

BEFORE THE IDAHO BOARD OF TAX APPEALS

LIFEWAYS, INC.,)	
)	
Appellant,)	APPEAL NO. 19-A-1263
)	
v.)	FINAL DECISION
)	AND ORDER
ADA COUNTY,)	
)	
Respondent.)	
)	
)	
)	

CHARITABLE EXEMPTION APPEAL

This appeal is taken from a decision of the Ada County Board of Equalization denying an application for exemption from property taxation on property described by Parcel No. R0539006045. The appeal concerns the 2019 tax year.

This matter came on for hearing January 16, 2020 in Boise, Idaho before Board Member Leland Heinrich. Attorney Brian Difonzo appeared for Appellant. Deputy Prosecuting Attorney David Roscheck represented Respondent.

Board Members Leland Heinrich, David Kinghorn and Kenneth Nuhn join in issuing this decision.

The issue on appeal concerns whether the subject property qualifies for an exemption from property taxation pursuant to Idaho Code § 63-602C, the charitable exemption.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$534,500, and the improvements' value is \$2,117,000, totaling \$2,651,500. Appellant contends the subject property is exempt from property taxation as it belongs to a charitable organization and is used in the furtherance of the organization's charitable purposes.

Appellant is a non-profit organization pursuant to Internal Revenue Code § 501(c)(3) and is recognized as such for purposes of income taxation. The company specializes in

providing mental health services, primarily to low-income clients. Appellant operates fifteen (15) treatment facilities in Oregon and Idaho to provide acute and chronic mental health services, crisis services as well as alcohol and substance abuse treatment services.

The subject property, acquired by Appellant in January 2019, represents the organization's first in-patient adult psychiatric hospital. The property was purchased in an effort to expand Appellant's continuum of care services to more comprehensively serve the mental healthcare community needs. The sixteen (16) bed facility is one (1) of three (3) Medicaid hospitals in the Treasure Valley. The facility mostly serves indigent clients, with the majority coming to the subject's hospital involuntarily through referrals from area hospitals or law enforcement.

Appellant contended it provides an important public service by providing mental health services to those in need, regardless of the client's ability to pay. No person for whom treatment is sought has been denied services due to an inability to pay. In Appellant's view, subject is alleviating a burden that would otherwise be the government's. The mental health services help clients maintain employment, provide for their families and generally be productive members of society. Without such services, Appellant cautioned there would be an increased risk of self-harm or harm to others in the community.

The bulk of Appellant's revenues come from either Medicaid clients or through funding provided by the State of Oregon. It was estimated roughly 75% of services rendered are to Medicaid clients. According to Appellant's financial statements, revenues from Medicaid and the State of Oregon totaled \$22,690,837 for 2016, \$23,467,953 for 2017 and \$24,646,508 for 2018.

Appellant's other key revenue source is self-pay clients or those with private insurance. The fees for self-pay clients are determined using a sliding scale based on the client's poverty level. For 2016, Appellant collected client fees in the amount of \$2,479,921, which increased to \$2,956,131 for 2017 and \$3,692,125 for 2018. Appellant also receives grant money, mostly from charitable foundations, though these funds are typically restricted to specific programs or initiatives. Grant revenues were \$969,057 in 2016, \$1,307,200 in 2017 and \$1,176,894 in 2018. Lastly, Appellant reported small revenues from other sources, such as leases or worker's compensation adjustments. These revenues were \$214,963 for 2016, \$216,417 for 2017 and \$376,198 for 2018.

Also included in revenue was a line item titled "revenue and charity adjustments," which was reflected as a deduction from revenue. It was explained this adjustment represented the difference between the full cost of services provided and the amount collected from Medicaid or from clients paying discounted rates based on the sliding fee schedule. Appellant characterized these adjustments as charity, and they totaled \$3,552,112 for 2016, \$5,049,209 for 2017 and \$4,799,406 for 2018.

