

REPRESENTATIVE FOR PETITIONER: Paul Jones, JonesPyatt LLC

REPRESENTATIVE FOR RESPONDENT: Jeff Coleman, Fayette County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

1029 East 5 <sup>th</sup> SNF Realty, LLC,	)	Petition Nos.: 21-003-21-2-8-00621-21
	)	21-003-21-2-8-00622-21
Petitioner,	)	21-003-21-2-8-00623-21
	)	21-003-21-2-8-00624-21
	)	
v.	)	Parcel Nos.: 21-06-30-503-520.000-003
	)	21-06-30-504-520.000-003
Fayette County Assessor,	)	20-06-30-504-511.000-003
	)	21-06-30-504-592.000-003
Respondent.	)	
	)	County: Fayette
	)	
	)	Assessment Year: 2021

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January 17, 2022

**FINAL DETERMINATION**

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the Parties' arguments, and having considered the issues, now finds and concludes the following:

**INTRODUCTION**

1. 1029 East 5<sup>th</sup> SNF Realty LLC ("SNF") sought a 72.55% charitable-purpose exemption for property that was used by a related entity or entities to operate a nursing home. But SNF failed to show that it and the facility's operator(s) had a charitable purpose, rather than a profit motive, in owning and using the facility. We therefore find that the property is 100% taxable.

## PROCEDURAL HISTORY

2. SNF applied for a 72.55% property tax exemption for four parcels of real property in Crawfordsville, Indiana, as well as for business personal property located at those parcels. The Fayette County Property Tax Assessment Board of Appeals (“PTABOA”) denied SNF’s application, finding SNF’s property to be 100% taxable. SNF then timely appealed to the Board.
3. On June 2, 2022, our administrative law judge, Erik Jones (“ALJ”), held a telephonic hearing on SNF’s petitions. Neither he nor the Board inspected the property.
4. Paul Jones appeared as counsel for SNF. Fayette County Assessor Jeff Coleman represented himself. The following witnesses testified under oath: Coleman; Warren Taylor, member of the PTABOA; Kate Womack, JM Tax Advocates; and Bernard McGuinness, CEO of Majestic Management.

## RECORD

5. The parties submitted the following exhibits as part of the official record:

Petitioner Exhibit A-1	Forms 136 applications for all four parcels,
Petitioner Exhibit A-2	Power of Attorney,
Petitioner Exhibit A-3	Supporting documents for Form 136 applications,
Petitioner Exhibit B	Form 120 determinations for all four parcels,
Petitioner Exhibit C	Form 132 petitions for all four parcels,
Petitioner Exhibit D	Tax summaries for all four parcels.
Respondent Exhibit A-1	2021 property record card (“PRC”) for parcel 21-06-30-504-502.000-003 (“parcel 502”),
Respondent Exhibit A-2	Form 136 application for parcel 502,
Respondent Exhibit A-3	Ground-level photograph of building on parcel 502,
Respondent Exhibit A-4	Ground-level photograph of building on parcel 502,
Respondent Exhibit B-1	2021 PRC for Parcel 21-06-30-503-520.000-003 (“parcel 520”),
Respondent Exhibit B-3	Ground-level photograph of building on parcel 520,
Respondent Exhibit C-1	2021 PRC for parcel 21-06-30-504-592.000-003 (“parcel 592”),
Respondent Exhibit C-2	Form 136 application for parcel 592,

Respondent Exhibit C-3	Ground-level photograph of building on parcel 592,
Respondent Exhibit D-1	2021 PRC for parcel 21-06-30-504-511.000-003 (“parcel 511”),
Respondent Exhibit D-3	Ground-level photograph of building on parcel 511,
Respondent Exhibit D-4	Ground-level photograph of building on parcel 511,
Respondent Exhibit E-1	Screen capture of IN Secretary of State business information for 1029 East 5 <sup>th</sup> SNF Realty LLC,
Respondent Exhibit E-2	Screen capture of IN Secretary of State business information for Majestic Care of Connersville LLC,
Respondent Exhibit F	Indiana Medicaid rate setting contractor cumulative rate setting, <sup>1</sup>
Respondent Exhibit H	Special Warranty Deed,
Respondent Exhibit I	Aerial photograph of all four parcels.

