



STATE TAX COMMISSION OF MISSOURI

SAINT LUKE'S NORTH HOSPITAL,)	Appeal No. 21-32123
Complainant,)	
v.)	
TRACY BALDWIN, ASSESSOR,)	
CLAY COUNTY, MISSOURI)	
Respondent.)	

ORDER OF THE COMMISSION SETTING ASIDE HEARING OFFICER DECISION AND ORDER

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

Procedural History

On July 9, 2021, Saint Luke's North Hospital (hereafter "Saint Luke's") filed an appeal to the Clay County Board of Equalization (hereafter "BOE"), challenging the valuation of commercial property located at 8870 NE 82nd Terrace, Kansas City, Missouri, Parcel ID No. 14317001501800. The Clay County Assessor (hereafter "Assessor") valued the property at \$11,705,700. Saint Luke's requested reduction to \$6,530,000. There was no indication within the BOE application that Saint Luke's was asserting any ground for appeal other than overvaluation. On August 12, 2021, the BOE issued a no change order.

Saint Luke's filed a Complaint for Review with the State Tax Commission (hereafter also "Commission") on September 29, 2021. The sole ground for appeal to the Commission was exemption from taxation. Following an evidentiary hearing, a senior hearing officer for the Commission issued a Decision and Order on February 24, 2023 setting aside the BOE

decision and finding that the subject property was 92% exempt from taxation. The hearing officer overruled Assessor's motion to dismiss without extended discussion by simply citing the Commission's general authority under Sec. 138.430.1 to decide appeals from the local boards of equalization "concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property." (Decision and Order at p. 3.)

Assessor timely filed an Application for Review. As grounds for the Application, Assessor asserted that the hearing officer erred as a matter of law in finding the subject property to be exempt from taxation, that Saint Luke's failed to present substantial and competent evidence supporting a finding of exemption, that the decision was premised upon incorrect factual findings, that the hearing officer failed to apply the required level of scrutiny, and that the hearing officer misstated and misapplied the law.

Analysis of Commission's Jurisdiction

In its Application for Review, Assessor did "not repeat the arguments previously advanced", one of which was that Saint Luke's failed to exhaust its administrative remedies at the BOE level, and as a result, the Commission lacks authority to hear this appeal. However, even though Assessor did not repeat the argument, subject matter jurisdiction cannot be conferred by consent or agreement of the parties, or by appearance or answer, or by estoppel. *State Tax Com'n v. Administrative Hearing Com'n*, 641 S.W.2d 69, 72 (Mo. banc 1982). Moreover, "[t]he doctrine of exhaustion of administrative remedies, if applicable, is a jurisdictional requirement." *Pessin v. State Tax Comm'n*, 875 S.W.2d 143,

146 (Mo. App. E.D. 1994) (citation omitted). Therefore, before considering any of Assessor's other grounds for Review, the Commission must consider the matter of its own jurisdiction to hear this appeal.

The procedure for property assessment appeals has been summarized as follows:

Any person aggrieved by an assessment of taxes may appeal to the county board of equalization. Sec. 137.275. The procedures for review of real estate tax assessment by the board of equalization are found in Chapter 138, RSMo. Depending on the nature of the dispute, two alternatives are provided for appealing a decision of a board of equalization. *Local Union No. 124 v. Pendergast*, 891 S.W.2d 417, 418 (Mo. banc 1995). Disputes regarding valuation and discrimination in valuation may be appealed to the state tax commission with subsequent judicial review pursuant to Chapter 536 RSMo., and Sec. 138.430.1. *Id.* Other disputes regarding exclusion and exemption of property may be resolved by de novo appeal to the circuit court of the county in which the collector maintains an office. *Id.*; Sec. 138.430.3.

St. Peters Community Hospital Inc. v. Zimmerman, 914 S.W.2d 26, 28 (Mo. App. E.D. 1995).

A property owner is not required to appeal the issue of exemption to a BOE before appealing to circuit court, if the issue of exemption is the property owner's only claim. "Our Supreme Court has concluded that a taxpayer is not obligated to appeal to the Board of Equalization following an assessment of property that ignores a claimed exemption but can appeal such an assessment directly to the circuit court, thus bypassing section 138.430." *Missouri Retired Teachers Foundation v. Estes*, 323 S.W.3d 100, 104 (Mo. App. W.D. 2010), citing *Council House Redevelopment Corp. v. Hill*, 920 S.W.2d 890, 892-93 (Mo. banc 1996).¹

Alternatively, a property owner whose sole dispute is property exemption may appeal the issue of exemption to a BOE, and if the property owner does not prevail at the BOE, the

¹ However, a property owner who appeals to the BOE on a ground other than exemption cannot file a petition in circuit court until the property owner has exhausted the administrative appeal process. See *Two Pershing Square v. Boley*, 981 S.W.2d 635 (Mo. App. W.D. 1998), discussed below.

property owner may bypass the State Tax Commission and appeal directly to the circuit court. 138.430.3 RSMo.

