

TAX COURT OF NEW JERSEY



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THE TAX COURT COMMITTEE ON OPINIONS**

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Re: **AHS Hospital Corp. d/b/a Morristown Memorial Hospital v. Town of Morristown; Docket Nos. 010900-2007; 010901-2007; 000406-2008**

Dear Counsel:

This letter opinion constitutes the court's decision with respect to a Motion for Partial Summary Judgment filed by plaintiff, AHS Hospital Corp. d/b/a Morristown Memorial Hospital ("AHS"). In its motion, AHS asks the court to find that the property in question in the above referenced appeals was owned by an entity organized exclusively for a tax exempt purpose, thereby satisfying *part one* of the test articulated in Paper Mill Playhouse v. Millburn Twp., 95 N.J. 503, 506 (1984), interpreting N.J.S.A. 54:4-3.6. For the reasons set forth below, AHS's motion is granted.¹

¹ AHS also asked the court in its motion to compel production of expert reports from defendant. Since the court has entered a case management order that covers the exchange of expert reports; this issue is moot.

Facts

The following facts are not materially in dispute. MOM Acquisition Corp. was incorporated in New Jersey as a not-for-profit corporation on April 5, 1995. On April 25, 1996, the corporation amended its name to Atlantic Health System, Inc. (“Atlantic”). On May 1, 1996, Morristown Memorial Hospital² (individually as “MMH”) was merged, along with several other hospitals, into Atlantic. Also on May 1, 1996, MMH and the other hospitals were *reincorporated* into AHS, a New Jersey not-for-profit corporation. Atlantic is the sole member of AHS.

In its Certificate of Consolidation, AHS set forth the following organizational purposes:

[AHS] shall be organized for scientific, educational and charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), and in this connection:

- (a) To maintain and operate a hospital or hospitals for the treatment and care of the sick, injured and disabled without regard to race, sex, age, creed or national origin.
- (b) To promote and carry on, by itself or together with others, directly or through other entities in which it has an interest or in which it participates, such other hospital, medical, educational and research activities related to its said purposes as the Board of Trustees may determine to be in the best interests of the general public health in the territory which it services.
- (c) To render necessary hospital care and related services to all who require such care regardless of their ability to pay.
- (d) To carry out such other acts and to undertake such other activities as may be necessary, appropriate or desirable in furtherance of or in connection with the conduct, promotion or attainment of the foregoing purposes, provided that none of such activities shall be undertaken which would cause [AHS] to lose its status as an organization described in Section 501(c)(3) of the Code, or as an organization contributions to which are deductible under Sections 170(c)(2), 2055(a)(2) and 2522(a) of the Code.³

AHS’s bylaws have nearly identical language for its organizational purposes.

² MMH first opened in 1893 in a former parsonage on Morris Street, Morristown, N.J.. Encyclopedia of New Jersey 540 (Maxine N Lurie & Marc Mappen eds., 2004). The hospital moved to its current location in 1949. Id.

³ AHS amended and restated its Certificate of Incorporation on April 18, 2008. The organizational purposes were unchanged.

The land under and around MMH was conveyed to MMH in its previous incarnation more than 50 years ago *via* several deeds from 1944 (three deeds) and 1956 (two deeds). Title to these properties passed to AHS in 1996 as the successor-in-interest to MMH. In 1994, Memorial Investment Corporation (now AHS Investment Corp., a *for-profit* subsidiary of Atlantic) acquired a small adjacent piece of land. All of these properties were consolidated in 2007 and conveyed to AHS.

Summary Judgment

Summary judgment is appropriate where “a discriminating search of the merits in the pleadings, depositions and admissions on file, together with the affidavits submitted on the motion clearly shows not to present any genuine issue of material fact requiring disposition at a trial.” Judson v. Peoples Bank and Trust Co., 17 N.J. 67, 74 (1954) (citation omitted). “The moving papers and pleadings are to be considered most favorably to the party opposing the motion.” Ruvolo v. Am. Cas. Co., 39 N.J. 490, 499 (1963); See also Seltzer v. Isaacson, 147 N.J. Super. 308, 312-313 (App. Div. 1977).

