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Outpatient surgical center denied real estate tax exemption

An outpatient surgical center owned and operated by a charitable hospital has been denied real estate tax exemption on the ground that it is not a "hospital" within the definition of the statute. The Pennsylvania Commonwealth Court has reversed a trial court granting exemption to the facility.

The Latrobe Area Hospital, a 501(c)(3) hospital that owns 35 tax-exempt properties in Westmorland County, including its main hospital building, acquired the Laurel Surgical Center in 2003 from a for-profit limited liability company owned by physicians and folded the facility into its operations. It was used exclusively for patients of the Hospital, subject to the same policies and procedures applicable to all Hospital facilities, and subject to the same billing procedures as the Hospital. It was separately licensed, as required by state law, as an ambulatory surgical center.

The County Board of Assessment denied the exemption on the basis that was not licensed as a hospital and was in competition with similarly licensed commercial enterprises. The trial court reversed and granted the exemption. The Commonwealth Court has reversed again and denied the exemption.

The Consolidated County Assessment Law, which does not apply to Philadelphia and Allegheny Counties, provides exemption for "all hospitals ... with the grounds annexed and necessary for their occupancy and use ... [if] ... the entire revenue derived by the entity is applied to support the entity ... [and is] ... not used in such a manner as to compete with commercial enterprise."

"The threshold question," the Commonwealth Court said, "is whether the Laurel Surgical Center is a 'hospital' as contemplated by" the law. Recognizing that there was no definition of "hospital" in the law, the Court reviewed multiple definitions and concluded that a hospital's "distinguishing features" include availability of medical care around the clock every day of the year and the existence of multiple departments for various types of medical activity.

The Hospital argued that the center became part of the Hospital when it purchased the facility and assumed control of its operations, but the Court was "not persuaded that a hospital's purchase of a separate business entity and its integration and control of the entity's activities is sufficient to transform a business enterprise... into a 'hospital.'" It said that the Hospital's argument "would extend the

statutory tax exemption for ‘a hospital’ to any one of the numerous services typically offered by a hospital at its main facility, such as a pharmacy, rehabilitation/physical therapy, laboratory, and ambulance service. Had the General Assembly intended the exemption to apply to all property owned by hospitals, it would have clearly stated as much.”

The Court also held that the facility was not “annexed and necessary for the occupancy and use” of the main Hospital.

The Court also ruled that the Hospital did not adequately prove that it was not in competition with commercial enterprises. ([Latrobe Area Hospital v. Westmoreland County Board of Assessment Appeals, Pa. Commonwealth Ct., No. 1882, C.D. 2017, 7/19/19.](#))