A third option is for the property owner to appeal the issue of exemption to the BOE, and then to the State Tax Commission, and then to circuit court. In such a case, the Commission has the authority to consider “all questions and disputes involving the assessment against such property . . .”, including exemption from taxation. 138.430.1 RSMo.

The above avenues for appeal are all open to a property owner if exemption from taxation is the only ground for appeal. But the picture is different when the property owner also contests valuation, as Saint Luke’s did in this case. In this appeal, Saint Luke’s appealed to the BOE solely on the ground of overvaluation, and to the Commission solely on the ground of exemption. As stated above, a property owner may appeal exemption, first to the BOE and then to the circuit court (bypassing the STC), but Saint Luke’s has cited no authority for the proposition that a property owner may bypass a BOE and appeal exemption in the first instance to the State Tax Commission as it attempts to here.

The case of *Two Pershing Square v. Boley*, 981 S.W.2d 635 (Mo. App. W.D. 1998) is instructive. In that case, a property owner appealed a property’s valuation, first to the Jackson County Board of Equalization, and then to the State Tax Commission. While its appeal to the Commission was pending as to its overvaluation claim, the property owner learned that it had a partial exemption claim and filed a petition for declaratory judgment and injunctive relief in the Jackson County Circuit Court as to its exemption claim. The Assessor moved to dismiss the property owner’s petition in the circuit court due to the property owner’s failure to exhaust its administrative remedies. In the meantime, the parties settled the valuation

portion of their dispute, leaving only the exemption issue pending before the court. *Id.* at 637.

In evaluating the case before it, the Court in *Two Pershing Square* found as follows:

A careful review of the record here reveals that the respondent appeared before the JCBE generally alleging that Two Pershing Square had been overvalued. It sought and received from the JCBE a reduction in the assessment on the property. Not being satisfied, the respondent then filed an appeal with the Commission. The issue of whether the abatement was exempt from assessment was never raised at the JCBE hearing. Thus, because the decision of the JCBE concerned only a dispute involving the correct valuation of the property, the respondent was required to appeal the decision of the JCBE to the Commission before it could seek judicial relief. § 138.430.1.

Two Pershing Square, 981 S.W.2d at 640.

There are at least two factors which strongly indicate that Saint Luke's was required to raise the issue of exemption from taxation at the BOE level before appealing the issue to the State Tax Commission.

First, the Clay County's determination of value is entitled to a presumption of validity, good faith and correctness of assessment. *Rinehart v. Laclede Gas Co.*, 607 S.W.3d 220, 226-28 (Mo. App. W.D. 2020); *Hermel, Inc. v. STC*, 564 S.W.2d 888, 895 (Mo. banc 1978); *Chicago, Burlington & Quincy Railroad Co. v. STC*, 436 S.W.2d 650, 656 (Mo. 1968); *May Department Stores Co. v. STC*, 308 S.W.2d 748, 759 (Mo. 1958). In finding that the subject property had an assessed value, the BOE necessarily assumed that the property was taxable in the first place.

This presumption is rebuttable by the property owner, and Saint Luke's has argued that it may rebut the presumption via the presentation of evidence at the Commission level. However, a system that allowed a property owner to raise exemption as a ground for appeal for the first time at the Commission level would undercut the presumption of correctness in

favor of the BOE's decision as to the issue of taxability. The presumption in favor of the BOE decision "expressly recognizes that the County Board of Equalization exercises its 'opinion.'" *May Department Stores Co.*, 308 S.W.2d at 759. If, as in this case, a BOE never had the opportunity to consider whether the property might be exempt from taxation, then there is no logical basis for the presumption in favor of the BOE decision to exist in the first place. The BOE never expressed its "opinion" on the subject.

