PT 06-26
Tax Type: Property Tax
Issue: Charitable Ownership/Use

Illinois Department of Revenue
OFFICE OF ADMINISTRATIVE HEARINGS

THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS	**No. 04-PT-0014**
v.	**Tax Year 2002**
PROVENA COVENANT MEDICAL CENTER	
Applicant	

FINAL ADMINISTRATIVE DECISION

SYNOPSIS

Provena Covenant Medical Center ("Covenant" or "Applicant") uses several parcels of real estate located in Urbana, Illinois, for a general acute care hospital. It applied to the Champaign County Board of Review ("Board") for property tax exemptions for the 2002 tax year. The Board recommended denial of Applicant's request, and in February of 2004 the Illinois Department of Revenue ("Department") denied the request for exemption. Following a hearing held pursuant to applicant's timely protest, the Department's Administrative Law Judge, Linda Olivero, ("ALJ" or "Olivero") submitted a recommendation, including findings of fact and conclusions of law to me, as Director, for consideration and final determination.

SUMMARY OF ISSUES AND FINDINGS

The issues in controversy here are whether the property used by Covenant is owned by a charitable organization and if so whether the property is used by that organization exclusively for charitable purposes pursuant to section 15-65 of the Property Tax Code (35 ILCS 200/1-1 *et seq*.) ("Code"). An alternative claim was made that the property is exempt from such taxes under section 15-40 of the Code concerning property used for religious purposes without a view to profit.

Upon due consideration, I disagree with the recommendation of the ALJ to grant the exemption. Specifically, I find that the property does not qualify for the charitable institution tax exemption because the evidence is clear that this property is not used exclusively for charitable purposes. I concur with the ALJ's recommendation that the property does not qualify for the religious purpose exemption.

In reaching a conclusion that rejects ALJ Olivero's recommendation, I am very well aware of my responsibilities to the taxpayer as well as to the State of Illinois. My decision is based solely upon the record in this matter and my legal analysis based upon this record. I have apprised myself of those pertinent provisions of Illinois statutes and regulations and case law related to the issues in controversy. I also find that the record is sufficient to permit the appropriate review and issuance of a final administrative decision that differs from the ALJ's, in accordance with the provisions of 86 Ill. Adm. Code, Ch. I, Section 200.130. See also *Highland Park Convalescent Home v. Health Facilities Planning Commission*, 217 Ill.App.3d 1088, 578 N.E.2d 92 (2d Dist. 1991).

The primary basis of my conclusion is simple: Covenant admitted that its 2002 revenues exceeded $113,000,000 and that its charitable activities cost it only $831,724, or about .7% of total

revenue. The property tax exemption it requested was worth over $1,100,000. As noted below, to obtain the exemption Covenant was required to prove that its primary purpose was charitable care. These financial figures fall far short of meeting the primary purpose standard.

FACTS ADOPTED AND INCORPORATED BY REFERENCE

The ALJ's recommendation sets forth 220 findings of fact which form the basis for her conclusions. After my review of the record, I can accept a number of her findings in whole or in part. I have also concluded that a number of her findings are not relevant to the issues at hand. Because even the revised findings are extensive, I have attached to this opinion as Appendix A an itemization of the facts which I find to be relevant.

APPLICABLE LAW

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation 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.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. *Board of Certified Safety Professionals v. Johnson*, 112 Ill.2d 542, 494 N.E.2d 485 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. *Locust Grove Cemetery v. Rose,* 16 Ill.2d 132, 156 N.E.2d 577 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may

place restrictions or limitations on those exemptions it chooses to grant. *Village of Oak Park v. Rosewell*, 115 Ill.App.3d 497, 450 N.E.2d 981 (1st Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code which states in pertinent part as follows:

> All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not otherwise used with a view to profit:
>
> (a) Institutions of public charity.
> 35 ILCS 200/15-65.

The above section provides that the property of "institutions of public charity" is not exempt by virtue of ownership alone. In fact, Article IX, Section 6 of the Illinois Constitution prohibits the General Assembly from making such property exempt by ownership alone. The first clause of that Section provides that "[t]he General Assembly may by law exempt … only the property of the State, units of local government and school districts" thus establishing a very narrow class of entities whose properties are exempt by sole virtue of their ownership. "Institutions of public charity" do not fall within that class. Rather, they fall within the second clause of Article IX, Section 6, which contains an exempt use requirement. Thus, the property owned by charitable institutions is not exempt unless it is actually used for a purpose that qualifies as "charitable" as that term is defined by Illinois law.

35 ILCS 200/15-65 also requires that the subject property be used "exclusively" for charitable purposes. An "exclusively" charitable purpose has not been interpreted literally to be the entity's sole purpose; it has instead been interpreted to mean the primary purpose, and not a merely incidental or secondary purpose or effect. *Gas Research Institute v. Department of Revenue*, 154 Ill.App.3d 430, 507 N.E.2d 141 (1st Dist. 1987). Incidental acts of beneficence are legally

insufficient to establish that the applicant is "exclusively" or primarily a charitable organization. *Rogers Park Post No. 108 v. Brenza*, 8 Ill.2d 286, 134 N.E.2d 292 (1956).

Swank v. Department of Revenue, 336 Ill.App.3d 851, 785 N.E.2d 204 (2d Dist. 2003) summarized other important legal principals applicable here: (1) Property is subject to taxation unless specifically exempted; (2) Statutory exemptions are to be construed narrowly and strictly in favor of taxation; (3) The party claiming the exemption bears the burden of proving entitlement to the exemption by clear and convincing evidence; (4) All facts are to be considered and all debatable questions of fact are to be resolved in favor of taxation.

ANALYSIS OF FACTS

The owner of the property at issue is Provena Hospitals, a corporate subsidiary of Provena Health. Covenant, the nominal applicant in this matter, has no separate legal identity as it is a non-corporate subdivision of Provena Hospitals. Therefore, a review of whether this property is entitled to a tax exemption must begin with an analysis of whether Provena Hospitals, the property owner, is an institution of public charity.

The Relevance of 501(c)(3) Status

The Illinois Supreme Court has determined that a corporation's 501(c)(3) status, or its sales and use tax exemption status, does not automatically confer charitable organization status on it for property tax exemption purposes. *Eden Retirement Center, Inc. v. Department of Revenue*, 213 Ill.2d 273, 290-291, 821 N.E.2d 240 (2004); *People ex rel. County Collector v. Hopedale Medical Foundation*, 46 Ill.2d 450, 464, 264 N.E.2d 4 (1970). Thus, the specific tax exemptions that Provena Hospitals currently holds are not sufficient, as a matter of law, to qualify it as a charitable institution for property tax purposes.

