

IN THE COURT OF APPEALS OF IOWA

No. 5-874 / 05-0568

Filed May 24, 2006

PARSON'S INN, INC.,
Petitioner-Appellant,

vs.

MAHASKA COUNTY BOARD OF REVIEW,
Respondent-Appellee.

Appeal from the Iowa District Court for Mahaska County, Dan F. Morrison,
Judge.

A property owner appeals from the district court ruling that upheld a
decision denying its claim for a property tax exemption. **AFFIRMED.**

John Allen, University of Iowa College of Law, Nathaniel Baer, Christopher
Loftus, and Alison Helland, Student Legal Interns, and Richard F. Koontz, Iowa
City, for appellant.

Bruce B. Green, Frank W. Pechacek, Jr., and M. Brett Ryan of Willson &
Pechacek, P.L.C., Council Bluffs, for appellee.

Heard by Zimmer, P.J., and Miller and Vaitheswaran, JJ.

MILLER, J.

Parson's Inn, Inc. appeals from the district court ruling that upheld a decision of the Mahaska County Board of Review denying Parson's Inn's claim for a property tax exemption. We affirm the district court.

I. Background Facts and Proceedings.

Parson's Inn was established in 1997 by a married couple, Cyril and Jan McKay, for the purpose of operating a residential facility that would provide temporary housing and support services, including pastoral care and "therapeutic support," to adult persons undergoing medical care, their families, and persons in times of bereavement. It is a nonprofit corporation recognized by the Internal Revenue Service pursuant to 26 U.S.C. § 501(c)(3) as a tax-exempt organization. The McKays are two of the eight members of the board of directors. Cyril McKay also serves as corporation president.

Parson's Inn operated its original residential facility in leased property located in Middle Amana, Iowa. The McKays were employed by the corporation to operate the facility, which received broad community support. Although Parson's Inn received proceeds from room rental fees, donations comprised the majority of its income.

Parson's Inn ceased facility operations in Middle Amana in March 2000 after the owner of the leased property died, the property was sold, and the lease was terminated. Parson's Inn spent the following three years searching for a new site for their facility. On March 28, 2003, Parson's Inn purchased a large home located in Fremont, Mahaska County, Iowa. Parson's Inn's plans for the new facility continued to include providing temporary housing and support

services, in a “bed and breakfast-type” setting, to adult persons undergoing medical care, their families, and persons in times of bereavement. In addition, housing and services were to be made available to those needing respite care, those dislocated by natural disasters, and to traveling or relocating missionaries. The facility was also available for seminars, retreats, and meetings.

The facility was again to be operated by the McKays. Cyril and Jan signed an employment contract with Parson’s Inn, which required them to live on site. The directors determined it was necessary for the McKays to live on site in order to properly manage the facility, provide offered services, and create a “home atmosphere.” Although the contract provided that the McKays would be paid a salary, the matter was left to the discretion of the directors. No salary has yet been paid to either Cyril or Jan. However, they live in the home rent free, with Parson’s Inn paying for utilities, food, and maintenance of the property.

In April 2003 Cyril, on behalf of Parson’s Inn, applied to the Mahaska County assessor for a property tax exemption on the basis of Parson’s Inn charitable mission and use. The exemption was denied, and Parson’s Inn filed a petition with the Mahaska County Board of Review (Board) asserting the Parson’s Inn property was used “solely for charitable services to the public.” Following hearing the Board denied the exemption “pending further investigation.” Parson’s Inn appealed the denial to the district court.

In the following months Parson’s Inn renovated the property, relying heavily on donated goods, services, and labor. The McKays and their five children moved into the house at the end of October 2003. In addition to full use of the common areas on the main floor the McKays had the exclusive use of the

attic, which included bedrooms, a living room space, and a newly-installed bathroom; two bedrooms and a newly-installed bathroom on the second floor; and the basement, which was used as an office and for storage. Additional bedrooms and bathrooms were reserved for guests.

Although it would not formally open until May 2004, the facility began receiving guests in December 2003. Parson's Inn established a rate of \$35 per night for housing, breakfast, and other services, which is a lower rate than the "funeral rate" charged by many local motels and hotels. Parson's Inn also had a policy of waiving the fee for any volunteers, traveling missionaries, and individuals who could not afford the \$35 per night rate. It did not, however, determine its actual cost to provide lodging and services, or inquire into the financial status of any guest.

In early 2004 Parson's Inn again applied for a charitable-use property tax exemption. The application was denied in May 2004. The Board's notice of assessment stated there was "[n]o change based on pending court case." Parson's Inn also appealed this denial to the district court.

