

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE
STATE BOARD OF EQUALIZATION AND REVIEW

IN THE MATTER OF THE APPEAL
OF:

METRO AVIATION, INC,
Appellant

19 PTC 0088

From the decision of the Davidson
County Board of Equalization and
Review concerning the exemption of
certain personal property for tax year
2019

FINAL DECISION

This matter came on for hearing before the North Carolina Property Tax Commission (“Commission”) sitting as the State Board of Equalization and Review in the City of Raleigh, Wake County, North Carolina on Monday, February 17, 2020, pursuant to the Appellant’s appeal from the decision of the Davidson County Board of Equalization and Review (“Board”).

Chairman Robert C. Hunter presided over the hearing, with Vice Chairman Terry L. Wheeler and Commission Members William W. Peaslee, Alexander A. Guess, and June W. Michaux participating.

Attorney Janet L. Shires appeared on behalf of Davidson County (“County”). Attorney Justin M. Hardy appeared on behalf of the Appellant.

STATEMENT OF THE CASE

At issue is the potential exemption of a certain EC135 P2+ helicopter, having serial number 1096 and bearing N-number 586WH (“subject property”). The subject property is owned by the Appellant and leased to Wake Air Care, LLC (“WAC”). WAC is a wholly-owned subsidiary of Wake Forest University Baptist Medical Center (“WFUBMC”), a nonstock, nonprofit charitable institution that controls and operates multiple nonstock, nonprofit charitable hospitals.

The Appellant filed an application for the 2019 tax year, seeking for the subject property the exemption authorized by N.C. Gen. Stat. §105-278.8. The County denied the exemption

request, contending that the subject property was neither held for nor owned by a qualifying entity. The Appellant timely appealed the County's denial to the Davidson County Board of Equalization and Review ("Board"), which affirmed the County's denial. The Appellant timely appealed the Board's denial to the Commission.

ANALYSIS AND ISSUES

N.C. Gen. Stat. §105-278.8 provides in pertinent part that "[r]eal and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes."

The exemption requires both a qualifying "owner" and a qualifying use in order for the property to be exempted. Although the broad issue presented for the Commission is whether the subject property is exempt from taxation under N.C. Gen. Stat. §105-278.8, we must initially answer the question of whether the subject property meets the "held for or owned by" portion of the statutory requirements. More specifically, the threshold issue presented is whether the subject property is "held for" a charitable hospital, since it is stipulated that the subject property is actually owned by the Appellant, a for-profit entity.

If the Commission determines that the subject property is "held for" a charitable hospital, then the Commission must determine whether the subject property is "actually and exclusively used for charitable purposes."

FROM THE EVIDENCE PRESENTED AND ALL DOCUMENTS OF RECORD, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:

1. In or around 2018, WFUBMC created WAC in order to facilitate the providing of medical air transport services to the patients of WFUBMC hospitals.
2. The Appellant contracts with WAC to provide aircraft services in connection with WAC's medical air transport program. Under the contract, the Appellant provides aircraft, pilots, mechanics, and associated services and items, and in return, WAC pays the Appellant both fixed and variable amounts for the term of the agreement. Further, the subject property is leased exclusively to WAC under the contract.

3. As the owner of the the subject property, the Appellant has listed the aircraft for taxation with the County. The Appellant has paid the resulting property taxes, which are to be reimbursed by WAC in accordance with the contract.
4. The Appellant contends that, because the subject property is exclusively leased to WAC in furtherance of the charitable hospital mission of WAC's parent organization, the subject property is "held for" a charitable hospital. We disagree. The term "held for," offered in the statute as an alternative to actual direct ownership, indicates a situation where ownership is held by trustees or other fiduciaries on behalf of the charitable hospital.
5. The Appellant's witness John Blalock, the Associate Vice President of Clinical Operations for WFUBMC, testified that the hospital considered the option of purchasing aircraft for its medical air transport services, but found that the cost of ownership was not affordable, and instead opted to lease aircraft from the Appellant. The relationship between the Appellant and WAC is entirely contractual, and not any sort of fiduciary relationship whereby the Appellant owns the subject property by proxy for WAC.
6. Although the statute plainly uses the term as an alternative to direct ownership, even if we were to consider that "held for" could refer to the purpose for which the subject property is intended, we still cannot connect the ownership of the subject property to WAC beyond its contract with the Appellant. The subject property is owned by the Appellant, and is held for the purpose of generating income from the Appellant's client. In this matter, while there may be no dispute that the client is ultimately a charitable hospital, there is no distinction between the circumstances here and, for example, a client that is a for-profit entity leasing aircraft for corporate purposes. In either case, the owner's intended purpose of the aircraft is to generate income, and the client's use is irrelevant to that purpose.
7. Although we find that the plain language of the statute is not ambiguous, the Appellant offers various statutory construction principles in support of its position. One such principal is that the core purpose of N.C. Gen. Stat. §105-278.8 is to lessen the burden on nonprofit charitable hospitals. While lessening the burden of taxation is the natural effect of all exemption programs, it does not follow that property becomes exempt simply because a charitable hospital ultimately reimburses the true owner for taxes on its property.
8. The Appellant explains that the North Carolina Courts have expanded the traditional meaning of ownership beyond the owner of legal title to property, and suggests that

