

IN THE COURT OF APPEALS OF IOWA

No. 6-169 / 05-1278
Filed April 26, 2006

**SIOUX CENTER COMMUNITY
HOSPITAL & HEALTH CENTER,**
Plaintiff-Appellant,

vs.

**BOARD OF REVIEW OF
SIOUX COUNTY, IOWA,**
Defendant-Appellee.

Appeal from the Iowa District Court for Sioux County, Dewie Gaul, Judge.

Sioux Center Community Hospital and Health Center appeals from the district court's ruling that denied a property tax exemption for two assisted and independent living facilities owned by the hospital. **AFFIRMED.**

Ivan T. Webber of Ahlers & Cooney, P.C., Des Moines, for appellant.

Melissa R. O'Rourke, County Attorney, Orange City, for appellee.

Heard by Vogel, P.J., and Zimmer and Vaitheswaran, JJ. Huitink, J., takes no part.

ZIMMER, J.

Sioux Center Community Hospital and Health Center (Hospital) appeals from the district court's ruling that denied a property tax exemption for two assisted and independent living facilities that belong to the Hospital. On our review, we affirm the district court.

I. Background Facts & Proceedings

The Hospital is a nonprofit corporation organized under Iowa Code chapter 504A. The Hospital owns and operates two assisted and independent living facilities, Crown Pointe and Franken Manor.¹ Crown Pointe has twenty-two assisted living units and twenty-four independent living units. Franken Manor has thirty mixed independent and assisted living units.

The Hospital financed the construction of the \$5 million Crown Pointe building with the sale of twenty-year revenue bonds and \$132,000 in community donations. It purchased Franken Manor with \$400,000 in internal funds and \$250,000 in private donations.²

Individuals wishing to be placed on a waiting list for either facility must provide a \$250 application fee, and Crown Pointe residents pay an additional \$750 deposit if they move into the facility.³ Crown Pointe tenants on the

¹ The Hospital also operates a traditional hospital and a nursing home which are classified as tax exempt.

² Franken Manor was previously a Housing and Urban Development (HUD) facility that provided independent living for low income individuals. The Hospital continued HUD's programs after purchasing the facility.

³ Both facilities require tenants to sign an agreement providing that the deposit may be used to cover cleaning expenses "and/or replace any items damaged through normal wear and tear." The lease required by both facilities also states the deposit may be used

“Independent Living Service Plan” pay \$1310 per month for a one-bedroom unit, including one meal per day, a yearly health assessment, and “all the activities.” Crown Pointe tenants on the “Assisted Living Service Plan” pay \$1325 per month for basic assisted living services. Additional charges include \$425 for board, a room charge of \$310 for a studio, \$675 for a one-bedroom, and \$725 for a bedroom deluxe. Thus, the basic charges for an individual living in a one-bedroom assisted living unit at Crown Pointe would total \$2425.⁴

The Sioux County Assessor classified both properties as residential for tax purposes,⁵ and the Hospital challenged the classification, claiming both properties should be completely tax exempt. The Board of Review of Sioux County sustained the assessor’s classification, and the Hospital appealed to the district court. In an order filed July 12, 2005, the court found the properties were not tax exempt and affirmed the assessor’s classification and the decision of the board of review.

The Hospital has appealed. It contends the facilities should be tax exempt because the Hospital is a charitable institution, the facilities are not operated with a view toward pecuniary profit, and the actual uses of the facilities are charitable objectives of the Hospital.

for “unpaid monthly fees, fees for services and reasonable attorneys’ fees incurred for the purpose of obtaining collection.”

⁴ If a tenant needs medication management, there would be an additional charge of \$340 per month. Telephone services and cable television involve extra charges paid by the tenant. Additional services such as washing dishes, grooming, oral care, or dressing are charged at \$17.75 per unit.

⁵ The assessor granted Franken Manor a fifteen-percent partial property tax exemption and Crown Pointe a five-percent partial exemption. In addition, properties classified as residential receive a fifty-two-percent rollback in taxes compared to commercial property.

II. Scope & Standards of Review

The parties agree that we review tax assessment cases de novo. Iowa R. App. P. 6.4. We give weight to the trial court's fact findings, especially when considering the credibility of witnesses, but we are not bound by them. Iowa R. App. P. 6.14(6)(g). The Hospital, as the taxpayer seeking the exemption, has the burden of proving its entitlement to tax exempt status. *Van Buren County Hosp. & Clinics v. Board of Review*, 650 N.W.2d 580, 585 (Iowa 2002). The Hospital must establish its tax exempt status by a preponderance of the evidence. *Id.* Generally, we strictly construe statutes that exempt property from taxation, and we resolve any doubts in favor of taxation. *City of Oskaloosa v. Board of Review*, 490 N.W.2d 542, 545 (Iowa 1992).

III. Discussion

Iowa Code section 427.1(8) (2003) defines tax exempt property of religious, literary, and charitable societies as “[a]ll grounds and buildings used . . . by . . . charitable, benevolent . . . institutions and societies solely for their appropriate objects, [and] . . . not leased or otherwise used . . . with a view to pecuniary profit.” The Hospital contends Crown Pointe and Franken Manor are tax exempt because they meet the three-factor test outlined in *Carroll Area Child Care Center, Inc. v. Carroll County Board of Review*, 613 N.W.2d 252, 254-55 (Iowa 2000), which requires the Hospital to prove the following by a preponderance of the evidence: (1) the Hospital was a charitable institution at the time of the claimed exemption, (2) the Hospital did not operate the facilities with a view toward pecuniary profit, and (3) the actual uses of the facilities are charitable objectives of the Hospital. If the Hospital fails to meet this burden of

proof on a single factor, its claim for property tax exemption must fail. *Partnership for Affordable Hous., Ltd. P'ship Gamma v. Board of Review for the City of Davenport*, 550 N.W.2d 161, 164 (Iowa 1996).