6. The record also includes (1) all documents filed by the parties, (2) all orders and notices issued by the Board or the ALJ, and (3) an audio recording of the hearing.

#### FINDINGS OF FACT

7. SNF owns the four parcels under appeal. Either Majestic Care of Connersville LLC, or Majestic Management, LLC, or both, uses the parcels to operate a nursing home. The record contains scant information about any of those entities. SNF did not offer organizational documents for the entities. But it appears from the limited evidence before us that there are several related entities, most of which include the term “Majestic Care” in their names, and that they may all have the same manager or sole member. At least two of the entities—SNF and Majestic Care of Connersville—are listed with the Indiana Secretary of State as active domestic limited liability companies. David Marx, who signed SNF’s exemption applications, is listed as the manager of both entities. Unless otherwise indicated, we will refer to the entities with related ownership collectively as “Majestic Care Group,” and to the entity(ies) that run the facility under appeal (whether that is Majestic Care of Connersville, Majestic Management, or both) as “Majestic.”

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<sup>1</sup> SNF objected to portions of Respondent’s Exhibit F—which contains information about the cumulative Medicaid rates for several facilities—on grounds that the information for facilities other than the subject property was irrelevant. The Assessor agreed to offer the exhibit solely for the rate information that applied to Majestic Care of Connersville, and SNF did not object to that information being admitted. Although the ALJ took the objection under advisement, the parties’ responses mooted the objection. We therefore admit the portion of the exhibit that addresses rates for Majestic Care of Connersville.

When referring to a specific individual entity, we will use that entity's name.

*McGuinness testimony; Pet'r Exs. A-1, D; Resp't Exs. E-1 - E-2, H.*

8. Because SNF did not offer any organizational documents, the only evidence addressing the purpose for which it or any of the Majestic Care Group entities were formed comes from Bernard McGuinness, Majestic Management's CEO, who "founded" "Majestic Care's" home office in Westfield in 2018. McGuinness testified:

Q: Can you describe . . . the basic purpose and activities of Majestic as a company?

A: Sure. Majestic Care of Connersville the basic purpose is to provide nursing home care, senior care to the sick, the elderly, some short-term rehab to the community of Fayette County. . . .

...

Q: As we mentioned earlier, the property is owned by [SNF] and that owner entity is part of an overall group ownership under Majestic Care, correct?

A: Correct. We're related entity with the same sole owner.

Q: And that ownership and those companies are formed for the sole purpose of providing nursing care to elderly residents including those receiving Medicaid, correct?

A: Correct.

*McGuinness testimony.*

9. Majestic offers a wide range of care at the subject property. The care is based on the level of assistance that a specific patient requires to function, and it can include basic services like showers, meals, transportation, and day-to-day care. Majestic also provides ventilation and respiratory care, and other therapies in conjunction with local doctors and nurse practitioners. The goal of these services is to rehabilitate patients so they can return to normal living. *McGuinness testimony.*

10. The subject property consists of four parcels. Each parcel includes improvements with specified uses. Two parcels<sup>2</sup> include nursing facilities for full-time elderly/senior patient care. Those two buildings have rooms with a total of 166 beds where residents receive a variety of skilled nursing and medical services. Those buildings also have kitchens and dining spaces. One has a therapy gym and some administrative offices. There is also a smaller building that houses the maintenance facility for the physical plant, a boiler and chiller, and the facility's laundry services. *McGuinness testimony; Pet'r Ex. A-3; Resp't Exs. A-1 through A-4, D-1 through D-4, I.*
  