It is well-settled in Illinois that a determination of whether an entity is an institution of public charity requires an analysis of factors enunciated in *Methodist Old People's Home v. Korzen,* 39 Ill.2d 149, 233 N.E.2d 537 (1968) and *Eden, supra*. These factors are (1) the benefits derived are for 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) the organization has no capital, capital stock or shareholders, earns no profits or dividends, but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter; (3) the organization dispenses charity to all who need and apply for it; (4) it does not provide gain or profit in a private sense to any person connected with it; and (5) it does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. 39 Ill.2d at 156-157. Our Supreme Court reiterated recently that the analysis of these factors is necessary to "resolve the constitutional issue of charitable use." *Eden Retirement Center, Inc. v. Department of Revenue, supra* at 290. Our attention, therefore, must turn to the actual charitable activities of the applicant.

Covenant's Charitable Care Policy

During 2002, Covenant's charity care policy provided: "St. Mary's Hospital [Covenant] will offer, to the extent that it is financially able, admission for care or treatment, and the use of the hospital facilities and services regardless of race, color, creed, sex, national origin, ancestry, or ability to pay for these services." App. Ex. 29. While this statement sounds compelling, the record shows that in 2002 Provena's revenues totaled $113,494,000 but that it waived only $1,758,940 of potential revenue pursuant to its charitable care policy. Provena further admitted that its cost for providing this quantity of care was only $831,724, which represents .723% of Covenant's total revenues, or well less than 1%. This small amount of charitable care is so seriously insufficient

that it simply cannot withstand the constitutional scrutiny required to justify a property tax exemption.

Covenant asserted that all persons seeking treatment in its emergency facilities receive attention. This requirement is contained in the contract that Covenant entered into with the for-profit corporation that operates Covenant's emergency facilities. However, emergency facilities operators are required by federal law to provide appropriate screening, and in many instances treatment, to every person who enters an emergency facility and requests examination or treatment for a medical condition. 42 U.S.C.A. § 1395dd (Examination and treatment for emergency medical conditions and women in labor). Thus, this contractual point is not a clear indication of applicant's charity, but instead may simply reflect compliance with federal law.

What is of most importance in my analysis of the emergency room aspect of this application is that the for-profit corporation operating the emergency facilities does its own billing and pursues its own payment of those bills. The applicant claims that this corporation is required to follow applicant's procedures. However, there is no competent evidence of record that this for-profit corporation is complying with any of applicant's charitable guidelines nor is there any indication of the amount of charity care that is provided within the emergency facilities.

The same situation appears to exist for several other major services found on the property. The applicant contracted with third-party providers for, *inter alia*, its pharmacy services, clinical laboratory services, MRI/CT services, neo-natal staff, medical resident program, laundry services and the management, administration and staffing of a rehabilitation program and cardiovascular surgery program. Interestingly, the record even shows that a for-profit corporation owned by Provena Health provides the laboratory services. The fact that Provena's parent owns the laboratory, and that Provena has an exclusive arrangement for laboratory services with this

business, raises the distinct possibility that there is a private inurement flowing back to Provena Health. It is not clear whether Provena Health in fact profited from this arrangement, but if it did then that single fact might disqualify this applicant from receiving the exemption.

Applicant offered no evidence to suggest that these other vital and extensive services are provided by other than for-profit entities. Nor is there evidence that these providers do not directly bill and pursue the patients for their services. Even though it may be that applicant intends for these third-party providers to adhere to its charitable policies, there is no legally sufficient evidence proving that Covenant verifies these third-party providers are complying with Covenant's charitable guidelines. Thus, a person who needs laboratory services or a specialized radiology procedure, either through the emergency room or as an admitted patient, apparently is presented with a bill for those services separate and apart from applicant's bill for its hospital bed and would be expected to pay such bills. Similarly, there is no evidence quantifying any charitable care provided to Covenant's patients by the third parties with whom Covenant contracted even though these third parties provide very substantial quantities of care to Covenant's patients. In consideration of this omission, and further considering the charitable care quantification of less than 1% of revenues, I cannot accept the ALJ's recommendation to grant the exemption.

Entry Barriers and Inadequate Charitable Care Guidelines

Other characteristics of a charitable institution according to *Korzen* are that the activities benefit an indefinite number of persons, the organization dispenses charity to all who need and apply for it and the organization does not appear to place obstacles of any character in the way of those who would avail themselves of the charitable benefits it dispenses. For the reasons identified below, the record fails to justify a conclusion that either Covenant or Provena Hospital meet these guidelines.

The record shows the charitable policy in effect in 2002 provided that persons whose income was less than the poverty income guidelines as set forth by the Department of Health and Human Resources were eligible for a 100% reduction of the patient portion of billed charges. A person whose income was not more than 125% of the guidelines was eligible for a 75% reduction; a person whose income was 126% to 150% of the guidelines was eligible for a 50% reduction; and finally, a person, whose income was 151% to 200% of the guidelines, was eligible for a 25% reduction from billed charges. Poverty income guidelines depend on the size of the family unit. App. Ex. No. 29.

This policy fails to dispense charity according to the *Korzen* factors discussed above because it ignores completely the financial burden incurred by these patients or families for the medical services rendered. For example, a patient whose portion of billed charges was $50,000, and whose income was at a level allowing for a 50% waiver of charges would be left with a $25,000 bill after application of the sliding scale. It is unlikely that the patient or the patient's family in this situation would ever be able to pay off this bill, considering their level of income. A patient at the same level on the poverty income scale with billed charges of $1,000 would be left with an outstanding bill of only $500 after the sliding scale is applied. As the illustration demonstrates, application of Covenant's charitable policy would result in an impoverished patient's family being faced with an unpaid bill 50 times higher than a patient at the same level of poverty income simply because of the billed amount for the medical services rendered. A true charitable care policy would be more meaningful and would result in a fair evaluation of the patient's ability to pay.

Put differently, it is clear that the patient whose billed medical charges are $50,000 is much more in need of a greater level of assistance from Covenant than the patient whose billed charges

are $1,000. Yet Provena applies the same 50% reduction in charges to both patients, basing the reduction only on the level of poverty income.

Moreover, during 2002, Provena Covenant referred patients with unpaid charges to collection agencies, even when a portion of the patient's charges had been reduced pursuant to the Charity Care Policy. This referral to collection agencies of unpaid balances after reduction for charity appears to be "lacking in the warmth and spontaneity indicative of charitable impulse." *Korzen* at 158. See also *Riverside Medical Center, infra,* which viewed the use of collection agencies to attempt collections from poor people as inconsistent with charitable activities.

