

# Our Assessment

VOLUME 1

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June 2021

Haller & Colvin, PC has been pleased to meet and work with the members of Indiana's assessing community over the past two decades. We do not represent taxpayers in order to avoid conflicts with the assessing community. We participate in your association seminars and are privileged to represent assessors across the State of Indiana. So, it is with great pleasure that we present our very first newsletter, Our Assessment. Our Assessment will provide you with summaries of cases we believe have widespread interest to our Assessor clients. Never hesitate to call us for further information – we enjoy meeting you and helping you serve your constituents! Our first edition features an important decision concerning nursing home exemptions rendered by the Indiana Board of Tax Review (“Board”) in a case we presented on behalf of the Howard County Assessor.

On June 11, 2021, the Board published a decision that will impact many Indiana Assessors grappling with the exempt status of nursing homes, especially nursing homes owned by county hospitals from outside their own county.

In the case, *Putnam Post-Acute Holdings LLC vs. Mindy Heady the Howard County Assessor*, the Board clarified issues which should make it easier for Assessors to distinguish between nursing homes entitled to a charitable exemption from those operated like other taxable businesses. We interpret this case as further movement away from the notion that the mere operation of a nursing home is charitable. That seed was planted in the case, *Knox County Prop. Tax Assessment Bds. Of Appeals v. Grandview Care, Inc.*, 826 N.E.2d 177, 183 (Ind. Tax Ct. 2005), where Judge Thomas Fisher observed, without citation, that, “Indiana courts have determined that caring for the aged constitutes a charitable purpose.” This decision has been used by nursing homes to claim exempt status solely due to their care of the elderly. We decided to attack this position head on.

We urged the Board to rely on more recent Tax Court analysis by Judge Wentworth who reminded nursing homes that each case stands on its own merits and must establish its



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own charitable purpose. *Tipton County Health Care Foundation, Inc. v. Tipton County Assessor*, 961 N.E.2d 1048 (Ind. Tax Ct. 2012).

Putnam County Hospital (“County Hospital”) formed Putnam Post-Acute Holdings, LLC (“Post-Acute”). The County Hospital, through Post-Acute, purchased Century Villas and Century Fields, which operate a skilled nursing facility and assisted living facility located 100 miles away in Howard County. Both facilities are managed by an outside management company. We were able to demonstrate that the management company enforced policies for rent collection and other leasing provisions not unlike any for-profit apartment arrangement. There was little evidence of charity in the operation of this enterprise. The Board’s decision showed how important skilled deposition taking is in these cases.

But the Board did not stop with its charity care analysis, as the County Hospital attempted a second avenue for exemption by way of its status as a political subdivision of the State of Indiana. The Board delivered a broadside to the recent phenomenon where County Hospitals share their tax-exempt status with nursing homes through lease agreements. The County Hospital contended that as the sole owner of Post-Acute, it was operating Century in its capacity as a political subdivision of the State so Century was exempt from taxation. We pointed out that ownership by a municipal entity like a county hospital or its subsidiaries does not, by itself, create exempt status. The property must be used for a traditional municipal purpose. In other words, a city cannot purchase a McDonald’s and claim an exemption solely due to its ownership. The *use* of the property must be consistent with the municipal function of the unit claiming the exemption. The Board agreed.

Finally, the Board noted the unfairness that results when taxpayers in one county are asked to forego tax revenue as the result of ownership by a governmental unit from another county.

As you know, IBTR decisions are subject to review by the Indiana Tax Court and then the Indiana Supreme Court. Therefore, your treatment of nursing home tax exemptions in your County should be based upon your interpretation of the statutes and decisions

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rendered to date. We cannot assume that this decision will be affirmed by the next two reviewing courts. But, it is one more source with which to inform your decisions, especially when the exemption is based upon ownership by a County hospital.

Haller & Colvin thanks Assessor Mindy Heady for allowing us to represent Howard County in this interesting case. Should you have questions concerning this decision, feel free to contact us.

Keep watching your email for the next edition of Our Assessment, and enjoy your summer!

Mark and Sarah

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