11. A third parcel<sup>3</sup> has 12 individual "apartment settings." Majestic provides some services to those residents, including daily nursing rounds, a call-light system for medical emergencies and other needs, and meal delivery if desired. The final parcel<sup>4</sup> includes a garage used by the facility's staff to store extra beds for patient care, equipment, and holiday decorations. *McGuinness testimony; Resp't Exs. Resp't Exs. B1 through B-3, I.*
  
12. Majestic receives payment from different sources. Some patients pay privately for room and board. If residents need services covered by Medicare Part B, such as lab work and therapy sessions, Medicare will pay for those services and the residents have a co-payment obligation. Services under Medicare Part A are covered for up to 100 days if the resident has a qualified need for skilled services, but the average stay is closer to 30 days. In any case, there is a co-payment requirement after 20 days. Some patients have Medicaid as their secondary insurer. But Medicaid does not pay coinsurance in Indiana. In those instances, Majestic writes off the coinsurance as bad debt. In many cases, a resident will enter the facility under one payor status and will then qualify for Medicaid, such as when private-pay residents spend down their assets. Some patients are indigent when they enter the facility and receive care while their applications for Medicaid are being processed. *McGuinness testimony.*

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<sup>2</sup> Parcels 502 and 511.

<sup>3</sup> Parcel 520.

<sup>4</sup> Parcel 592

13. During 2020, Majestic had a total of 60,590 bed days available at the nursing home parcels (166 beds x 365 days). The beds were occupied 44.89% of the time, or 27,199 total patient days. Medicaid patients composed 19,732, or 72.55% of those patient days. Medicare patients composed 3,721, or 13.68% of those patient days, and private payors made up the rest. SNF did not separately analyze the percentage of indigent patients who were awaiting approval of their Medicaid applications or explain whether once those applications were approved, Medicaid reimbursed Majestic for care it provided while the applications were pending. The apartment parcel housed only private-pay patients. *McGuinness testimony; Womack testimony; Pet'r Ex. A-3.*
14. Majestic received differing levels of payment depending on the payment source. It received average revenue of \$569.19/day for Medicare patients, but only \$203.29/day for Medicaid patients. The average cost of care for Medicaid patients, however, was \$292.71/day, resulting in a net loss of \$89.42/day or \$1,764,435 for the year on Medicaid patients. That loss is far more than the \$114,061 in property taxes that SNF paid for the subject property in 2020. *McGuinness testimony; Womack testimony; Pet'r Ex. A-3.*
15. According to McGuinness, Majestic also receives less revenue for all patients, or at least for all patients in "this building," than the cost of care, and Majestic lost about \$1.48 million of net income for the trailing 12 months. *McGuinness testimony.* But SNF offered no context for McGuinness's testimony. Neither he nor any other witness offered an analysis comparing the cost of care and revenue for Medicare or private-pay patients like what Majestic's Kate Womack provided for the Medicaid patients. Without further explanation, it is not apparent why, if the cost of care exceeded reimbursements for all patients regardless of payor source, Majestic's net loss for the facility would be less than its loss on Medicaid patients only. We therefore cannot find that McGuinness's testimony establishes that Majestic Group is losing money on its operation of all four parcels.

16. In any case, Majestic continues to accept Medicaid patients even though it is not obligated to do so. A patient's payor status does not affect the level of care that Majestic provides; instead, Majestic must meet a plan of care overseen by a physician.  
*McGuinness testimony.*
17. In the portions of its exemption applications asking whether rooms or areas are ever used by individuals or groups for activities not related to the claimed exempt use, SNF checked the box indicating "yes." And it identified those groups or individuals as "Private Pay Patients." SNF sought a 72.55% exemption, which it tied to its provision of care to Medicaid patients. *Pet'r Ex. A-1; McGuinness testimony; Womack testimony.*

### CONCLUSIONS OF LAW AND ANALYSIS

#### **A. SNF offered insufficient evidence to show that the subject property was owned, and predominantly occupied and used, for a charitable purpose.**