In this case, we are not concerned with whether the Hospital itself is a charitable institution. The issue here is whether the Hospital operates its assisted and independent living facilities as charitable enterprises. *Iowa Methodist Hosp. v. Board of Review*, 252 N.W.2d 390, 392 (Iowa 1977). The character of the use to which the facilities are put controls our analysis, not the identity of the owner. *Id.*

After reviewing the record, we conclude Crown Pointe and Franken Manor are not charitable enterprises. Neither Crown Pointe nor Franken Manor offer tenants a sliding scale of fees based on income. A variety of documents generated by the Hospital inform tenants that if they fail to pay the facilities' charges, they cannot live at the facilities. For instance, all tenants must sign a lease agreement providing that failure to pay entitles the Hospital to terminate the agreement and reenter the apartment; this agreement also holds the tenant liable for attorney's fees and costs incurred in enforcing this right. The "Crown Pointe/Franken Manor Service Agreement," which tenants must sign, states they may be required to vacate the facilities for failure to pay, and if a tenant engages in a wrongful holdover, the facilities may bring an action for possession and hold the tenant liable for attorney fees and costs. The tenants' "Bill of Rights" states that tenants have "the right to remain in Crown Pointe or Franken manor unless . . . [they] fail to pay for services." This document must be signed by the tenant and a legal representative of one of the facilities. Finally, although the Hospital

maintains it does not screen applicants for Crown Pointe or Franken Manor for their ability to pay prior to admission, the “Crown Pointe Handbook” suggests otherwise. The handbook informs the reader that “[i]ndividuals who may not be appropriate for residency are those who . . . are not willing or able to access the resources needed to pay the necessary rent and/or service charges.” A similar handbook is given to Franken Manor residents.

The chief operations officer of the Hospital testified that neither Crown Pointe nor Franken Manor has evicted a tenant for nonpayment. However, the Hospital provided no concrete evidence the required monthly fees have ever been waived for a tenant who could not pay. In addition, the Hospital presented no documents which purport to inform tenants that its written policies, which specifically allow eviction for nonpayment, will not be followed in the future.

We find the facts of this case similar to the case of *Iowa Methodist Hospital*, 252 N.W.2d at 392, in which our supreme court held a nursing home operated by a nonprofit hospital was not eligible for a property tax exemption because no patient was accepted without paying, and if suitable financial arrangements could not be made privately or by public assistance, the applicant was turned away.

The Hospital notes that some of the facilities’ residents are “allowed to move from self paying to government programs, which do not cover the cost of their remaining as residents.” However, as the district court noted, charity which flows from federal subsidies does not assist the Hospital’s claim for tax exempt status. *Partnership for Affordable Hous.*, 550 N.W.2d at 168. Furthermore, at Crown Pointe, only one resident received assistance from HUD, and only two

residents received assistance from both HUD and through an elderly waiver.⁶ At Franken Manor, only one resident received assistance from HUD, and only five residents received assistance from HUD and through the elderly waiver. Furthermore, none of the written policies and documents produced by the Hospital, including the lease agreements, the “Crown Pointe/Franken Manor Service Agreement,” the tenants’ “Bill of Rights,” the “Crown Pointe Handbook,” and the similar Franken Manor handbook indicate that the Hospital has a charity care policy for either Crown Pointe or Franken Manor.

In support of its argument that Crown Pointe and Franken Manor should be classified as tax exempt, the Hospital points to community support provided to its facilities by financial contributors and volunteers.⁷ The trial court recognized that charitable contributions covered a portion of the cost of establishing both facilities, but concluded it was not apparent that contributions pay a portion of the operating expenses of both facilities. Upon our review of the record, we are not able to discern exactly how the fees for Crown Pointe and Franken Manor are set by the Hospital. The Hospital did not prove that donations make up a significant portion of the operational expenses of either facility or that donations result in a reduction of payments required from individual tenants. Moreover, as we have already mentioned, the Hospital produced no evidence that it offers current or prospective tenants a sliding scale of fees based on income.

⁶ The elderly waiver is a portion of the Title XIX Medicaid insurance plan, and it covers the basic care portion of assisted living.

⁷ The record indicates community volunteers, including students from Dordt College, provide some volunteer services to the residents.

The Hospital's decision to provide housing for elderly retired persons as part of its mission is certainly laudable, and the facilities of Crown Pointe and Franken Manor clearly benefit the local community. However, the facilities' contribution to the community does not mean they are entitled to a charitable exemption under section 427.1(8). As our supreme court has stated:

Although [lofty or generous] 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). With these comments in mind, we conclude the Hospital has failed to prove by a preponderance of the evidence that Crown Pointe and Franken Manor are charitable operations.

IV. Conclusion

Under the facts of this case, we conclude Crown Pointe and Franken Manor are not exempt from taxation under the charitable exemption of section 427.1(8).

AFFIRMED.