Second, as a general proposition, "boards of equalization are empowered with the original jurisdiction" pertaining to property valuation and the State Tax Commission "exercise[s] a jurisdiction which [is] derivative or appellate in nature and hence the power or jurisdiction of the Commission [is] no more extensive than that possessed by the Board." *Foster Bros. Mfg. Co. v. State Tax Commission of Mo.*, 319 S.W.2d 590, 593 (Mo. 1958). Similarly, a circuit court "exercises a jurisdiction in its nature derivative or appellate, rather than original" pertaining to agency orders. *Lusk v. Public Service Commission*, 210 S.W.72, 75 (Mo. 1919). According to 12 CSR 30-3.010(1), property owners may appeal from a "decision" of the local board of equalization. In this case, the BOE didn't reach a "decision" on the issue of property taxability because that issue was not placed before it. Taxability was assumed but not decided. See also *Two Pershing Square*, 9891 S.W.2d at 640 ("Thus, under its burden of proof, the respondent was **required** to raise at the JCBE hearing **any and all issues that would have entitled it to a reduction in the assessed value** of Two Pershing Square, **which would necessarily have included the taxability of the abatement.**") (Emphasis supplied).

Therefore, since the Commission's power, like a circuit court's power, is "derivative

or appellate” with respect to a lower agency’s decisions and orders, the State Tax Commission may consider on appeal only those grounds for appeal that were first presented to the BOE.²

CONCLUSION AND ORDER

The decision of the hearing officer is set aside. The Application for Review filed by Saint Luke’s North Hospital is dismissed for lack of jurisdiction by reason of failure to exhaust administrative remedies.

SO ORDERED November 25, 2025.

² In its Opposition to Motion to Dismiss at paragraph 8, Saint Luke’s misstates the facts of *Two Pershing Square* in asserting that “[t]he taxpayer then applied to the Commission, where for the first time it argued that its property was exempt.” The taxpayer in *Two Pershing Square* never argued exemption before the Commission. Rather, the taxpayer appealed the Board’s valuation decision to the Commission. *Two Pershing Square*, 981 S.W.2d at 637. The taxpayer didn’t learn that it had a possible exemption claim until after the taxpayer appealed to the Commission. Taxpayer then filed its petition for declaratory judgment and injunctive relief in the Circuit Court of Jackson County, staying the appeal before the Commission. *Id.* There is no indication in the opinion that the taxpayer either pled or argued exemption in its appeal to the Commission.

Further, Saint Luke’s misstates the holding of *Two Pershing Square* in its Sur-Reply in Opposition to Motion to Dismiss at page 1 by stating: “In this situation the *Two Pershing Square* case says Saint Luke’s is *required* to raise the issue of exemption before and obtain an exemption ruling from the Commission. 981 S.W.2d at 641. *Two Pershing Square* could not be any less ambiguous on this point.” (Emphasis in original.) But that is not what the court in *Two Pershing Square* said. Rather, the court simply held that “the respondent could not seek judicial review under Sec. 138.430.3, but was required to appeal the decision of the JCBE to the Commission pursuant to 138.430.1 . . . it was also required to wait for the Commission to rule on its appeal before seeking judicial review in the circuit court, which it did not do.” *Id.* at 641. Nowhere did the court say that Saint Luke’s was required to raise the issue of exemption and obtain an exemption ruling from the Commission.

Gary Romine, Chairman

Debbie McGinnis, Commissioner

Greg Razer, Commissioner

Certificate of Service

I hereby certify that a copy of the foregoing has been sent electronically or mailed postage prepaid November 26, 2025, to: Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Stacy M. Ingle
Legal Assistant



STATE TAX COMMISSION OF MISSOURI

SAINT LUKE'S NORTH HOSPITAL,) Appeal No. 21-32123
)
Complainant(s),) Parcel/locator No: 14317001501800
)
)
v.)
)
TRACY BALDWIN, ASSESSOR,)
CLAY COUNTY, MISSOURI,)
Respondent.)

DECISION AND ORDER

Saint Luke's North Hospital (Complainant) appeals the Clay County Board of Equalization's (BOE) decision finding the appraised value of the subject commercial property on January 1, 2021, was \$11,705,700. Complainant asserts the subject property is exempt from taxation. The BOE decision is set aside. The subject property is 92% exempt from taxation.¹

Complainant was represented by counsels Chris Mattix and Kevin Mason. Respondent was represented by counsel, Lucas Wallingford. The evidentiary hearing was

¹ Complainant timely filed a complaint for review of assessment. The State Tax Commission (STC) has authority to hear and decide Complainant's appeal. Mo. Const. art. X, § 14; section 138.430.1, RSMo 2000. All statutory citations are to RSMo 2000, as amended.

conducted on June 23, 2022, via WebEx. Each party submitted post hearing briefs, which are incorporated into the record.