Parson's Inn's two appeals were consolidated, and the matter came on for trial before the district court in February 2005. Parson's Inn produced evidence that, throughout 2003 and 2004, it continued to receive significant community support, and continued to generate the majority of its income through private donations. It also produced a guest list showing the number of guest it hosted

between December 5, 2003, and October 21, 2004, and any amount paid by or on behalf of the guests.¹

Between December 5 and 31, 2003, one or more of Parson's Inn's guest rooms were occupied by guests on twenty-seven days. Parson's Inn hosted a total of ten different guests, who stayed a total of forty-two guest-days, a guest-day being one day spent by one guest. Twenty-seven of those guest-days were for respite care for Cyril's father, Duane McKay. An additional four guest-days were spent by Cyril's brother, Ken McKay. Thus, in 2003 only eleven of the forty-two guest-days were spent by guests other than Cyril's father and brother.

For the period of January 1, 2004, through October 21, 2004, one or more guest rooms were occupied by guests on only forty-two days. During this period Parson's Inn hosted a total of seventy-eight different guests, who stayed a total of 127 guest-days. Cyril's father occupied a guest room on nine of those days, including one day on which Cyril's brother, Ken, also stayed at the Parson's Inn. During this ten-month period guest rooms were occupied by guests other than McKay family members on only thirty-three days, an average of only three days per month.

Parson's Inn received \$1400 for Cyril's father's respite care, which occurred in late 2003 and early 2004. It received no payment for the guest-days spent by Cyril's brother, or for the remaining 2003 guest-days spent by a soldier on leave and her family and a group of traveling missionaries. Of the seventy-six non-family guests hosted by Parson's Inn in 2004, forty-three paid no fees. The vast majority of non-paying guests were missionaries and individuals who

¹ The guest list produced by Parson's Inn, Exhibit "15," and the guest list produced by the Board, Exhibit "L," appear to be identical

donated labor to improve the facility.² Of the thirty-three paying guests, sixteen were attendees at one of three retreats, and nine were attendees at one of two funerals.³ During this time Parson's Inn also hosted meetings for community organizations.

Following trial, the district court entered a ruling that upheld the Board's decisions to deny the property tax exemption claims. The court concluded Parson's Inn did not qualify for a charitable-use exemption under Iowa Code section 427.1(8) (2003), which provides exemptions for buildings "used . . . by . . . charitable . . . institutions and societies solely for their appropriate objects, . . . and not leased or otherwise used . . . with a view to pecuniary profit" Although the court found Parson's Inn was a charitable institution, it determined the property was not being used solely for charitable purposes and was being used with a view toward pecuniary profit. Parson's Inn appeals.

II. Scope and Standards of Review.

The district court hears property tax appeals in equity. Iowa Code § 441.39. Accordingly, our review is de novo. Iowa R. App. P. 6.4. While we are not bound by the district court's fact findings, we give them weight. Iowa R. App. P. 6.14(6)(g).

Statutes exempting property from taxation are strictly construed, *Atrium Village, Inc. v. Board of Review*, 417 N.W.2d 70, 72 (Iowa 1987), and doubts are resolved against exemption and in favor of taxation, *Southside Church of Christ v. Board of Review*, 243 N.W.2d 650, 654 (Iowa 1976). Although taxation is the

² The other non-paying guests were two musicians who played at Parson's Inn's open house, the two attendees of a one-day "Special Event-IBLP Seminar," and two guests who are simply classified as "other."

³ Fees were also paid by a missionary and seven guests classified as "other."

rule, and exemption the exception, decisions in this area rest largely on the unique facts of each case. *Partnership for Affordable Housing, Ltd. P'ship Gamma v. Board of Review*, 550 N.W.2d 161, 164 (Iowa 1996).

III. Discussion.

In order to prove it is entitled to a property tax exemption under section 427.1(8), Parson's Inn must demonstrate (1) it was a charitable institution at the time of the claimed exemption, (2) the actual use of the property was solely for the appropriate objects of the charitable institution, and (3) the property was not used with a view toward pecuniary profit. See *Partnership for Affordable Housing*, 550 N.W.2d at 164. Upon a review of the record, we conclude Parson's Inn failed to demonstrate it was entitled to a charitable-use exemption.

We agree Parson's Inn meets the definition of a charitable institution. Within the context of the property tax exemption statute, Iowa is committed to a broad definition of charity. See *Carroll Area Child Care Ctr., Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 255 (Iowa 2000). It encompasses the gratuitous or partly gratuitous care or improvement of the spiritual, mental, social, and physical conditions of both the young and old. *Id.* at 255-58. Parson's Inn's stated purposes of easing the financial, emotional, and spiritual burdens of those in crisis is charitable in nature.