“By its plain language, R. 4:46-2 dictates that a court should deny a summary judgment motion only where the party opposing the motion has come forward with evidence that creates a ‘genuine issue as to any material fact challenged.’” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529 (1995). “That means a non-moving party cannot defeat a motion for summary judgment merely by pointing to *any* fact in dispute.” Ibid. If the opposing party in a summary judgment motion offers:

only facts which are immaterial or of an insubstantial nature, a mere scintilla, fanciful, frivolous, gauzy or merely suspicious, he will not be heard to complain if the court grants summary judgment, taking as true the statement of uncontradicted facts in the papers relied upon by the moving party, such papers themselves not otherwise showing the existence of an issue of material fact.

[Judson, supra, 17 N.J. at 75 (citations omitted).]

The “Organization Test”

Paper Mill Playhouse sets forth a three-part framework with which to analyze N.J.S.A. 54:4-3.6: “(1) The entity claiming the exemption must be *exclusively organized* for a tax exempt purpose. (2) The property must be *actually and exclusively used* for a tax exempt purpose. (3) The operation and use of the property must *not be conducted for profit*.” Planned Parenthood of Bergen County, Inc. v. Hackensack City, 12 N.J. Tax 598, 607 (Tax 1992) (referencing Paper Mill Playhouse, supra, 95 N.J. at 506). AHS has only moved for summary judgment under the first prong: whether the property is owned by an entity organized exclusively for a tax exempt purpose.

A) Ownership

The only property at issue in this case is the property on which the hospital is located, designated as Block 4201, Lot 1.03 on the official Morristown Tax Map. To support its claim of ownership, AHS included copies of the relevant deeds in its submissions to the court. The Consolidation Deed, dated June 4, 2007, combined several different parcels described within the six older deeds into one property: (1) five pieces of land conveyed to MMH/AHS, including the Mellon Deed, dated June 15, 1944; the Watts Deed, dated September 26, 1944; the D’Olier Deed, dated December 2, 1944; the Joy Deed, dated March 14, 1956; and the Woodford Land Company Deed, dated March 14, 1956; and (2) one piece of land conveyed to Memorial/AHS Investment Corp. from The State of New Jersey in a deed dated May 27, 1994. The “Seller’s

Residency Certifications” accompanying the 2007 Consolidation Deed state that AHS owns Lots 1.01, 1.02, 1.03 and part of Lot 1 within Block 4201, with AHS Investment Corp. owning the remainder of Lot 1.

Defendant, Town of Morristown (“Morristown”) asserts that the 2007 Consolidation Deed, and particularly the 1994 conveyance to a *for-profit* entity, creates a dispute with regard to a material fact. The 1994 deed describes the land as follows:

Parcel VX256, as indicated on a map entitled: “New Jersey State Highway Department, GENERAL PROPERTY PARCEL MAP, ROUTE 287⁴ (1953) SECTION 10, From Route 24 To Route 10, Showing Existing Right Of Way And Parcels To Be Acquired In The Town Of Morristown And Townships Of Morris And Hanover, County Of Morris, Scale: As Indicated, January, 1964”;

Parcel VX256, including specifically all the land and premises located at about Station 13+90 (Base Line Ramp “K” Stationing), bounded on the north and east by the northerly and easterly line of Parcel VX256, as laid down on the aforesaid map; and on the west by the proposed right was way line of Route 287 (1953), as laid down on the aforesaid map; all as shown on the aforesaid map; containing 2,303 square feet more or less;

PROVIDED, HOWEVER, that the new owner shall not have the right of direct access to and from the highway as shown on the aforesaid map.

Also known as part of Lot 1 in Block 4201 on the tax map of the Town of Morristown.

Morristown alleges that the Parcel VX256 is not present on the related map. As support, Morristown submitted a purported copy of said map containing thirty-eight pages to the court.