FINDINGS OF FACT

1. Subject Property. The subject property is Saint Luke's Shoal Creek Multispecialty Clinic located at 8870 NE 82nd Terrace in Kansas City, Clay County, Missouri ("Shoal Creek"), parcel number 14317001501800. The Clinic is a medical care facility consisting of 45,778 leasable square feet providing primary care, urgent care, imaging, labs, rehabilitation, and ambulatory surgery, among other services. The subject property is owned by Saint Luke's Health System Inc., a Kansas non-profit corporation authorized to do business in the State of Missouri. Saint Luke's Health System, Inc. provides healthcare services at the subject property through its wholly owned company, Saint Luke's Physician Group, Inc. As a non-profit corporation, such entity is disregarded for tax purposes and is treated as part of the exempt operations of its sole member, Saint Luke's Health System, Inc. Saint Luke's Health System, Inc. operates the property as a multispecialty clinic, which houses seven specialties including general surgery, central registration, radiology, urgent care, specialty care, primary care, and sports medicine and rehabilitation. It is leased to seven affiliates of Saint Luke's Health Systems, including Saint Luke's Surgery Center Shoal Creek, LLC, a wholly owned subsidiary of Saint Luke's North Hospital; Saint Luke's Central Registration, operated by Saint Luke's North Hospital; Saint Luke's Radiology Shoal Creek and Saint Luke's Sports Medicine and Rehabilitation—Shoal Creek, departments or d/b/a of Saint Luke's Neighborhood Clinics, LLC; and Saint Luke's Urgent Care—Shoal Creek, Saint Luke's Specialty Care—Shoal Creek, and Saint Luke's Primary

Care—Shoal Creek; departments or d/b/a of Saint Luke’s Physician Group, Inc., which are also non-profit entities or wholly owned subsidiaries or departments of non-profit entities. These individual lessees lease 41,917 square feet of the facility’s 45,778 total square feet, or 92% of the Clinic’s total space. A portion of the facility is leased to non-Saint Luke’s affiliates.

2. Respondent and BOE. Respondent classified the subject property as commercial and determined the TVM was \$11,705,700, as of January 1, 2021. The BOE classified the subject property as commercial and independently determined valued the property at \$11,705,700, as of January 1, 2021. The BOE did not determine whether the subject property was exempt due to a charitable purpose but has the subject property listed as not exempt as of January 1, 2021.

3. Motion to Dismiss. Respondent’s Motion to Dismiss was filed pre-trial and alleged that the STC is without authority to hear the present exemption claim before it due to Complainant’s failure to raise the exemption issue at the BOE hearing. This argument is without merit as the relevant statute provides “every owner of real property or tangible personal property shall have the right to appeal from the local boards of equalization to the state tax commission under rules prescribed by the state tax commission, [...] concerning all questions and disputes involving the assessment against such property, the correct valuation to be placed on such property, the method or formula used in determining the valuation of such property, or the assignment of a discriminatory assessment to such property.” Section 138.430.1 Therefore, the authority of the STC to hear and decide this appeal is based on the timely filed Complaint for Review of the BOE’s decision regarding

the subject property. Once a Complaint for Review is timely and properly filed, the STC has authority for “all questions and disputes involving the assessment” of the subject property under the rules prescribed by the STC. Section 138.430.1 Therefore, the pre-trial Motion to Dismiss of Respondent remains denied.

4. Complainant's Evidence. Complainant submitted Exhibits A – FF, including the Written Direct Testimony (WDT) of Matt Hanson, Van White, Cindy Christensen and Patrick Altenhofen. The following exhibits are admitted into evidence:

Exhibit	Description
A	2020 Deed to SLHN
B	2021 Rent Roll by Lease
C	1/1/21 Shoal Creek Square Footage Analysis
D	Suite 100 SL15 Radiology Lease
E	Suite 110 SLPG Urgent Care Lease
F	Suite 150 SL15 Physical Therapy Lease
G	Suite 120 SLPG Specialty Care 1st Am. to Lease
H	Suite 140 SLPG Primary Care 1st Am. to Lease
I	Second Floor SL15 Surgery Center Lease
J	Ankle & Foot Centers (non-SLHS) License
K	Phoenix Urology (non-SLHS) License
L	SLHS MO Certificate of Authority