I find on this record that application of the poverty income guidelines does not amount to dispensing charity to all who need it, because the guidelines do not consider the medical services rendered, the amount of the patient's bill and the financial ability of the patient in relation to that bill. Further, as noted below, Provena failed meaningfully to publicize its charity care policies.

The "charity" dispensed by Covenant to the patients who received a 50% reduction in their medical bills becomes even more questionable when Covenant's markup is analyzed. The applicant has asserted in several different contexts that the cost of waiving charges pursuant to its charity care policy in 2002 was $831,724 (Tr. p. 97, 261-262; App. Ex. No. 64) while the revenue it waived amounted to $1,758,940 (Dept. Ex. No. 28; App. Ex. No. 90). To obtain the cost figure, the Applicant took the total cost of providing care in the hospital and the total billed amounts and developed a cost to charge ratio. The ratio was applied to the charges generated. Tr. pp. 264, 272. $1,758,940 divided by $831,724 equals 2.1148.

In the example above, a patient entitled to a 50% waiver based upon her level on the poverty income scale, and who received a $50,000 bill would be left with a $25,000 balance after application of the sliding scale reduction. This $25,000 outstanding bill, if paid by the patient,

actually would have generated an average mark up of $1,358 for Covenant. ($50,000 divided by 2.1148 equals $23,642. The difference of $1358, based upon Covenant's formula, apparently would have been the margin above its costs for the preferred service.) It is impossible to conclude that this policy truly is charity as contemplated by the *Korzen* guidelines. Thus, in the Department's Reply to Applicant's Brief, p. 25, the Department's counsel would appear to be correct in characterizing this practice as "the illusion of charity."

The "Charity Care Policy" for St. Mary's Hospital (the old name for Covenant) also is in tension with the *Korzen* standard. It stated that "St. Mary's resources are limited and it is therefore necessary to set limits and guidelines." "St. Mary's Hospital will offer, to the extent that it is financially able, admission for care or treatment…" App. Ex. No. 29. This policy statement, when considered in conjunction with the guidelines and practices discussed above, raises further doubt about whether the charitable activities offered by Covenant are in fact provided to an indefinite number of persons and that Covenant provides charity to all who need and apply for it as required by the Supreme Court. Moreover, and of significant importance, the record does not show that Covenant made any material effort to publicize the availability of charity care to those who were most in need of it. Indeed, Covenant tacitly admitted this serious deficiency by adopting publication and dissemination standards in subsequent years.

Charitable Receipts Were Minimal

Neither Covenant nor Provena Hospitals meet the *Korzen* guideline that the funds of a charitable organization should be derived mainly from public and private charity and the funds should be held in trust for the objects and purposes expressed in the charter.

The record shows that in 2002 Covenant received virtually no funds from public and private donations. Specifically, for the year ended December 31, 2002, Covenant received $6,938, in

"unrestricted donations" out of total revenue of $106,828,466. This constitutes only .00067% of collected revenue. In fact, $104,393,706, or 97.7%, of Covenant's total revenue was composed of patient service revenue. App. Ex. No. 90. In *Riverside Medical Ctr. v. Dept. of Revenue*, 342 Ill. App.3d 603, 795 N.E.2d 361 (3rd Dist. 2003), the court noted that 97% of Riverside's net revenue of over $92,000,000 million came from patient billing and net revenue in the Riverside system was $10,000,000, although the specific facility in question had a net operating loss of $850,000. According to the court, " ...in general this level of revenue is not consistent with the provision of charity." *Id*. at 608. Further factors which weighed against Riverside's exemption application were that it did not broadly advertise its charitable policies, established a 3% of revenue charity guideline, and received well less than 1% of its revenue in the form of charitable contributions. See, too *Alivio Medical Ctr. v. Department of Revenue*, 299 Ill.App.3d 647, 702 N.E.2d 189 (1st Dist. 1998). *Alivio* showed that 59% of its revenue was from patient fees and 25% was derived from charitable contributions. The clinic claimed that because it wrote off 20 - 25% of its billings – and called the write-offs chartable care – it qualified for the charitable exemption. The write-offs however, were precisely that and only occurred after 180 days of unsuccessful collection efforts. Alivio billed all patients its full fee. Lower income patients later received adjusted bills based on a sliding poverty level scale. Only after several unpaid statements accumulated did the write-offs occur. The court found that writing off bad debts did not constitute charity and denied the exemption. *Highland Park Hospital, supra*, with 6% write-offs claimed as charitable care reached the same result.

Thus, it is clear that the primary use of the subject property in 2002 was for the exchange of services for payment. This is not a use of property that has ever been recognized by Illinois courts as "charitable." The fact that 97.7% of Covenant's revenue in 2002 was generated from the

exchange of services for payment supports the conclusion that the subject property was not "exclusively" used for charitable purposes in 2002, as is required by the statute. Clearly, just as in *Riverside*, the primary use of the subject property here was to provide care to patients who were able to pay, either individually, or through Medicare, Medicaid or private insurance.

Similarly, if we look at the financial picture of Covenant's parent, we see that for Provena Hospital's year ended December 31, 2002, "Consolidated Statement of Operations Information" shows other revenue of $25,382,000, which is 3.4% of total revenue of $739,293,000. It is impossible to tell how much of the 3.4% of other revenue were derived from public and private charity because there is no further breakdown of this amount in the statement. App. Ex. No. 91. As discussed previously, the record in this case is very limited in evidence concerning how Provena Hospitals, the owner of the property, qualifies as a charitable organization. If the entire 3.4% of "other revenue" in Provena Hospital's statement was derived from public and private charity, I would still not be able to conclude that Provena Hospitals meets the *Korzen* guideline that it derives its funds mainly from public and private charity.

Thus, on this issue I find that neither the owner of the property, Provena Hospitals with public and private donations of less than 3.4%, nor the user of the property, Covenant with public and private donations of .00067%, comes close to meeting the *Korzen* guideline as reiterated by *Eden*.

Implications of the Exemption Request

The charity care policy followed by Covenant during the year 2002 resulted in costs to the applicant of $831,724. Tr. pp. 97, 261-262; App. Ex. No. 64. As noted, this amount represents seven tenths of one percent (0.7%) of Covenant's net patient service revenue of $113,494,000. The charitable cost is $268,276 less than the $1,100,000 that Covenant wants to see waived for tax year

2002. App. Ex. No. 93. The Attorney General of the State of Illinois characterized Covenant's charity care *vis a vis* its property tax obligation as an instance in which "hospitals such as Applicant reap substantial tax benefits while paying only lip service to their charitable obligations." Brief of Amicus Curiae Attorney General of Illinois, p. 8.