In addition, Parson's Inn has received a federal tax exemption based on charitable status, and its articles of incorporation reveal charitable purposes. Moreover, contributions of money, goods, services, and volunteer labor played a significant role in its establishment and operation. All these factors support the

conclusion that Parson's Inn is a charitable institution. See *Bethesda Found. v. Board of Review*, 453 N.W.2d 224, 227 (Iowa Ct. App. 1990).

However, “[i]t is the character of the use, rather than the identity of the owner, which determines whether an organization's property is exempt from taxation.” *Holy Spirit Ret. Home, Inc. v. Board of Review*, 543 N.W.2d 907, 910 (Iowa Ct. App. 1995). In determining whether the building is being used solely for the appropriate objects of the charitable institution, we look to the actual use of the property. See *Carroll Area Child Care Ctr.*, 613 N.W.2d at 255.⁴

Charitable use can include subsidizing the needs of those unable to pay, or the “use [of] charitable contributions to cover the costs of establishing the facility and some portion of the ongoing operating expenses, [“resulting in a below-expenses charge for those using the facility” and] thereby subsidizing the cost of the facility for all persons who use it, regardless of their ability to pay.” *Id.* at 257. Moreover, to be considered charitable a facility must generally provide some level of gratuitous or partly gratuitous care, rather than mere housing. *Richards v. Iowa Dep't of Revenue*, 414 N.W.2d 344, 351 (Iowa 1987).

Looking to the record, we agree that Parson's Inn has provided charitable care in addition to housing, in that it provided respite care to Cyril's father, meals,

⁴ The district court properly rejected Parson's Inn's assertion that it was entitled to application of the less stringent use test found in *St. Ambrose University v. Board of Review*, 503 N.W.2d 406, 407 (Iowa 1993). Application of that test is appropriate only if Parson's Inn is a charitable institution independent of the use to which it puts the building, and the use “fosters an activity that falls fairly within the mission of the institution.” *Camp Foster YMCA v. Dickinson County Bd. of Review*, 503 N.W.2d 409, 411 (Iowa 1993). Parson's Inn does not meet this standard. See *Friendship Haven, Inc. v. Webster County Bd. Of Review*, 542 N.W.2d 837, 841 (Iowa 1996) (“[T]he less demanding requirement recognized in *St. Ambrose University* does not extend to a nonprofit corporation, which essentially carries out a unified operation at a single site. As to such corporations, both their charitable status and the taxable status of their property turns on activities related to a single purpose.”).

pastoral care, and home-centered social activities for its guests. See *Carroll Area Child Care Ctr.*, 613 N.W.2d at 258-59 (concluding supervision, recreational activities, and meals provided by day care center were charitable care beyond housing). We cannot conclude, however, that Parson's Inn met its burden to demonstrate that the care was provided on a gratuitous or partly gratuitous basis.

Parson's Inn asserts it subsidized the needs of those unable to pay, as it had both the policy and practice of waiving fees for those guest who cannot afford to pay. While this was clearly Parson's Inn's policy, and Parson's Inn did waive the room fee for many of its guests, there is no evidence any waiver was based upon an inability to pay. Every fee waived was either waived as a matter of policy for volunteers and missionaries, involved a McKay family member, or was simply unexplained.

Parson's Inn asserts it also subsidized the nightly fee for all guests, as contributions and donations defrayed operating expenses and allowed Parson's Inn to charge a below-market fee. However, Parson's Inn offered no evidence the room fee it charged was less than the cost of the housing and other services it provides. *Id.* (concluding non-housing care was partly gratuitous as center charged less than it cost to provide the care and obtained community contributions to make up the difference). Although the income generated by the room fees is insufficient to meet operating expenses and must be supplemented by community contributions, it appears this is a result of the low number of guests that have stayed at Parson's Inn, and the even lower number of guests who actually paid the fee, rather than the amount of the fee itself.

Finally, even if some portion of Parson's Inn is being put to charitable use, we cannot conclude the facility is being actually and solely used for a charitable purpose. First, as to a number of guests, there is no showing their stays were in any way related to the charitable purposes of Parson's Inn. Moreover, for the great majority of the year the substantial majority of the premises is being used exclusively as the McKay family residence.

Parson's Inn asserts the McKays' occupancy of the facility cannot defeat the exemption, as there is a "direct connection" between the McKays and the mission of Parson's Inn, and "the presence of a family to minister to those in need . . . is critical to the furtherance of Parson's Inn's mission." Iowa law is less than clear as to what effect an employee's occupancy of the property will have on the question of whether the property is being actually and exclusively used for a charitable purpose. However, two Iowa Supreme Court cases, while not directly on point, provide some guidance for our opinion.