Appellant receives little revenue from private charitable donations. It was explained the organization never established a foundation focused on attracting outside donations, as is common in other charitable organizations. Appellant's website has a "donate" button, and other ad hoc efforts have been made over the years, however, donations from the general public represent a *de minimus* contribution to revenues. In fact, Appellant reported annual donations had been less than \$5,000 over the prior several years.

Respondent acknowledged the worthwhile efforts of Appellant to provide much-needed

mental health services to those in need, but maintained the subject property did not qualify for the exemption. This was because Appellant was not found to be a charitable organization for purposes of the charitable exemption in Idaho Code § 63-602C. Appellant argued it satisfied the requirements to receive the exemption and petitioned this Board grant a full exemption.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of market value in fee simple interest, or as applicable, a property's exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence submitted by the parties, hereby enters the following.

The issue on appeal is whether the subject property qualifies for an exemption from property taxation pursuant to Idaho Code § 63-602C, the charitable exemption. For the reasons below, we find the property does not qualify for exemption for the 2019 assessment year.

Idaho Code § 63-602C provides in pertinent part, "[t]he following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable limited liability company, corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such limited liability company, corporation or society is organized" The statute provides a two-pronged test to qualify for the exemption: 1) that the property belong to a charitable organization, and 2) that the property is used exclusively in furtherance of the organization's stated charitable purposes.

In determining whether an organization is charitable for purposes of the tax exemption, the Idaho Supreme Court has identified an eight (8) factor test. The factors include:

(1) the stated purposes of [the organization's] undertaking, (2) whether [the organization's] functions are charitable (in the sense just discussed), (3) whether [the organization] is supported by donations, (4) whether the recipients of [the organization's] services are required to pay for the assistance they receive, (5) whether there is a general public benefit, (6) whether the income received produces a profit, (7) to whom the assets would go upon dissolution of the corporation, and (8) whether the "charity" provided is based on need.

Sunny Ridge Manor, Inc. v. Canyon Cnty., 106 Idaho 98, 100, 675 P.2d 813, 815 (1984).

We will examine each factor in turn, beginning with the stated purposes of Appellant's undertaking. According to Article III of the Articles of Incorporation, the stated purposes of the organization are "to provide mental health services to individuals in a comprehensive manner with services including, but not limited to issues including mental health, chemical dependency, and developmental disabilities." Appellant satisfies this factor.

We turn next to whether Appellant's functions, through the subject property, are charitable. To determine this factor, it is necessary to examine whether the organization is performing a function which otherwise might be the obligation of the government. *Housing Southwest Inc. v. Washington Cnty.*, 126 Idaho 335, 339, 913 P.2d 68, 71 (1996). The Court in *Housing Southwest* found the organization was not charitable in providing low-income housing because it received money from the government to offset the costs of providing the housing. *Id.* at 339, 913 P.2d at 72. On a similar basis, the Idaho Supreme Court, in *Evangelical Lutheran Good Samaritan Soc'y v. Bd. of Equal. of Ada Cnty.*, found the organization, which provided shelter and care for the aged, disabled, and infirm, was not charitable because it was compensated for all the services provided, either by the government for those unable to pay, or by self-paying residents. 161 Idaho 378, 382, 386 P.3d 901, 904-905 (1996). In the case at bar, Appellant is dependent on government funding. Appellant

argued it provides mental health services mostly to lower-income clients, an obligation the government would otherwise be required to fill. However, as the Court noted in *Housing Southwest*, this argument is circular in that the need being met is in fact being met by the government, through Medicaid and state funding. In the Board's view, Appellant does not satisfy this factor of the *Sunny Ridge* analysis.

Looking to the third factor, whether the operation is supported by donations, we find Appellant does not satisfy this factor. "This Court considers outside donations to be an important charitable factor because it reduces the cost to the general public." *Owyhee Motorcycle Club v. Ada Cnty.*, 123 Idaho 962, 965, 855 P.2d 47, 50 (1993). For this large organization, the outside donations were estimated at less than \$5,000 annually for the last few years, which represents less than .01% of the organization's operating revenue. As the donations received do not reduce the cost of services provided through the subject, this factor weighed against exempt status.