M	SLHS MO Amended Certificate of Authority for a Foreign Nonprofit Corporation
N	SLHS 1st Am. to 4th Am. & Rest. Articles
O	SLHS 8th Am. & Rest. Bylaws
P	SLNH Petition for Not-For-Profit Corp.
Q	Articles of Merger – Saint Luke’s Northland
R	SLNH Articles of Amendment
S	IRS Tax Exempt Determination Letters
T	SLN 2020 Form 990
U	SLPG MO Registration of Foreign Nonprofit
V	SLKS 2 Articles
W	SLKS 2 & SLPG Certificate of Merger
X	SLHS 2019-20 Audited Financial Statements
Y	SLHS Financial Assistance Policy for Medically Indigent Patients
Z	Shoal Creek 2018-21 Cost Center Report
AA	Shoal Creek Transaction Code Adjustment
BB	SLNH 2021 Community Health Needs Assessment
CC	Matt Hanson WDT
DD	Van White WDT
EE	Cindy Christensen WDT
FF	Patrick Altenhofen WDT

Witness Patrick Altenhofen, the Vice President of Operations, North Region, for Saint Luke's Health System testified that Shoal Creek provides the "same services that those [Saint Luke's North Hospital/Saint Luke's North Hospital-Smithville] hospital facilities do but provides them in a more convenient and accessible location for the population that Saint Luke's is trying to serve." (Exhibit FF at 4) Mr. Altenhofen testified that the Shoal Creek location was purchased in 2018 and on its acquisition, a study was undertaken to analyze the area's health needs. He testified Saint Luke's North Hospital's 2021 Community Health Needs Assessment contains the analysis of community conditions affecting Clay County and within they identified "pockets of need" as low income, a growing senior population, and the closure of other medical facilities in the area lead to the decision to acquire Shoal Creek. (Exhibit FF and BB)

Witness Van White, the director of tax for Saint Luke's, testified the subject property was a 501(c)(3) non-profit operating as a multispecialty clinic on January 1, 2021. Mr. White testified the Saint Luke's lessees are nonprofit corporations wholly owned and controlled by Complainant and its subsidiaries. Mr. White testified that Ankle & Foot Centers of Missouri and Phoenix Urology of St. Joseph are non-affiliates of Saint Luke's with licenses to use the property. Mr. White testified he was unaware of the tax status of Ankle & Foot Centers of Missouri and Phoenix Urology of St. Joseph. Mr. White testified the corporation is organized and operated exclusively for the benefit of, to perform the function of, and to carry out the purposes of the following nonprofit corporations exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code through non-

profit determination letters: Saint Luke's Health System, Inc., Saint Luke's North Hospital, and Saint Luke's Physician Group, Inc. (Exhibit DD) Mr. White testified that, according to the Articles in Exhibit N, all the net earnings and net assets of Saint Luke's are prohibited from inuring to the benefit of any officer, director, or private individual and must be used in furtherance of Saint Luke's nonprofit mission. (Exhibit DD and N)

Witness Matt Hanson, the Director of Real Estate for Saint Luke's, testified the property was 92% exempt due to non-profit status of the lessees wholly owned and controlled by Complainant and its subsidiaries. Mr. Hanson testified to the various medical services provided by the tenants. Mr. Hanson testified that an 818-square-foot area is licensed to Ankle and Foot Centers of Missouri and Phoenix Urology of St. Joseph who occupy their spaces on a time-share basis as two non-affiliates to Saint Luke's. This, combined with 3,262-square-foot vacant space and 581-square-foot area under construction, totals 4,080-square-feet, and makes up 8% of the total square footage. Mr. Hanson testified the license agreement gives the tenant the non-exclusive right to use space during particular times. (See Exhibits J, K, C, and HH) Mr. Hanson testified the lease agreements for Saint Luke's subsidiaries were executed to comply with rules and regulations in federal health care law designed to eliminate self-referral fraud and abuse. (See Exhibits D, E, F, G, H, I, J, K and CC)

Witness Cindy Christensen, the Vice President and Corporate Controller for Saint Luke's, testified to the collections of payment from patients and to the non-profit policies for medically indigent patients and for those who cannot pay their medical bills. (Exhibit X, Y, EE and AA) Ms. Christensen testified at Shoal Creek, "individuals can make an

appointment for care and medically necessary care and treatment will be provided by Saint Luke's. The question of ability to pay is only considered through the billing process after the care has been provided. Saint Luke's does not discontinue medically necessary patient care regardless of ability to pay". (Exhibit EE at 6)

5. Respondent's Evidence. Respondent submitted Exhibits and the Written Direct Testimony (WDT) of Shannon Galloway. Respondent offered the following exhibits which were received into the record and admitted:

Exhibit	Description
1	Property Record Card
2	Assessors Manual–Ch.2–Rev.02092021
3	Missouri Charitable Property Tax Exemption–Handout
5	Combined Income and Expenses Unaudited
6	Consolidated Financial Statements SLHS
7	SLNH0001–Square Footage Analysis
8	GL Ledger Accounts 4500, 4540, 4550
9	Multispecialty Clinic–All Cost Centers
10	Rent Roll
11	Adjustments
12	GL Ledger Accounts 4500, 4540, 4550
13	Surgery Center Floor Plan
14	Clinic Dimension Floor Plan

15	Lease from SL Health Center LLC
16	Saint Luke's Surgery Center Shoal Creek Articles of Organization
17	License for Use of Office Space from SLPG to Phoenix Urology
18	SLHS Financial Assistance Policy for Medically Indigent Patients
19	Financial Assistance Policy Webpage SLHS
20	Exempt Organization Declaration and Signature for SLNH
21	2018 Deed from Heartland RMC to SLHS
22	2021 Deed from SLHS to SLNH
23	Petition for Incorporation of Nonprofit SLNH
24	Order of Incorporation of Nonprofit SLNH
25	Missouri Certificate of Acceptance of Non Profit Corporation SLNH
26	Articles of Merger SLNH
27	Missouri Articles of Organization Saint Luke's Surgery Center Shoal Creek LLC
29	Saint Luke's Neighborhood Clinics LLC Articles of Organization
30	SLHS Community Health Needs Assessment 2021
31	Complainant's Answers to Respondent's Interrogatories
32	Complainant's Responses to Respondent's Request for Production of Documents
33	WDT of Shannon Galloway (minus paragraphs 23, 26, and 27)

Respondent withdrew Exhibit 4 and Exhibit 28 during the hearing. Paragraphs 23, 26 and 27 of Shannon Galloway's WDT were not admitted. Saint Luke's objected to

Exhibit 2 (Assessors Manual–Ch.2–Rev.02092021), Exhibit 3 (Missouri Charitable Property Tax Exemption–Handout), and Exhibit 32 (Complainant's Responses to Respondent's Request for Production of Documents). All pre-filed written objections and objections during the hearing from all parties are overruled and the above Exhibits are admitted into evidence and given the weight deemed appropriate.

6. Exemption. The subject property is 92% tax-exempt.

CONCLUSIONS OF LAW

1. Assessment and Valuation

Pursuant to Article X, Sections 4(a) and 4(b), Mo. Const. of 1945 real property and tangible personal property is assessed at its value or such percentage of its value as may be fixed by law for each class and for each subclass. Article X, Sections 4(a) and 4(b), Mo. Const. of 1945. Commercial real property is assessed at 32% of its TVM as of January 1 of each odd-numbered year. Section 137.115.5(1)(c).

2. Evidence

The hearing officer is the finder of fact and determines the credibility and weight of the evidence. *Kelly v. Mo. Dep't of Soc. Servs., Family Support Div.*, 456 S.W.3d 107, 111 (Mo. App. W.D. 2015). The finder of fact in an administrative hearing determines the credibility and weight of expert testimony. *Hornbeck v. Spectra Painting, Inc.*, 370 S.W.3d 624, 632 (Mo. banc 2012). "Although technical rules of evidence are not controlling in administrative hearings, fundamental rules of evidence are applicable." *Mo. Church of Scientology v. State Tax Comm'n*, 560 S.W.2d 837, 839 (Mo. banc 1977).

3. Charitable Exemption

Article X, section 6 of the Missouri Constitution provides "all property, real and personal, not held for private or corporate profit and used exclusively . . . for purposes purely charitable . . . may be exempted from taxation by general law." Consistent with this constitutional provision, Section 137.100(5) exempts from taxation:

All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes[.]

"Tax exemptions are construed strictly against the taxpayer, and any doubt must be resolved in favor of application of the tax." *SEBA, LLC v. Dir. of Revenue*, 611 S.W.3d 303, 313–14 (Mo. banc 2020). Exemptions are "allowed only upon clear and unequivocal proof, and any doubts are resolved against the party claiming it." *Id.* (internal quotation omitted).²

To obtain a charitable exemption, the taxpayer must show the property: (1) is "owned and operated on a not-for-profit basis so that there can be no profit, presently or prospectively, to individuals or corporations;" (2) "dedicated unconditionally to the charitable activity" per the definition of "charity" set forth in *Salvation Army v. Hoehn*, 188

² See also *Am. Polled Hereford Ass'n v. City of Kansas City*, 626 S.W.2d 237, 240 (Mo. banc 1982) (noting the taxpayer bears the burden of establishing a property tax exemption "by unequivocal proof that such release is required by the terms of the statute...."); *City of St. Louis v. State Tax Comm'n*, 524 S.W.2d 839, 845 (Mo. banc 1975) (noting the taxpayer claiming a charitable exemption must make "a clear and convincing showing that the specific activity in question does fall within an accepted category found in the definition").