In *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 N.W.2d 650, 655 (Iowa 1976), our supreme court denied a charitable exemption for church property occupied by foster parents. In denying the exemption the court indicated it is not enough that occupancy in the property is conditioned upon performing certain duties required by the institution, no matter how beneficial or laudable the performance of those duties may be. *Southside Church*, 243 N.W.2d at 655. One factor in the court's decision was that there was little difference between the church's foster home and numerous, private non-exempt foster homes in the area with which it was in competition. *Id.* In addition, the court noted that "[a]ny doubt' must be resolved against

exemption,” and that “[v]iewing the present facts in this light, there is doubt this property 'is used solely for charitable and benevolent purposes.’” *Id.*

In *Congregation B'Nai Jeshurun v. Board of Review*, 301 N.W.2d 755, 759 (Iowa 1981), the supreme court denied a request for a religious-based exemption for a house owned by a religious institution and occupied by the institution’s janitor. After noting tax exemption statutes must be strictly construed, the court held “that housing of a religious institution or society, separate from the religious edifice itself and occupied by nonecclesiastical personnel, does not qualify for property tax exemption.” *B'Nai Jeshurun*, 301 N.W.2d at 759. The court indicated it was not enough that the employee was required to occupy the residence as a condition of employment; the occupancy itself must further the institution’s goals. *Id.*; see also *St. Ambrose University v. Board of Review*, 503 N.W.2d 406, 407 (Iowa 1993) (“The *Congregation B'Nai Jeshurun* case qualifies [the] conclusion [that the use of property by an independently religious or charitable institution for an activity within its mission will ordinarily be consistent with exempt status] with respect to uses that are only shown to generally benefit the institution and that do not foster a specific program within the mission of the institution.”).

We believe these cases support the conclusion that Parson’s Inn must demonstrate more than the fact the McKays were required to occupy the facility as a condition of employment, or that they carried out employment-related duties on site. Rather, their occupancy must further the specific charitable goals of the institution. Upon our de novo review, we find that standard is simply not met.

To justify his assertion that the McKays must be there “100 percent of the time,” Cyril McKay testified “the phone will ring, people are inquiring, guests are inquiring, correspondence with groups and churches,” as well as the fact guests will sometimes check in “as late as 10, 10:30 at night.” None of these duties require an on site manager. Cyril also testified that the presence of the entire family was crucial to creating a “home atmosphere.” While we understand how an on site family is central to creating such an atmosphere, Parson’s Inn failed to cogently articulate, and thus has not demonstrated, how such an atmosphere furthers its charitable goals.

We conclude the record demonstrates great doubt regarding whether the use of the property is solely for the appropriate charitable objects of Parson’s Inn, and accordingly resolve that doubt against exemption. See *Southside Church*, 243 N.W.2d at 655. We thus find it unnecessary to consider whether Parson’s Inn is being operated with an eye toward pecuniary profit. See *Bethesda Found.*, 453 N.W.2d at 228 (defining pecuniary profit as “monetary gain which inures to the benefit of private individuals and is not simply an excess of income over expenses”).

Our decision is consistent with the rationale for charitable tax exemptions—that the benefits the community receives from an institution outweigh the inequality caused by exemption of the property from taxation. See *Richards v. Iowa Dep’t of Revenue*, 414 N.W.2d 344, 351 (Iowa 1987) (exemption statutes are legislative recognition of benefits received by society and of the lessened burden on government). That is why

a statutory exemption does not depend alone on lofty or generous motives on the part of the donor. Although such motives are almost

always involved in charitable institutions, something more is required in order to qualify for a property tax exemption. Taxes lost to the public by reason of an exemption must be exacted from all other taxpayers. Hence the law requires that the institution be run for those who have a real need for it. If it is operated only for those who can well afford to pay their taxes it is not right to pass that burden along to others.

Atrium Village, Inc. v. Board of Review, 417 N.W.2d 70, 73 (Iowa 1987).

Based on the record presented, Parson's Inn has not demonstrated that it has conferred a benefit upon the local community sufficient to outweigh the loss of tax revenue from its property. Accordingly, the property tax exemption was appropriately denied. However, we do not consider whether Parson's Inn might be entitled to a tax exemption for any portion of its property that is being solely and exclusively used for charitable purposes, see Iowa Code § 427.1(14), an issue that was not before the district court and is not before us.

AFFIRMED.