The court observes, however, that while the title of the map is identical to the map referenced in the 1994 deed, it is clearly not a copy of the final document included in that deed. Morristown’s map contains pages from no fewer than three separate versions, including several

⁴ Now Interstate 287.

duplicate pages with differing annotations.⁵ As an example, a page numbered 5/38 in the title block contains a note that at some point in 1970,⁶ parcels were subdivided, and V's and X's were added to lot numbers. A similar page, this time just numbered 5 in the title block, is dated 11-14-66 and does not contain V's or X's in lot numbers. The page describing the property in question, page 1 (unnumbered in the title block), is dated 8-16-66. Although the court cannot locate a parcel labeled "VX256" on page 1, it seems that V's and X's were added sometime after 1966. Since Morristown has clearly not provided a final copy of the map referenced in the 1994 deed, little can be gleaned from the omission of Parcel VX256 on the version(s) Morristown did submit. The submissions do show, however, that MMH owned a large piece of land between Madison Avenue and Franklin Street containing a hospital in 1966.

Moreover, even in the absence of a Parcel VX256, the 1994 deed clearly describes a small, 2,303 square feet piece of land abutting the Interstate 287 on-ramp. Morristown has not provided any evidence to suggest an alternate interpretation of the deed whereby this small piece of land includes or encompasses the subject Lot 1.03, which is several hundred feet away from Interstate 287. Additionally, the 1994 deed states that the property is "[a]lso known as part of Lot 1 in Block 4201 on the tax map of the Town of Morristown." Morristown makes no suggestion that "Lot 1 in Block 4201 on the tax map" means Lot 1.03, the lot at issue.

AHS has produced credible evidence to suggest that MMH/AHS owned the land within Lot 1.03 during the years at issue.⁷ Aside from mere allegations, which are insufficient at the summary judgment stage, Morristown has not produced any evidence to raise a genuine issue of

⁵ The map provided by Morristown is also missing a title page and does not appear to contain an engineer's or surveyor's seal or signature. Final, filed copies of plan must be sealed by a licensed professional engineer or land surveyor. See N.J.S.A. 45:8-36. This requirement has been in effect since 1938. See 1938 N.J. Laws 862.

⁶ The date is difficult to read from the copy of the map provided, but the date could be 8-5-70 or 9-5-10.

⁷ This is consistent with a review of the available records from 2000 to present on the Morris County Tax Board's website, which list MMH or AHS as the owner of Block 4201, Lot 1.03 for the years at issue.

material fact regarding the ownership of Block 4201, Lot 1.03. The court therefore finds that Block 4201, Lot 1.03 was owned by AHS for the years at issue.

B) Organization

The Tax Court previously addressed the term “organized” in 1711 Third Avenue, Inc. v. City of Asbury Park:

Whether the first requirement is met is to be determined by the statement of purposes in the owning entity's certificate of incorporation. See Planned Parenthood of Bergen County, Inc. v. Hackensack City, 12 N.J. Tax 598, 610 n.6 (Tax 1992), aff'd, 14 N.J. Tax 171 (App. Div.1993) (holding that the word "'organized' in the statute refers to the entity's organizational documents, its corporate charter"). See also Intercare Health Sys., Inc. v. Cedar Grove Twp., 12 N.J. Tax 273, 275 (App. Div. 1991), certif. denied, 127 N.J. 558 (1992) (relying on corporate charter to determine whether claimant met organizational test); Salt and Light Co. Inc. v. Mt. Holly Twp., 15 N.J. Tax 274, 280 (Tax 1995) aff'd, 16 N.J. Tax 40 (App. Div. 1996) (same); Jersey Shore Med. Ctr. v. Neptune Twp., 14 N.J. Tax 49, 55-56 (Tax 1994) (same). [This court does] not agree with the conclusion reached by the Tax Court in Intercare Health Sys. v. Cedar Grove Twp., 11 N.J. Tax 423, 430-31 (1990), aff'd, 12 N.J. Tax 273 (App. Div. 01991), that to determine whether a claimant is organized for an exempt purpose, its operations are to be reviewed. The purposes for which an entity is organized and an entity's operations are plainly distinct.