18. This case boils down to SNF's failure to prove that it and each of the Majestic entities had a charitable purpose, rather than a profit motive, in owning and operating the nursing home facility. At most, SNF pointed to the fact that Majestic lost money by participating in the Medicaid program. While marginally relevant, that evidence is far from sufficient.
  1. To qualify for an exemption under Ind. Code § 6-1.1-10-16(a), a property must be owned, and predominantly occupied and used, for an exempt purpose.
19. Although tangible property in Indiana is generally taxable, the Legislature has its constitutional power to exempt certain types of property. *Hamilton Cty. Prop. Tax Assessment Bd. of App. v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). A taxpayer bears the burden of proving it is entitled to an exemption. *State Bd. of Tax Comm'rs v. New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002). Every exemption appeal "stand[s] on its own facts," and it is the taxpayer's duty to walk us through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cty. Ass'r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009). Because exemptions relieve properties from bearing their share of the cost of government services, they are strictly construed

against taxpayers and in favor of the State. *Indiana Osteopathic Hosp., Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). Worthwhile activities or noble purposes alone do not suffice. Rather, a taxpayer must show that the property is being used to provide a benefit that justifies the loss of tax revenue. *See e.g., Dep't of local Gov't Fin. v. Roller Skating Rink Operators Ass'n*, 853 N.E.2d 1262, 1265 (Ind. 2006).

20. SNF claims an exemption under Indiana Code § 6-1.1-10-16(a), which provides an exemption for all or part of a building that is owned, and is exclusively or predominantly occupied and used, for educational, literary, scientific, religious, or charitable purposes. Ind. Code § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c); *Jamestown Homes*, 914 N.E.2d at 15. That exemption extends to a tract of land on which an exempt building is situated, as well as to parking lots and other structures that serve the exempt building. I.C. § 6-1.1-10-16(c)(1)-(2). A property need not be owned by the same entity that occupies or uses it. But where that unity is lacking, both entities must show that they possess their own exempt purpose. *Oaken Bucket*, 938 N.E. 2d at 657.
21. Under the predominant-use test, a taxpayer must use or occupy a property for exempt purposes during more than 50% of the time that it is used or occupied in the year that ends on the assessment date. I.C. § 6-1.1-10-36.3. A property qualifies only for an exemption that “bears the same proportion to the total assessment” as the amount of time the property’s exempt use bears to its total use. I.C. § 6-1.1-10-36.3(c)(3). Where a property is not used exclusively for exempt purposes, a taxpayer must offer evidence comparing the relative distribution of time between exempt and non-exempt uses. *See Hamilton Cty. Ass'r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10-36.3.”).



2. SNF offered insufficient evidence to show that it or Majestic had a charitable purpose, rather than a profit motive, in owning and using the property.
22. SNF claims that the subject property was owned, occupied, and used 72.55% of the time for charitable purposes. It bases that claim on the percentage of patient days that were attributable to Medicaid patients during 2020. SNF cites to several Indiana Tax Court decisions for the proposition that providing care to the elderly constitutes a charitable purpose. See *Pet'r Brief* at 4-6 (citing *Wittenberg Lutheran VIII Endowment Corp. v. Lake Cty. Prop. Tax Assessment Bd. of App.*, 782 N.E.2d 483 (Ind. Tax Ct. 2003) and *Raintree Friends Housing, Inc. v. Indiana Dept. of State. Revenue*, 667 N.E.2d 810 (Ind. Tax Ct. 1996)). And it claims that the revenue shortfall from providing care to Medicaid patients more than offsets the loss in tax revenue from granting it an exemption. The Assessor counters that, while the facility provides a community benefit, it was owned and operated by for-profit entities as a business and that it therefore was neither owned nor used for charitable purposes.
23. We find that SNF failed to show that the subject property, or any part thereof, was owned, and predominantly used, for charitable purposes. When interpreting the exemption provided by Ind. Code § 6-1.1-10-16(a), “the term ‘charitable purpose’ is to be defined and understood in its broadest, constitutional sense.” *Knox Cty. Prop. Tax Assessment Bd. of App. v. Grandview Care, Inc.*, 826 N.E.2d 177 (Ind. Tax Ct. 2005). As a result, “[a] charitable purpose will generally be found to exist if: 1) there is ‘evidence of relief of human want . . . manifested by obviously charitable acts different from the everyday purposes and activities of man in general’; and 2) there is an expectation of a benefit that will inure to the public by the accomplishment of such acts.” *Id.* (quoting *Indianapolis Elks Bldg. v. State Bd. of Tax Comm'rs*, 145 Ind. App. 522, 251 N.E.2d 673, 682, 683 (1969)).
24. As SNF points out, Indiana courts have issued several decisions upholding claims for charitable-purpose exemptions by entities that provided housing, care, or services to the aged through nursing homes, assisted living facilities, or retirement communities.