Neither Illinois cases concerned with charitable exemptions nor the General Assembly has specifically identified a minimum level of charity care necessary to qualify for a charitable exemption. The legal question, however, is whether the evidence supports a conclusion that the value of charitable services was so substantial as to fairly be considered the primary purpose of an institution. See *Eden*, generally.

The dollar amount of charitable services donated have and should be considered by Illinois courts as an indication of whether an organization's use of its property is exclusively charitable, as is required by statute. Clearly, property tax exemptions impose lost revenue costs on taxing bodies and mean that other property owners pay higher taxes than they would otherwise. Thus, in order to minimize the adverse effects of such lost revenue, and thereby preserve the Constitutional and statutory limitations that protect the tax base, statutes conferring property tax exemptions are to be strictly construed in favor of taxation. *People ex rel. Nordland v. Home for the Aged*, 40 Ill. 2d 91, 237 N.E.2d 533 (1968).

It is worth repeating here that 35 ILCS 200/15-65 requires that property sought to be exempt be "exclusively" used for charitable purposes. An "exclusively" charitable purpose need not be interpreted as the entity's sole purpose but it should be interpreted to mean the primary purpose, not a merely incidental or secondary purpose or effect. *Gas Research Institute v. Department of Revenue,* 154 Ill.App.3d 430, 436 (1st Dist. 1987.). Incidental acts of beneficence

are legally insufficient to establish that the applicant is "exclusively" or primarily a charitable organization. *Rogers Park Post No. 108 v. Brenza,* 8 Ill.2d 286, 134 N.E.2d 292 (1956).

It would defy logic in the instant case to find that the applicant's provision of seven tenths of one percent (0.7%) of its net patient service revenues for charity care for those patients unable to pay makes Covenant's use of the subject property exclusively charitable. As noted, in *Riverside Medical Center v. Dept. of Revenue,* 342 Ill.App. 3d 603, 795 N.E.2d 361 (3rd Dist. 2003), an exemption was denied where the applicant devoted only 3% of its revenue for charity care. Applying the logic of *Riverside* to the cost of Covenant's charitable care in 2002, it becomes clear that with a charitable cost of only seven tenths of one percent of its net patient service revenue, Covenant's charity is, under Illinois law, an incidental act of beneficence and is, at most, a secondary use of the subject property. Ultimately, charitable care of .7% net patient service revenues cannot be reconciled with the statutory requirement that use of the subject property be exclusively charitable.

If we transfer our attention to Provena Hospital, Covenant's parent, I find that the record contains no information as to Provena Hospital's charitable expenditures in 2002. According to the ALJ in her Recommendation for Disposition, "[T]he testimony indicated, and the advertisements, collection practices, and other documents support the finding, that Covenant's policies and practices are the same as those of the owner of the property," Provena Hospitals. Page 49. Without information about Provena Hospital's expenditures for charitable care in 2002, it is not possible to conclude that the true owner of the property is a charitable institution as required by Illinois law.

Un-reimbursed Medicare and Medicaid Bills Do not Constitute Charity Care

Covenant also argued that it provided over $10 million in additional charity care in 2002 by accepting Medicare and Medicaid patients. The un-reimbursed costs from Medicare and Medicaid

are included by Covenant in their listing of "Charitable Contributions" for 2002. According to the applicant, costs unpaid by Medicare in 2002 amounted to $7,418,150 and costs unpaid by Medicaid amounted to $3,105,217. App. Ex. No. 64. There was testimony at the evidentiary hearing that these amounts represent the "difference in what it costs the hospital and what the government pays the hospital." Tr. p. 84. "These are amounts that we incur and contribute to for the benefit of the community and the people we serve on an annual basis." Tr. pp. 85-86. It must also be noted that in 2002, as allowed under the rules of Medicare and Medicaid, Covenant attempted to collect a portion of the un-reimbursed charges from patients who qualified for and for whom Provena Covenant received payment from Medicare and Medicaid. Tr. pp. 136-137.

Illinois courts have consistently rejected the argument that un-reimbursed costs of Medicare and Medicaid constitute charitable care. In *Riverside Medical Ctr. v. Dept. of Revenue*, *supra*, Riverside argued, similar to Covenant here, that the institution's charity care also included "discounted care to patients through Medicare, Medicaid and private insurance." Riverside claimed to provide this care at 50% of actual cost. The court stated that it was unpersuaded by Riverside's arguments that the un-reimbursed amounts constituted charitable care. The court was "confident that these discounts are not charitable and do not warrant a finding in favor of Riverside." *Id.* at 610. A similar argument was advanced in *Alivio Medical Ctr. v. Dept. of Revenue*, 299 Ill.App. 3d 647, 702 N.E.2d 189 (1st Dist. 1998), where Alivio argued, *inter alia*, that 78% of its patient fees came from Medicaid reimbursement and 2% came from Medicare reimbursement. The court found that these facts did not support Alivio's claim that it was a charitable organization and therefore held that the use of the property was not charitable.

This applicant also attempted to make much of the fact that it made many contributions to the community. No one disputes the fact that a hospital and the services it offers may improve the

well being of the community within which it operates. But that general proposition holds true for for-profit hospitals as well as for not-for-profit ones. Property tax exemptions do not turn on these general propositions.

Distinguishing Sisters of the Third Order

Because the ALJ and the applicant placed great reliance on the case, *Sisters of Third Order of St. Francis v. Board of Review of Peoria County,* 231 Ill. 317, 83 N.E. 272 (1907), it is necessary to discuss why this emphasis is misplaced. Before doing so, I would note that the *Riverside, Highland Park* and *Alivio* cases, noted above, are much more current and clearly are more on point concerning their business practices.

The facts presented in *Sisters of Third Order* are of a very different hospital model than that of Covenant. The sisters who served at the hospital a century ago received no remuneration other than their room, board and clothing. The admission policy of Sisters' hospital provided that: "All sick or injured persons not suffering from contagious diseases who seek admission at St. Francis Hospital are received, boarded, nursed, and cared for, so long as they need such attention… ." *Id.* at 319-20. The court also noted that "When the patient is unable to pay for medical care he is treated free of charge by the members of the medical profession practicing in the hospital." *Id.* at 323.[1] This clearly was the dispositive and central fact in *Sisters*. Based upon these facts, and others, the Court determined that "the property of this corporation is, within the meaning of our statute, property of an institution of public charity actually and exclusively used for such charitable purposes and not leased or otherwise used with a view to profit." *Id*. at 324.