The fourth factor is whether recipients of the charity are required to pay for the services received. It is well understood a property may still qualify for a tax exemption even though fees are imposed to help cover operating costs, however, ". . . the rule is premised on the fact that the charges are nominal, or at least not commensurate with the benefits provided." *Housing Southwest* at 101, 675 P.2d at 816. Though Appellant does have a sliding scale fee schedule for lower-income clients, the overwhelming majority of the services provided are compensated at or near market rates. "There is nothing charitable in providing housing at the same or comparable rates as housing available from the private sector or commercial retirement centers." *Evangelical Lutheran Good Samaritan Soc'y, vs. Latah Cnty.*, 119 Idaho 126, 132,

804 P.2d 299, 305 (1990). It was also not lost on the Board that Appellant charges fees sufficient to cover subject's current operating expenses. For these reasons, the Board finds this factor was not satisfied.

The fifth factor explores whether there is a general public benefit provided. "For a corporation's uses to be considered charitable it is essential that they provide some sort of general public benefit. If the general public does not receive a direct public benefit from a corporation's donations, then the question presented by the 'general public benefit' factor is whether the corporation fulfills a need which the government might otherwise be required to fill." *Housing Southwest* at 339, 913 P.2d at 72 (citations omitted). Appellant argued its services benefit the public by providing mental health services to low-income individuals, a need the government would otherwise be obligated to fill. Again, this argument is circular because the government is already shouldering the burden by paying for much of the services Appellant renders. Indeed, from 2016 through 2018, revenues from government sources represented 86%, 84% and 82% of the total revenues received. With such a high level of government support, the Board is strained to find a general public benefit. This factor weighs against the requested exemption grant.

We now turn to the sixth factor concerning whether the income received through the property produces a profit. While it is not necessary that an organization or property operate at a deficit, the accrual of profits is nonetheless an important factor to consider. "The accrual of substantial positive net revenue year after year, excluding donations, is suspect." *Evangelical Good Samaritan Soc'y*, 119 Idaho at 132, 804 P.2d at 305. During the prior three (3) years Appellant's overall profits have totaled nearly \$2 million. The Supreme Court, in

finding this factor weighed against the claimant in *Evangelical Good Samaritan Soc'y*, pointed to the accumulation of roughly \$2 million in profit over the prior three (3) year period. 161 Idaho at 384, 386 P.3d at 907. Though it could be seen as close, we find this factor weighs against exemption.

The seventh factor looks to where the assets of the organization go upon dissolution. Appellant's articles of incorporation state any assets upon dissolution would pass to a nonprofit entity or to the government for a public purposes. This factor is satisfied.

The eighth and final factor considers whether the charity provided is based on need. Fees for services at the subject property are determined on a scale, based on a client's individual ability to pay. Larger discounts are given to those with greater needs, up to a 100% discount. The discounted rates are offset by the monies received from Appellant's other revenue sources. We find this factor weighs in favor of exemption.

Though Appellant's effort to provide much-needed mental health services is laudable and certainly a praiseworthy mission, the burden for proving entitlement to a property tax exemption is high. "Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. It must be in terms so specific and certain as to leave no room for doubt." *Sunset Memorial Gardens, Inc. v. Idaho State Tax Comm'n*, 80 Idaho 206, 219, 327 P.2d 766, 774 (1958). While there were some factors weighing in favor of Appellant or exempt status, there were too many factors weighing against granting the exemption. In the end, the Board finds Appellant did not meet the burden of clearly establishing a right to the claimed exemption.

Having found Appellant is not a charitable organizations for purposes of Idaho Code §

63-602C, we need not consider further the statutory requirements concerning the use of the subject property.

Based on the above, the decision of the Ada County Board of Equalization to deny the charitable exemption for the subject property is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 6th day of March, 2020.