*Grandview, Wittenberg, Raintree Friends, supra; see also, State Bd. of Tax Comm'rs v. Methodist Home for the Aged*, 143 Ind. App. 419, 241 N.E.2d 84 (1968). In those cases, the courts recognized that a charitable purpose may be accomplished by meeting the needs of the aged, which are not exclusively financial, but rather include things such as the relief of loneliness and boredom, as well as decent housing that is safe, convenient, and adapted to residents' emotional well-being and health problems. *See, e.g., Wittenberg*, 782 N.E.2d at 488-89; *Raintree*, 667 N.E.2d at 812-15.

25. But the Indiana Tax Court has clarified that simply using a property to provide care to the aged does not *per se* qualify the property for a charitable-purpose exemption. *Tipton Cty. Health Care Found. v. Tipton Cty. Ass'r*, 961 N.E.2d 1048, 1052 (Ind. Tax Ct. 2012). Instead, Ind. Code § 6-1.1-10-16 “requires the showing of a charitable purpose, not simply the accomplishment of good and noble deeds,” to assure that the exemption relieves the government of a cost it would otherwise bear and that “the exemption’s largess does not primarily fulfill a commercial profit motive.” *Id.*
26. In *Tipton County Health Care*, the Tipton County Healthcare Foundation bought an assisted living facility from the Tipton County Memorial Hospital. The Foundation leased the facility to Miller’s Health Systems, Inc., a for-profit corporation, which agreed to operate it as an assisted living facility and to pay annual base rent and certain other expenses. *Id.* at 1049. We affirmed the county PTABOA’s decision denying the Foundation an exemption, finding that the Foundation failed to make a prima facie case that Miller’s had a charitable purpose. *Id.* at 1050.
27. The Tax Court affirmed our determination. As evidence of Miller’s charitable intent, the Foundation pointed to the lease and to Miller’s mission statement, which read:

The mission of Miller’s . . . is to be an active presence in the communities we serve. We will specialize in delivering the highest quality of services to those in need. We will treat all individuals with integrity, compassion, and respect. Our goals are to enjoy work, grow in our professional and personal lives, and make a positive difference for those we serve.

*Id.* at 1052-53. But the Court found that the mission statement read more like an advertisement of Miller’s operating style than a declaration of its charitable purpose. *Id.* at 1053. The Court similarly gave no weight to the fact that Miller’s agreed to use the property solely as an assisted living facility. According to the Court, that just indicated how Miller’s would use the facility during its tenancy—not that Miller’s had a charitable purpose. *Id.* Instead, the lease looked like just another example of a commercial triple-net lease. *Id.*