[1] Similarly, the Courts in *German Hospital of Chicago v. Board of Review of Cook County*, 233 Ill. 246, 84 N.E. 215 (1908) and *Board of Review of Cook County v. Chicago Policlinic*, 233 Ill. 268, 84 N.E. 220 (1908) set forth that both hospitals had their own staff physicians who treated patients for free when there was an exhibited financial need. *German Hospital of Chicago v. Board of Review of Cook County, supra* at 248, 249; *Board of Review of Cook County v. Chicago Policlinic, supra at 269-270*

The record in the instant matter convinces me that applicant's hospital model easily is distinguishable. For example, applicant in 2002 did not have its own staff of physicians. Rather, a prospective patient arriving at the emergency facility was seen by a private physician. It is the private physician at that emergency facility who determined whether an admission was appropriate. Further, the emergency room operator was a for-profit corporation that separately billed each patient seen and collected any such fees for itself. As noted earlier, the same was true at Covenant for many tests, radiological procedures or even medication.

Additionally, the *Sisters*' court noted that a patient who could not pay for care was treated free of charge by physicians practicing in the hospital. As previously discussed, while Covenant avers that the physicians who have practice privileges at the hospital must adhere to its charitable policy, no evidence was offered to prove that applicant actually verified compliance with the asserted policy. Indeed, the record shows that Covenant's administrative employees were compensated with a view to market incomes, in marked contrast to the status of the sisters who served St. Francis Hospital. Thus, reliance on that case 100 years after the Court decided it is simply inappropriate given the substantially dissimilar facts of this instant matter.

Summary and Conclusion

The ALJ correctly articulated the basic legal premises governing property tax exemption considerations. That is, tax exemption provisions are to be strictly construed against exemption and in favor of taxation. *Wyndemere Retirement Community v. Department of Revenue*, 274 Ill. App.3d 455, 459, 654 N.E.2d 608 (2nd Dist. 1995). It is the exemption claimant who has the burden to prove, clearly and conclusively, its entitlement to the exemption requested. *Id.* Further, in any analysis of whether the exemption is appropriate, "all facts are to be construed and all debatable questions resolved in favor of taxation." *Id.*

Here, I find that the applicant, as well as Provena Hospitals, failed to provide sufficient, competent evidence to clearly and conclusively prove their entitlement to a property tax exemption for the property at issue. More specifically, the record does not permit me to conclude that Covenant, the applicant, dispenses charity to all who need it and I cannot conclude that it does not place obstacles of any character in the way of those who need and would avail themselves of the charity it dispenses. Nor can I conclude from this record that the owner of the property, Provena Hospitals, dispenses charity to all who need it or that it does not place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. In summary, given the very limited amount of charitable care offered, I cannot conclude that Provena's primary purpose is the provision of charity.

Therefore, I find that the Department was correct in denying Provena Covenant's property tax exemption request for 2002.

Brian Hamer
Director, Illinois Department of Revenue

APPENDIX A: FINDINGS OF FACT IN THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS V PROVENA COVENANT MEDICAL CENTER

CASE # 04-PT-0014

1. Provena Covenant Medical Center ("Covenant" hereafter) is a non-profit, full-service, general acute care hospital located at 1400 West Park Street, Urbana, Illinois. It is a faith-based institution founded, organized, owned and operated as an apostolic mission and health care ministry of the Catholic Church. The applicant was founded in 1919 as Mercy Hospital. (First Stipulations #1, 2)
2. During 2002, the amount of revenue waived pursuant to Covenant's charity care policy was $1,758,940. (Dept. Ex. #28 p. 4; App. Ex. #90 p. 1259)
3. During 2002, the applicant's cost for its charity care policy was $831,724. (App. Ex. #64 p. 655; Tr. pp. 97, 261-262)
4. The charity care cost figure represents applicant's cost to care for the patients who were provided free care. To obtain the cost figure, the applicant took the total cost of providing care in the hospital and the total billed amounts and developed a cost to charge ratio. That ratio was applied to the charges generated. (Tr. pp. 264, 272)
5. In 2002, the ratio of the cost of Covenant's charity care policy, $831,724, to net patient revenue, $113,494,000, was seven tenths of one percent (.7%). The ratio of the amount of revenue waived pursuant to the charity care policy, $1,758,940, to net patient revenue, $113,494,000, was 1.5%. (Dept. Ex. #27 p. 46; App. Ex. #64 p. 655, #90 p. 1259, #91 p. 1298)

6. In 1989, Mercy Hospital merged with Burnham City Hospital in Champaign to form Covenant Medical Center of Champaign/Urbana. (App. Ex. #27 p. 438)
7. On November 26, 1997, the Servants of the Holy Heart combined its health care ministries with those of two other Roman Catholic religious congregations, the Franciscan Sisters of the Sacred Heart and the Sisters of Mercy of the Americas (Regional Community of Chicago). (App. Ex. #2, #154; Tr. p. 329)
8. The health care ministries that were individually sponsored by these three congregations were consolidated to form Provena Health. These three religious congregations continue to sponsor Provena Health.[2] (App. Ex. #2, #154; Tr. p. 329)
9. Covenant is a health care ministry operating within Provena Health, a Catholic health system and nonprofit, tax exempt organization. (First Stipulations #4)
10. As part of the consolidation of the health care ministries of the three sponsors, Provena Hospitals, an Illinois non-profit corporation, was formed as a subsidiary of Provena Health. (App. Ex. #1, #154)
11. The following Illinois non-profit corporations were consolidated to form Provena Hospitals: Covenant Medical Center of Champaign/Urbana; Franciscan Sisters Health Care Corporation; Mercy Center for Health Care Services; St. Mary's Hospital of Kankakee, Illinois; and Servantcor. (App. Ex. #1)
12. As part of the consolidation, the name Covenant Medical Center was changed to Provena Covenant Medical Center. (Tr. p. 333)
13. Provena Hospitals is the owner and titleholder of all the parcels at issue in this proceeding. (Second Stipulations #1)

[2] Sponsorship is a term that represents the relationship of a religious congregation to its incorporated ministries. (App.'s Ex. #27 p. 438).