ownership of the subject property could be attributed to a charitable hospital under this theory. The Appellant offers *In re Fayette Place LLC*, 193 N.C.App. 744, 668 S.E.2d 354 (2008) and *In re Appeal of Appalachian Student Housing Corp.*, 165 N.C.App. 379, 598 S.E.2d 701 (2004) in support of this position. We distinguish this case from those by noting that the exempt entities in the cases cited had some degree of ownership and/or control over the property in question. Here, the subject property is entirely owned the Appellant, and retains “full, complete and exclusive operational control” of the subject property under the terms of its agreement with WAC.

9. The Appellant also suggests that the “held for” language in N.C. Gen. Stat. §105-278.8 cannot mean ownership by a trustee, because the North Carolina Courts have interpreted (as, for example, in the previously cited *Appalachian Student Housing Corp.* case) the term “ownership” to include ownership by a trustee. The Appellant contends, therefore, that to interpret “held for” as meaning ownership by a trustee would be redundant and in violation of the canons of statutory construction. We disagree. Although the General Assembly is presumed to have full knowledge of the law when creating legislation, N.C. Gen. Stat. §105-278.8 has remained unchanged since its adoption in 1973, and the language existed in the same form (but in other sections) in earlier versions of the North Carolina General Statutes. The statutory language predates the judicial determination that “ownership” includes ownership by a trustee, and we do not conclude that the legislature knew of this eventual interpretation at the time the statute was enacted.
10. “There is no exemption under G.S. 105-296 (10) [the former location of the current G.S. 105-278.8] unless the real property is ‘held for or owned by’ a qualified hospital. ‘Owned by’ requires that the institution hold title to the property; ‘held for’ indicates that title to the property may be held by trustees for the institution.¹”
11. We find that the subject property is owned by the Appellant, and that the subject property is not held for WFUBMC or any of its constituent institutions, including WAC, within the meaning of N.C. Gen. Stat. §105-278.8. The statute in question does not exempt property that is leased to a charitable hospital.

¹ Lewis, Henry W. (1970). *Property Tax Exemptions and Classifications*. Institute of Government, University of North Carolina at Chapel Hill. (The *Law and Government* series)

UPON REVIEW OF THE FILINGS IN THIS MATTER, THE PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:

1. The Commission has jurisdiction over the parties and the subject matter of this appeal.
2. The plain language of N.C. Gen. Stat. §105-278.8 indicates that qualifying property must either be owned by a charitable hospital or held for a charitable hospital. The subject property is neither owned by nor held for a charitable hospital. Accordingly, the subject property cannot and does not qualify for the exemption offered in N.C. Gen. Stat. §105-278.8.
3. Because the subject property does not meet the threshold "owned by or held for" requirement of N.C. Gen. Stat. §105-278.8, we do not address any remaining statutory requirements in this decision.

WHEREFORE, the Commission orders and decrees that the property under appeal is to be assessed for the 2019 tax year without the benefit of the exemption provided in N.C. Gen. Stat. §105-278.8.



NORTH CAROLINA PROPERTY TAX COMMISSION


Robert C. Hunter, Chairman

Vice Chairman Wheeler and Commission Members
Peaslee, Guess, and Michaux concur.

ATTEST:



Stephen W. Pelfrey, Commission Secretary

Date Entered: 6.25.2020