28. The Tax Court also rejected the Foundation’s argument that given its lack of profit from the arrangement and the absence of any evidence to show that Miller’s profited, the Assessor bore the burden of showing a private benefit. *Id.* As the Court explained, “the taxpayer ha[d] the burden to prove that both the Foundation and Miller’s lease arrangement [were] driven by a charitable purpose and not a profit motive.” *Id.* And while “an entity’s for-profit status alone is not sufficient to show that a lease arrangement will result in private benefit, its status is germane.” *Id.* Because the record did not show whether Miller’s had a charitable purpose or a profit motive, the Court held that our finding that the Foundation failed to make a prima facie case was supported by substantial evidence. *Id.*

29. Like Miller’s in *Tipton Cty. Health Care*, both SNF and Majestic Care of Connersville were organized for profit, albeit as limited liability companies instead of as corporations. A member’s interest in a limited liability company is personal property, and he may share in the company’s profits and losses and receive other distributions from the company. I.C. § 23-18-5-4, -6; I.C. § 23-18-6-2. SNF failed to offer any organizational document, operating agreement, or other written evidence of a different organizational purpose for itself or for Majestic. And McGuinness’s broad testimony that the Majestic Care Group companies were formed for the sole purpose of providing nursing care to elderly residents, including those receiving Medicaid, is no more evidence that public benevolence was the reason for SNF and Majestic owning and using the property than was Miller’s mission statement in *Tipton County Health Care*.

30. Instead, SNF relies mainly on the fact that Majestic suffered a net loss on Medicaid patients in 2020 because Medicaid's reimbursement rate was less than the cost of providing care to those patients. While the fact that a business suffers a loss in a particular year when using its property to provide services that benefit the public may be relevant to whether the business has a charitable purpose rather than a profit motive, it is hardly sufficient. Indeed, businesses may routinely lose money on some products or services that nonetheless support their overall enterprise. In this case, Majestic may have chosen to provide services to Medicaid patients at a loss simply to achieve a desired level of occupancy. Indeed, even with those Medicaid patients, the facility had less than 50% occupancy. We would reach the same conclusion even if we were to credit McGuinness's testimony that Majestic suffered a \$1.48 million net loss on the entire facility for the trailing 12 months. Again, an unprofitable business does not equate to charity, absent additional evidence showing a charitable purpose.
31. More importantly, simply participating in the Medicaid program does not qualify an entity for a charitable-purposes exemption. Indeed, in addressing when property owned by a hospital that is not supportive of the hospital's inpatient facility may receive an exemption under Ind. Code § 6-1.1-10-16, the Legislature has required that the property must provide or support charity care, including providing funds or other financial support for health care services for indigents (as defined in I.C. § 16-18-2-52.5(b) and (c)) or provide or support certain defined community benefits. But the Legislature qualified those provisions with the following caveat: "[h]owever, participation in the Medicaid and Medicare program alone does not entitle" the property to an exemption. I.C. § 6-1.1-10-16(h).<sup>5</sup>
32. SNF relies solely on its participation in the Medicaid program. Although McGuinness referred to indigent care, SNF offered no evidence to show that Majestic provided care to

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<sup>5</sup> See also, I.C. § 6-1.1-10-18.5 (containing identical exclusionary language in the context of an exemption granted to properties owned by not-for-profit corporations and used in the operation of licensed hospitals, health facilities, residential facilities for the aged, and Christian Science homes or sanatoriums).

indigent patients for whom it did not ultimately receive reimbursement from Medicaid or Medicare. At most, McGuinness testified that Majestic wrote off some unquantified amount of unreimbursed co-insurance as bad debt.

33. We emphasize that we do not find that SNF is precluded from an exemption simply because it and Majestic are organized for profit, although that fact certainly is relevant. Instead, we find that SNF failed to carry its burden of proving that it and Majestic were primarily motivated by a charitable purpose, rather than by profit, in owning and using the subject property.
  