14. Although Covenant is not a separate corporation, the Board of Directors of Provena Hospitals authorized the establishment of a Board to govern the day-to-day affairs of Covenant. Covenant's Board is responsible to and reports to the Provena Hospitals Board. (App. Ex. #4 p. 25)
15. As a health care ministry of Provena Health, the applicant enjoys federal tax exemption under section 501(c)(3) of the Internal Revenue Code. (First Stipulations #6)
16. At present, Provena Health and Provena Hospitals are exempt from the retailers' occupation tax and use tax pursuant to a determination made by the Department. (App. Ex. #140, #141)
17. Provena Hospitals is a religious organization under the Charitable Trust Act and the Illinois Solicitation Act. (App. Ex. #152)
18. The Articles of Consolidation state that the purposes of the Covenant ministry include the following:

    a. To establish and operate Catholic-identified hospital and related health care facilities and programs to enhance the health of the community and to foster other spiritual, pastoral, religious and charitable work in connection therewith.

    b To enhance the health and welfare of the Champaign/Urbana community through preventive education and programs and activities related to care for the sick, injured, poor, aged, infirm, distressed and/or unfortunate.

    c. To undertake research and related work to improve care for the sick, injured, aged, infirm, and distressed and/or unfortunate. (First Stipulations #5)

19. The Articles of Consolidation state that the purposes of Provena Hospitals include the above-listed purposes for Covenant and also include the following:

    a. To coordinate the activities of Provena Hospitals' subsidiaries or other organizations that are affiliated with Provena Hospitals as they pursue their religious, charitable, educational and scientific purposes.

b. To offer at all times high quality and cost effective healthcare and human services to the consuming public. (App. Ex. #1 p. 8)

20. As a Catholic health care ministry, the applicant is obliged to adhere to the doctrines of the Catholic Church, including the Ethical and Religious Directives for Catholic Health Care Services. One of the directives is that "Catholic health care should distinguish itself by service to and advocacy for those people whose social condition puts them at the margins of our society and makes them particularly vulnerable to discrimination: the poor; the uninsured and the underinsured; ***." (App. Ex. #15 pp. 164-165, #137 p. 1876)
21. The applicant is one of two general acute care hospitals serving the Champaign/Urbana community. Neither the federal, state, nor local governments own or operate a general acute care hospital in Champaign County. (Tr. pp. 44, 143; App. Ex. #156 p. 1957)
22. The applicant dispenses health care to all who apply for it, regardless of their ability or inability to pay for the service. (First Stipulations #8)
23. The applicant's services also include pastoral care, which involves looking at spiritual, psychological and social needs in addition to physical needs. (App. Ex. #19 p. 316; Tr. pp. 346-347, 362)
24. The emergency room serves as a primary care clinic for many uninsured and underinsured patients. People of all economic levels whose ailments range from serious accidents to mental health issues go to the emergency room. (Tr. pp. 155-156, 537-538, 584)
25. The applicant's Medical Staff Rules and Regulations state that "On-call physicians who refuse to provide medical care to any patient for any reason are subject to corrective action as outlined in Article 9 of these Bylaws."[3] (App. Ex. #5 p. 108)

[3] Article 9 is titled "Hearing Procedure" and provides guidelines for disciplinary action. App.'s Ex. #5 p. 68.

26. At all relevant times, the applicant has maintained a charity care policy setting forth guidelines and procedures under which patients are evaluated and assisted with the costs of their health care and related services. (First Stipulations #7)
27. The purpose section of the policy states that the applicant "will offer, to the extent that it is financially able, admission for care or treatment, and the use of the hospital facilities and services regardless of race, color, creed, sex, national origin, ancestry, or the ability to pay for these services." (App. Ex. #29 p. 442)
28. Under the "Policy" section of the charity care plan, it provides that the provision of necessary services by the applicant shall not be withheld based upon an individual's ability to satisfy the related financial requirements. (App. Ex. #29 p. 442)
29. The "Procedure" section of the plan indicates that patients are encouraged to apply for charity care before receiving services, and at that time, the patient's ability to pay and the alternative pay sources are reviewed. It states that alternate pay sources will be pursued, if available, with the applicant's assistance; otherwise, a charity care determination will be made. The plan further states that "[a]t any time during the collection process patients may apply for Charity Care by contacting the Patient Accounting Office at the hospital." (App. Ex. #29 p. 442)
30. The applicant requires those seeking charity care and related assistance to also avail themselves of other assistance programs such as Medicaid and public aid. (First Stipulations #11)
31. The policy states that the "Charity Care Program is the payor of last resort. The existence of potential benefits under the Charity Care Program shall not preclude or in any way reduce benefits potentially available from insurers, government programs or private

individuals." Patients must apply for all applicable governmental programs as a prerequisite to receiving benefits in accordance with the charity care program. (App. Ex. #29 p. 443)

32. The applicant makes its determination of charity care on a case-by-case basis, applying established criteria; eligibility criteria are based upon the federal poverty guidelines and are updated annually. (First Stipulations #9)

33. The policy states that persons whose family income is above, but less than double, the federal poverty income guidelines and whose assets other than a principal residence are $5,000 or less shall be eligible for charity care. It further states that those "individuals who qualify based on income and whose equity in a principal residence is $10,000 or less and other assets $5,000 or less shall be eligible for Charity Care after determination of insurance benefits." (App. Ex. #29 p. 443)

34. An additional provision in the policy provides as follows: "Individuals who qualify for Charity Care based on income criteria with assets in excess of the aforementioned levels shall be eligible for Charity Care to the extent that the collection of charges for services rendered would reduce assets below the $5,000 and $10,000 thresholds." (App. Ex. #29 p. 444)

35. The policy states that "[f]or patients who do not obtain an advance determination of Charity Care eligibility, normal collection practices will be followed. Payment of a patient's charges will be sought from private insurers first, where appropriate. Then, all government pay sources will be pursued. Next, payment directly from the patient will be sought. As a final step, the patient may be considered for Charity Care. After application of the funds received from private insurers, government assistance, the individual, or from Charity Care

to the patient's outstanding charges, any uncollected amounts will be charged to bad debts. Amounts already paid will not be considered for Charity Care." (App. Ex. #29 p. 442)

36. Further to its stewardship duty, the applicant requires that those seeking charity care comply with requests for information reasonably necessary to assess the patient's financial status and level of need for charity care. (First Stipulations #10)
37. The charity care policy indicates that it is the responsibility of the individual seeking charity care to provide all the information necessary to verify his income level and other requested information. (App. Ex. #29 p. 443)
38. The patient must present verification of his income, such as check stubs, income tax returns, and bank statements. (Tr. p. 185)
39. A patient who would like to receive charity care must complete an application that provides Covenant with the patient's financial information. (App. Ex. #130 p. 1671)
40. Covenant gives a charity care application to anyone who asks for one. The applications are printed in both English and Spanish. (App. Ex. #30, #31, #130 p. 1712)
41. The applicant expects payment from patients unless they cannot afford to pay. The applicant will first provide care to the patient and then later make the determination as to whether the patient can pay. (Tr. pp. 259-260)
42. The charitable policy in effect in 2002 provided that persons "whose income is less than the guidelines will be eligible for 100% reduction from the patient portion of billed charges." A person whose income is not more than 125% of the guidelines is eligible for a 75% reduction from the billed charges. If the income is not more than 150% of the guidelines, then a 50% reduction is given. If the income is not more than 200% of the guidelines, then a 25% reduction is given. (App. Ex. #29, p. 443)