S.W.2d 826, 830 (Mo. banc 1945); and (3) that "the dominant use of the property must be for the benefit of an indefinite number of people" and directly or indirectly benefits society generally. *Sunday School Bd. of the Southern Baptist Conv. v. Mitchell*, 658 S.W.2d 1, 5 (Mo. banc 1983) (citing *Franciscan Tertiary Province of Missouri. Inc. v. State Tax Comm'n*, 566 S.W.2d 213 (Mo. banc 1978)).

While tax exemptions are "determined by the facts of each case." *United Cerebral Palsy Ass'n of Greater Kansas City v. Ross*, 789 S.W.2d 798, 800 (Mo. banc 1990), Missouri courts routinely affirm decisions extending charitable exemptions to nonprofit healthcare facilities.³ Additionally, lease agreements with other nonprofit corporations do not necessarily preclude a charitable exemption. Instead, "the requirements of [Section 137.100(5)] are met if the property's use is purely charitable, irrespective of the number of charities using the property, and no private or corporate profit is intended." *Id.* at 801. The substantial and persuasive evidence in the record shows Complainant's use of the subject property satisfies each prerequisite for a charitable exemption.

³ See eg., *State ex rel. Alexian Bros. Hosp. v. Powers*, 74 Mo. 476 (Mo. 1881) (issuing writ of mandamus ordering St. Louis City assessor to remove nonprofit hospital from assessment roll); *Cnty. Mem'l Hosp. v. City of Moberly*, 422 S.W.2d 290, 297 (Mo. 1967) (granting exempt status because the hospital was not used to make profit but to generate income devoted to "the charitable purpose of operating a hospital for the benefit of all who come to its doors whether as pay or indigent patients"); *Jackson Cnty. v. State Tax Comm'n*, 521 S.W.2d 378, 385 (Mo. banc 1975) (three nonprofit hospitals qualified for tax-exempt status).

Actual, Regular, and Exclusive Use for Charitable Purposes

Complainant's evidence shows the subject property is owned by Saint Luke's and used as an outpatient care facility. The relevant facts demonstrate that outpatient services provided by the Clinic are the same as those provided at Saint Luke's other hospital facilities, which are tax-exempt. Services provided at the Clinic also are covered by Saint Luke's "Financial Assistance for Medically Indigent Patients" policy. The Clinic fits the case law standards to be classified as a "charity." Providing these hospital-type services at the Clinic creates cost and operational efficiencies for Saint Luke's and increased convenience and accessibility of services for patients. (Exhibit CC and FF) The substantial and persuasive evidence in the record shows the subject is actually, regularly, and exclusively used for charitable purposes.

The analysis is not changed by the fact the lease required Complainant's wholly-owned, nonprofit subsidiaries to make rent payments. When a tax-exempt entity leases property to an unaffiliated tenant and thereby interrupts the exclusive use of the property for charitable or religious purposes, the property is no longer actually, regularly, and exclusively used for charitable purposes. *See St. Louis Gospel Center v. Prose*, 280 S.W.2d 827, 830 (Mo. 1955) (holding a lease to a tenant unaffiliated with a religious organization was a commercial relationship interrupting exclusive use of religious purposes); *Tri-State Osteopathic Hosp. Ass'n v. Blakeley*, 898 S.W.2d 693, 695-96 (Mo. App. S.D. 1995) (holding a clinic owned by nonprofit was not exempt because a lease to a physician provided for the "division of profits" as "incentive compensation," thus showing the property was leased on a "for profit basis").

Unlike a lease to an unaffiliated tenant or an expressly for-profit, commercial lease, the lease agreements between Complainant and its affiliated, wholly-owned, nonprofit subsidiaries are designed to satisfy an exception to a federal statute that in certain circumstances prohibits a physician from making a referral to an entity with which the physician has a financial relationship. Viewed in the context of the fact Complainant and its subsidiaries are organized exclusively for charitable purposes and in fact provide those services at the subject property, the leases merely serve to facilitate Complainant's charitable mission. The facts demonstrate that these leases make up 92% of the subject property's actual use. The charitable purpose of the Complainant and its leased subsidiaries meet the actual usage test for 92% of the subject property.

