These factors are used to determine whether property meets the constitutional standards for a charitable purposes exemption. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 290-291 (2004). The guidelines are to be balanced with an overall focus on whether and

how the organization and use of the property serve the public interest and lessen the State's burden. See Du Page County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468-469 (2nd Dist. 1995).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association, at 271; People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). The party claiming the exemption has the burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are resolved in favor of taxation. *Id.*; City of Chicago v. Department of Revenue, 147 Ill. 2d 484, 491 (1992); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill. App. 3d 225, 231 (2nd Dist. 1992).

The applicant argues that the purpose of the clinic is to provide medical care to the community as well as charity care to those who need it. According to the applicant, its hospital, nursing home, and business offices received property tax exemptions for the year in question, and CAR Medical Center follows the same charity care policy. The medical services that are provided at CAR Medical Center are coordinated with the services that are provided by the hospital. The applicant claims that the small amount of rent that the clinic receives from the visiting physicians is insignificant when balanced with the other expenses that are associated with having the physicians there, and any nonexempt use of the clinic is incidental.

The evidence presented in this case raises doubt that the property used by the CAR Medical Center meets most of the guidelines of Methodist Old Peoples Home, *supra*. First, neither the applicant nor CAR Medical Center derives its funds mainly from

public or private charity. The contributions that the applicant received for the fiscal year ending September 30, 2006 were \$1,352, and its total income was \$13,509,474. CAR Medical Center did not receive any contributions during 2006. The majority of the income for both the applicant and the CAR Medical Center during 2006 was from patient service revenue. The fact that the primary funding source is not public or private charity does not automatically require a conclusion that the property is not used for charitable purposes (Lutheran General Health Care System v. Department of Revenue, 231 Ill. App. 3d 652, 663-664 (1st Dist. 1992)); in the present case, however, other guidelines have not been met.

The evidence does not clearly and convincingly show that charity is given to an indefinite number of people or that it is dispensed to all who need and apply for it. Although the testimony indicated that the applicant does not limit the amount of charity care that it provides (tr. pp. 51-52), the applicant's charity care policy indicates otherwise. The policy states that the applicant's Board of Directors approves an annual financial assistance aggregate limit in conjunction with the budget process, and "[o]nce this limit has been reached, no additional financial assistance will be granted for that fiscal year." (App. Ex. G1) Providing free care only to the extent that the applicant speculates that it has the financial ability to provide it raises doubt that the applicant gives charity to everyone who needs it. See Wyndemere Retirement Community v. Department of Revenue, 274 Ill. App. 3d 455, 460 (2nd Dist. 1995) (charity provided in relation to financial circumstances is not provided to an indefinite number of people or dispensed to all who need it).

Other aspects of the charity care policy also raise doubt that free care is provided to everyone who needs it. Providing charity care only on a sliding scale that is based on the federal poverty guidelines does not take into account unusual circumstances where, after applying the poverty guidelines, the final bill may still be disproportionate to the patient's income. In addition, the policy states that accounts that are already considered bad debt or have been referred for collection are excluded from receiving financial assistance, despite the fact that circumstances may change that would warrant allowing financial assistance.⁶ Furthermore, it is noteworthy that although the applicant's purpose statement in its bylaws states that it is organized for "philanthropic" purposes, the bylaws, which were last amended during the year in question, do not refer to a charity care policy and do not make any other reference to the charitable nature of the organization.

The evidence also does not clearly establish that the applicant does not place obstacles in the way of those seeking its charitable benefits. One obstacle, as already mentioned, is the limits that the applicant has in its charity care policy. In addition, failing to notify the public of a fee waiver policy is considered an obstacle in the way of those seeking charity. See Alivio Medical Center v. Department of Revenue, 299 Ill. App. 3d 647, 652 (1st Dist. 1998). Although the applicant presented some evidence that it notified the public of its financial assistance policy, the record is unclear concerning when and to what extent this was done. The applicant provided a copy of a sign relating to the discount fee policy that is posted "within the clinic" (tr. p. 32; App. Ex. H), but it is not clear exactly where the sign is posted and whether it was there during 2006. The

⁶ Exceptions to this may only be made with prior written approval of the "Administrative Team." (App. Ex. G3)

clinic administrator testified that “[s]ometimes people don’t know to ask for [charity care] when they first come in if they come in as a self-pay patient” (tr. p. 32), and therefore, information concerning charity care is included in the invoices that are sent to the patients. It is not clear from the evidence, however, whether this information was included on the invoices that were sent during 2006; the applicant did not offer samples of bills that were sent during 2006 into evidence.

The evidence is also unclear concerning when, during 2006, the charity care policy was actually applied. First, the visiting physicians at the clinic have separate billing practices and are not required to follow the clinic’s charity care policy. The evidence does not clearly establish that these physicians follow their own charity care policy, and therefore, it has not been shown that the portion of the clinic used by the visiting physicians is used for charitable purposes.⁷ For the remainder of the property, the applicant’s audited financial statement for the fiscal year ending September 30, 2006 states that the amount of charity care is not separately classified from the provision for uncollectible accounts and is included in net patient service revenues. Although the amount of charity care is not separately classified, the applicant indicated that the clinic provided \$510.22 of charity care for the fiscal year ending September 30, 2006. (Dept. Ex. #1, p. 115) Further substantiation for this amount, however, was not provided. For the fiscal year ending September 30, 2007, the applicant gave a list of the clinic’s patients who received charity care, which totaled \$969.12. (App. Ex. J) Even if both of these amounts are accurate, the charity care expense compared to the revenue received from

⁷ The applicant indicated that approximately one-sixth of the clinic is used by the visiting physicians (tr. p. 27), which would be approximately 17% of the building. The three exam rooms are 10 feet by 10 feet and the one office is 10 feet by 12 feet (App. Ex. D), which is a total of 420 square feet. This is approximately 4.5% of the building.

patient service revenue is very small.⁸ These small amounts, along with the lack of evidence, as previously mentioned, concerning the extent to which the public was notified of the charity care policy during 2006, raise doubt as to whether charity was given to all who needed it. Furthermore, the testimony indicated that some patient accounts have been sent to collections, and a monthly collections report is kept by the clinic. (Tr. pp. 48-50) A copy of the report, however, was not provided, and additional information concerning these accounts and its collection practices was not given.

Exemption provisions must be strictly construed; all doubts and debatable questions are resolved in favor of taxation. Wyndemere, *supra*. The evidence presented fails to show that the property that is used for the CAR Medical Center meets most of the criteria of Methodist Old Peoples Home, *supra*, for determining whether it is both owned by a charitable organization and used for charitable purposes. Because the evidence falls short of showing clearly and convincingly that the property meets most of the guidelines in Methodist Old Peoples Home, *supra*, the exemption must be denied.

Recommendation:

For the foregoing reasons, it is recommended that the request for an exemption be denied.

Linda Olivero
Administrative Law Judge

Enter: August 31, 2009

⁸ The clinic's revenue for the fiscal years ending September 30, 2006 and 2007 was \$1,307,651 and \$1,008,091 respectively. The charity care expense was, therefore, approximately .04% and .096% of its revenue for the fiscal years 2006 and 2007 respectively.