43. If less than 100% of charity care is given to a patient, the applicant will continue to work with the patient to determine if there are other methods for paying the charges. (App. Ex. #130 pp. 1686-1687)
44. Under the charitable policy in effect in 2002, a determination that a patient has the ability to pay all or a portion of a bill does not prevent reassessment of a patient's ability to pay at a later date. (First Stipulation #9)
45. Covenant's staff affirmatively assists patients in applying for financial assistance whenever the facts or circumstances indicate the patient may need or qualify for financial assistance or charity care from Covenant and/or other sources. (First Stipulations #13)
46. During 2002, the applicant's advertising and public informational communications did not expressly state that, "charges may be waived or reduced for financial need." (App. Ex. #131 p. 1758)
47. During 2002, the applicant did not have a policy of referring patient accounts to collection attorneys. Rather, the collection agencies to which patient accounts had been sent would, from time to time, obtain authorization to pursue legal action against an account on which, over the course of several months, the agency had not received any response, cooperation, or payment from the patient. Covenant's determination about whether to authorize legal action was dependent on the review of the history of a particular account. (App. Ex. #131 pp. 1748-1749)
48. A nonprofit hospital may confer a community benefit and lessen the burdens on government through acts of charity other than the provision of free or discounted medical care. (First Stipulations #12)

49. The applicant sponsors the Crisis Nursery of Champaign/Urbana. Crisis Nursery is an emergency shelter and a child abuse and neglect prevention center. Crisis Nursery operates 24 hours a day providing food, clothing, and safe and confidential care for children from birth to 5 years old at no cost to individuals in need of help. (First Stipulations #16)

50. Crisis Nursery leases land from the applicant for $1.00 per year for a term of thirty-six (36) years. Crisis Nursery leases three lots from the applicant for a total of $3.00 a year. (First Stipulations #17; Tr. pp. 410-411)

51. Compensation paid to the applicant's ministerial leadership is guided by its mission, vision and values and is intended to provide employees with compensation that is fair and socially just. Consideration is given to the compensation paid at comparable non-profit health care organizations, and the compensation is set at a level appropriate to attract, retain, and motivate talented personnel who will support and execute on the applicant's ministry duty, mission and values. (First Stipulations #14)

52. In the late 1960's or early 1970's, the sisters of the Servants of the Holy Heart who worked at the hospital began to receive financial compensation for their services at the same level as other individuals who work in those positions. (Tr. pp. 344-345)

53. The applicant is subject to a Conflict of Interest Policy which sets forth the procedures and safeguards intended to prevent private inurement and other conduct that may be inimical to the applicant's status and mission as a Catholic charity hospital and ministry. (First Stipulations #22)

54. The applicant's Conflict of Interest Policy applies to all directors of the applicant's Board, as well as all officers and all members of all committees of the applicant's Board, key

agents and ministerial leadership employees of the applicant, including independent contractors who are providers of services and materials. (First Stipulations #23)

55. The Board members for Covenant are not compensated for their services or for travel expenses. (First Stipulations #19; Tr. pp. 338, 428)

56. Applicant does not employ physicians as part of its staff. Physicians who use applicant's facilities apply to the hospital for credentials giving them hospital use privileges. (Tr. pp. 149-150)

57. The applicant engages third-party providers to secure certain medical and support services in order to provide a full range of sophisticated and necessary health care services in an effective, efficient, and economic manner consistent with the mission and values of the institution. (First Stipulations #15)

58. The applicant contracts with a company to exclusively provide physician services for its emergency department. They are available seven days a week, 24 hours a day. (App. Ex. #75 p. 1108; Tr. pp. 108, 300-301)

59. This contract provides that the emergency room physicians will directly bill and collect fees from the patients and/or third-party payors for emergency services rendered. In turn, Provena agreed to furnish information as needed by the company for such billing. (App. Ex. #75 p. 1117)

60. There is no legally sufficient evidence of record that the entity which operates the emergency room facility on the applicant's property is other than a for-profit corporation, or that its billing and collection practices are charitable in nature.

61. During 2002, other services for which the applicant had contracts with third-party service providers included: pharmacy services, clinical laboratory services, MRI/CT services,

medical resident program, laundry services, and the management, administration, and staffing of rehabilitation program and cardiovascular surgery program. (Dept. Ex. #29-31; App. Ex. #131 pp. 1754-1755)

62. There is no legally sufficient evidence of record that the entities with contracts to operate the pharmacy, clinical laboratory services, MRI/CT services, laundry services and management, administration and staffing of rehabilitation program and cardiovascular surgery programs on the applicant's property are other than for-profit entities or that its billing and collection practices are charitable in nature. The contract for laboratory services was with Medical Center Laboratories, which is a for-profit corporation that is owned by Provena Health. (Dept. Ex. #27 p. 7, App. Ex. #3)

63. The applicant's financial system does not have a mechanism for sending regular statements to patients on a long-term basis. The applicant has sent accounts to collection agencies in order to allow patients to make monthly payments because the agencies have systems for sending regular statements. (App. Ex. #130 p. 1708)

64. Covenant's net patient service revenue for 2002 was $113,494,000, its provision for uncollectible accounts receivable (i.e., bad debt) was $7,101,000, and its "revenue and gains in excess (deficient) of expenses and losses" was $2,165,000. (App. Ex. No. 90) Its net patient service revenue was approximately 98.7% of its total revenue. (Dept. Ex. #27 p. 46; App. Ex. #91 p. 1298)

65. Provena Hospital's net patient service revenue for 2002 was $713,911,000, its provision for uncollectible accounts receivable was $51,180,000, and its net operating loss was $4,869,000. Its net patient service revenue was approximately 96.5% of its total revenue. (App. Ex. #91 p. 1295)