[1711 Third Avenue, Inc. v. City of Asbury Park, 16 N.J. Tax 174, 180-81 (Tax 1996).]

“[C]ourts are not barred from considering extrinsic information if relevant to ascertaining the meaning of the corporate documents.” Int’l Sch. Servs., Inc. v. W. Windsor Twp., 381 N.J. Super. 383, 385 (App. Div. 2005).

Morristown’s logic invites the court on a journey down the rabbit hole⁸ to illuminate the true meaning of AHS’s corporate documents. Morristown asks the court to find that because Atlantic Health has an organizational purpose “to sponsor, benefit, and support, by donation, loan or otherwise, the interests of certain nonprofit healthcare organizations exempt from

⁸ “Down the Rabbit Hole” is the first chapter of Alice’s Adventures in Wonderland by Lewis Carroll and marks the beginning of Alice’s journey into the unknown world of Wonderland. See Lewis Carroll, Alice’s Adventures in Wonderland, Second Edition (Richard Kelly ed., Broadview Press 2d. ed. 2011) (1865).

taxation under 501(c)(3) of the Code; and because Atlantic Health is the sole member of AHS; and because AHS has an organizational purpose “to carry out such other acts and to undertake such other activities as may be necessary, appropriate or desirable in furtherance of or in connection with the conduct, promotion or attainment of the foregoing purpose”; therefore, AHS was organized in part to serve Atlantic Health’s goals.

The court respectfully declines this invitation. In Hunterdon Medical Center v. Readington Township, 22 N.J. Tax 302, 316-317 (Tax Ct. 2005), the Tax Court addressed an argument similar to the one Morristown presents here:

HMC's certificate of incorporation, as in effect during the years in issue, when read literally, could be construed to authorize activities other than the operation of a hospital. However, when read sensibly and reasonably, the certificate satisfies the statutory requirement that HMC be organized exclusively for hospital purposes. Although other activities are possible under the term "charitable," the totality of the language of the purpose clause in effect for tax years 2000 and 2001, and as amended for tax year 2002, makes abundantly clear that HMC was organized to operate a hospital and ancillary facilities and services. Accordingly, I reject defendant's contention that HMC does not qualify for exemption because it was not organized exclusively for hospital purposes.

Following this logic, the court finds that AHS’s corporate documents, when read sensibly and reasonably, indicate that AHS is organized to: (1) maintain and operate a hospital; (2) promote and carry on other hospital and related activities related to its said purposes determined to be in the best interests of the general public health; (3) render necessary hospital care and related services; and (4) carry out other activities in furtherance of the foregoing purposes.

The court does not find the extrinsic information of Atlantic’s corporate documents relevant to the organization of AHS. A corporate group may have related entities that are organized for separate purposes, including not-for-profit and for-profit. The not-for-profit entities would not be deemed as *organized* for-profit merely by this association. Similarly, not-for-profit entities may have legitimate dealings with for-profit corporations that would not affect

their not-for-profit *organization*. Morristown has alleged, among other things, that members of Atlantic's corporate group have engaged financial dealings that would destroy AHS's not-for-profit status. Whether AHS has exceeded the scope of its organizational purpose or has otherwise engaged in impermissible dealings falls within the realm of operations, not organization. Therefore, the court finds that AHS was organized for a not-for-profit purpose as contemplated by N.J.S.A. 54:4-3.6.

Conclusion

The "Organization Test" requires only a preliminary analysis of whether the property is in fact owned by an entity that is organized for a not-for-profit purpose set forth in N.J.S.A. 54:4-3.6, as evidenced by its corporate documents. Even when viewed in the light most favorable to Morristown, we cannot conclude that any genuine issues of material fact exist on this point. Therefore, AHS is entitled to partial summary judgment. The court's order is enclosed.

Very truly yours,

Hon. Vito L. Bianco, J.T.C.

VLB/WIO:tms
Encl.