Exemption will not apply to 8% of the building's square footage. The exemption does not apply to this percentage, as the Complainant failed to produce any evidence that the two unaffiliated entities licensed to use the property are operating for purposes purely charitable. *See SEBA, LLC* at 313–14. Therefore, 8% of the subject property is not exempt.

The Subject Property is Owned and Operated on a Not-for-Profit Basis

The substantial and persuasive evidence in the record shows Complainant is a nonprofit corporation. Saint Luke's is organized exclusively for charitable purposes. This is substantiated by the fact that the net earnings and net assets of Saint Luke's are prohibited from inuring to the benefit of any officer, director, or private individual and must be used in furtherance of Saint Luke's nonprofit mission. (Exhibit DD and N) The subject property is not put to any commercial, for-profit use.

Dominant Use for the Benefit of an Indefinite Number of People

The requirement of showing a benefit to "an indefinite number of people" is satisfied when there is a "direct or indirect benefit to society in addition to and as a result of the benefit conferred on the persons directly served by the humanitarian activity." *Franciscan*, 566 S.W.2d at 224. The requirement of showing a benefit to "an indefinite number of persons ... is otherwise characterized as a requirement that the humanitarian service be public." *Evangelical Ret. Homes of Greater St. Louis, Inc. v. State Tax Comm'n*, 669 S.W.2d 548, 554 (Mo. banc 1984) (internal quotation omitted). A benefit may be "public" if it is not available to all and, instead, is directed at groups with specific needs or interests. *Id.* Thus,

[a] charity may restrict its admissions to a class of humanity, and still be public; it may be for the blind, the mute, those suffering under special diseases, for the aged, for infants, for women, for men, for different callings or trades by which humanity earns its bread, and as long as the classification is determined by some distinction which involuntarily affects or may affect any of the whole people, although only a small number may be directly benefited, it is public.

Hoehn, 188 S.W.2d at 830 (quoting *In re Rahn's Est.*, 291 S.W. 120, 128 (Mo.1926)).

The substantial and persuasive evidence in the record shows the dominant use of the subject property is as a medical facility used to provide medical care to the public. The Shoal Creek Clinic directly serves these identified "pockets of need." The Shoal Creek Clinic is in the 64158 zip code. (Tr. 59:10-13) That zip code is located within or next to a low-income census tract according to Saint Luke's Community Health Needs Assessment. (Tr. 59:10-61:15; Ex. BB pp. 11, 37) That zip code also has a Black population of over seven percent, which is in the highest quartile in Clay County. (Tr. 62:17-63:5; Ex. BB pp.

11, 32) Zip code 64158 also has between five and eight percent Hispanic population, which is the second highest quartile for Clay County. (Tr. 63:6-15, Ex. BB pp. 11, 33) The rent burden for residents of zip code 64158 is also in the highest quartile in Clay County, at 46% or more of income. (Tr. 63:16-64:2; Ex. BB pp. 11, 43) (Complainants' Brief at 18) There is no evidence showing these facilities are reserved to members of an exclusive, non-public group or association as evidenced by the actual population serviced within the county, to meet the test of an indefinite number of persons.

CONCLUSION AND ORDER

The BOE's decision regarding exemption is set aside. The substantial and persuasive evidence in the record shows Complainant's use of the subject property satisfies each prerequisite for a charitable exemption. The subject property is 92% exempt from taxation pursuant to Section 137.100(5).

Application for Review

A party may file with the Commission an application for review of this decision within 30 days of the mailing date set forth in the certificate of service for this decision. The application "shall contain specific detailed grounds upon which it is claimed the decision is erroneous." Section 138.432. The application must be in writing, and may be mailed to the State Tax Commission, P.O. Box 146, Jefferson City, MO 65102-0146, or emailed to Legal@stc.mo.gov. A copy of the application must be sent to each person listed below in the certificate of service.

Failure to state specific facts or law upon which the application for review is based will result in summary denial. Section 138.432.

Disputed Taxes

The Collector of Clay County, as well as the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of an application for review, unless said taxes have been disbursed pursuant to a court order under the provisions of section 139.031.

SO ORDERED February 24, 2023.

STATE TAX COMMISSION OF MISSOURI

Erica M. Gage
Senior Hearing Officer
State Tax Commission

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on February 24, 2022, to:

Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Amy S. Westermann
Chief Counsel