66. The Consolidated Financial Statements for Provena Health and Affiliates for the years ending December 31, 2003 and December 31, 2002 indicate that litigation is pending concerning the applicant's property tax exemption for the year 2002. The auditors therefore accrued the property taxes in 2003 and included approximately $1,100,000 for 2002 property taxes and $1,100,000 for 2003 property taxes in accounts payable and accrued expenses in the 2003 balance sheet. (App. Ex. #93 p. 1338)
67. If the applicant had expensed property taxes in the year 2002, then its margin for 2002 would have been reduced to approximately $1,065,000. (App. Ex. #93; Tr. pp. 289-290)
68. The charity care cost figure represents the cost to care for the patients who were provided free care. To obtain the cost figure, the applicant took the total cost of providing care in the hospital and the total billed amounts and developed a cost to charge ratio. That ratio was applied to the charges generated. (Tr. pp. 264, 272)
69. In 2002, the ratio of the cost of Covenant's charity care policy, $831,724, to net patient revenue, $113,494,000, was seven tenths of one percent (.7%). The ratio of the amount of revenue waived pursuant to the charity care policy, $1,758,940, to net patient revenue, $113,494,000, was 1.5%. (Dept. Ex. #27 p. 46; App. Ex. #64 p. 655, #90 p. 1259, #91 p. 1298)
70. During 2002, the applicant's cost for subsidizing Medicare patients was $7,418,150 and the cost for subsidizing Medicaid patients was $3,105,217. (App. Ex. #64, p. 655)
71. In 2002, the applicant attempted to collect, (as it is allowed to do under the rules of Medicare and Medicaid) a portion of the un-reimbursed charges from patients who were qualified for and for whom the applicant received payments from Medicare and Medicaid. (Tr. pp. 136-137)

72. The Provena Health and Affiliates Consolidated Financial Statements and Supplementary Information for 2001 and 2002 does not identify in the section 5 of the Notes titled "Charity Care," any charges or costs incurred by Provena for subsidizing Medicare and Medicaid patients. (App. Ex. No. 91)
73. The disputed areas within the main hospital building are as follows: (1) gift shop; (2) outpatient pharmacy; (3) emergency department; and (4) space leased to the Board of Trustees of the University of Illinois. (Second Stipulations #3)
74. The total area of the main hospital building is 395,685 square feet. (Second Stipulations #8)
75. The gift shop consists of 1,592 square feet, which is .4% of the total square footage, and is located on the first floor of the main hospital building. (Second Stipulations #4, #9)
76. The outpatient pharmacy consists of 795 square feet, which is .2% of the total square footage, and is located on the first floor of the main hospital building. (Second Stipulations #5, #9)
77. The emergency department consists of 9,319 square feet, which is 2.4% of the total square footage, and is located on the first floor of the main hospital building. (Second Stipulations #6, #9)
78. The space leased to the Board of Trustees of the University of Illinois consisted of 3,933 square feet, which is .99% of the total square footage, and is on the fourth floor of the main hospital building. (Second Stipulations #7, #9)
79. This space was used to educate students at the College of Medicine. It was used for graduate medical education and internal medicine residency. (Tr. pp. 536-537)

80. In 2002, the total space within the main hospital building leased to for-profit entities or otherwise used for non-exempt purposes was 22,065 square feet, or 5.6% of the total square footage of the building. (Second Stipulations #10)

81. The main hospital building consists of parcels identified by PIN 91-21-07-404-001 through 91-21-07-404-010. If it is found that the applicant owns and uses its property for charitable purposes, then the parties agree that the parcels should be accorded a tax exempt percentage stipulated to in the previous paragraph, #10 of the Second Agreed Stipulations. In other words, the applicant would be entitled to an exemption for 94.4% of the property. (Second Stipulations #2)

82. The main hospital building consists of parcels identified by PIN 91-21-07-404-001 through 91-21-07-404-010. If it is found that the applicant owns and uses its property for charitable purposes, then the parties agree that the parcels should be accorded a tax exempt percentage stipulated to in the previous paragraph, #10 of the Second Agreed Stipulations. In other words, the applicant would be entitled to an exemption for 94.4% of the property. (Second Stipulations #2)

83. The Covenant Cancer Center Parking Lot consists of parcels identified by PIN 91-21-07-403-001 through 91-21-07-403-005. If it is found that the parcels comprising Covenant's main hospital building are owned by a charitable organization and used primarily for exempt purposes, then the parties agree that the parcels comprising the Covenant Cancer Center and Covenant Cancer Center Parking Lot are 100% exempt. (Second Stipulations #12, #13)

84. The Crisis Nursery sits upon parcels identified by PIN 91-21-07-407-001 through 91-21-07-407-003. The combined play lot/parking lot for the Crisis Nursery encompasses a parcel

identified by PIN 91-21-07-407-004. If it is found that the parcels comprising Covenant's main hospital building are owned by a charitable organization and used primarily for exempt purposes, then the parcels comprising the Crisis Nursery and the combined play lot/parking lot for the Crisis Nursery are100% exempt. (Second Stipulations #14, #15)

85. Parking Lot B consists of a parcel identified by PIN 46-21-07-336-001. Pursuant to the Covenant Parking Facilities Policy, Covenant employees and medical students who participate in graduate medical education programs at Covenant use this lot. If it is found that the parcels comprising Covenant's main hospital building are owned by a charitable organization and used primarily for exempt purposes, then the parcel comprising Parking Lot B are 100% exempt. (Second Stipulations #16)

86. Parking Lot C consists of a parcel identified by PIN 46-21-07-338-006. Tenants and visitors of the Fox Medical Office Building use this lot. The parcel comprising Parking Lot C shall not be exempt from property tax for assessment year 2002. (Second Stipulations #17)

87. Parking Lot D consists of a parcel identified by PIN 46-21-07-337-006. The Fox Medical Office Building has non-exclusive access to 126 parking spaces in this lot. The parcel comprising Parking Lot D shall not be exempt from property tax for assessment year 2002. (Second Stipulations #18)

88. Parking Lot E consists of a parcel identified by PIN 91-21-07-408-012. Pursuant to the Covenant Parking Facilities Policy, Covenant cardiac/pulmonary rehab patients, on-call physicians, emergency department patients, and hospital vehicles use this lot. If it is found that the parcels comprising Covenant's main hospital building are owned by a charitable organization and used primarily for exempt purposes, and if it is found that the emergency

department space is exempt, then the parcel comprising Parking Lot E are 100% exempt. (Second Stipulations #19)

89. Parking Lot H consists of parcels identified by PIN 46-21-07-336-002 and 46-21-07-336-003. Pursuant to the Covenant Parking Facilities Policy, covenant employees use this lot. If it is found that the parcels comprising Covenant's main hospital building are owned by a charitable organization and used primarily for exempt purposes, then the parcels comprising Parking Lot H are 100% exempt. (Second Stipulations #20)