34. *College Corner, LP v. Dep't of Local Gov't Fin.*, to which SNF cites, does not mandate a different conclusion. In *College Corner*, the Tax Court reversed our denial of an exemption to a limited partnership that was formed for what the Court found was the charitable purpose of revitalizing an area of Indianapolis's historic Old Northside. *College Corner, LP v. Dep't of Local Gov't Fin.*, 840 N.E.2d 905, 909-912 (Ind. Tax Ct. 2006). The Court found that our "hasty analysis" began and ended with the fact that the limited partner—which contributed equity to obtain mortgages and received a fixed 7% return when a revitalized property was sold—was organized for profit. *Id.* at 911-12. According to the Court, the limited partner's for-profit status and the return it received on its investment were inconsequential. Instead, the Court focused on the limited partner's articles of incorporation, which showed that it was organized to promote revitalization of low- and moderate-income neighborhoods throughout the communities of its banking subsidiaries, and on the fact that it was acting pursuant to the directives of the Community Reinvestment Act, which encourages financial institutions to help meet the credit needs of the communities they serve. *Id.* at 911. The Court therefore refused to "judicially impart any particular profit motive," to the limited partner's officers, directors or shareholders. *Id.*
  
35. Despite its broad language, we do not read *College Corner* as holding that an entity's organization for profit is irrelevant to whether it has a charitable purpose in owning or

using a property. Even if that were *College Corner's* holding, it would have been implicitly overruled by *Tipton Cty. Health Care*. As explained above, *Tipton Cty. Health Care* held that while Miller's for-profit status was not dispositive, it was germane to whether Miller's had a private profit motive as opposed to a charitable purpose in leasing the nursing home. And unlike *College Corner*, we do not rely solely on SNF's or Majestic's for-profit status in reaching our determination, but rather on SNF's failure to offer any substantial evidence to show that it was motivated by a charitable purpose.

36. In any case, exemption determinations are highly fact specific, and we see little in common between *College Corner* and these appeals. In *College Corner*, the taxpayer offered organizational documents showing the for-profit limited partner's charitable purpose and evidence that the limited partner acted pursuant to the directives of the Community Reinvestment Act. Here, by contrast, SNF did not offer any organizational documents for it or Majestic. And while Majestic apparently complied with Medicaid regulations when caring for qualifying patients, our Legislature has clearly indicated in other contexts that simply participating in the Medicaid program is not a charitable purpose. Instead, *Tipton Cty. Health Care* offers a more apt comparison than does *College Corner*.
3. Even if providing care to Medicaid patients at a loss sufficed to show that Majestic had a charitable purpose, SNF did not show that it had its own independent charitable purpose in owning the property.
37. Even if we were to find that Majestic's provision of care to Medicaid patients was enough to show that it was motivated by a charitable purpose—rather than a profit motive—in using the property, the evidence fails to show that SNF had its own charitable purpose independent of Majestic. As explained above, where one entity owns a property and another entity occupies or uses it, each entity must show that it possesses its own exempt purpose. *Oaken Bucket*, 938 N.E. 2d at 657; *Tipton Cty. Health Care*, 961 N.E.2d at 1052. Unlike Majestic, SNF did not provide housing and care to Medicaid patients or to anyone else. It simply owned the property. SNF apparently wants us to

impute Majestic’s purposes to SNF based on nothing more than McGuinness’s vague references to the entities having common ownership.

38. We cannot do so on this record. As the Tax Court has explained, “one of the hallmarks of Anglo-American law is the status of a corporation as a distinct legal entity” that is “separate and distinct from its shareholders, affiliates, corporate members, parents, and subsidiaries.” *St. Mary’s Bldg. Corp. v. Redman*, 135 N.E.3d 681, 687 (2019). And those separate corporate identities cannot be disregarded simply because the two entities are “closely related.” *See id.* Those concepts apply equally to limited liability companies. *See Troutwine Estates Dev. Co., LLC v. Comsub Design & Eng’g, Inc.*, 854 N.E.2d 890, 898 (Ind. Ct. App. 2006) (“The purpose of a limited liability company is to provide individuals the same protection enjoyed by shareholders of a corporation through creation of a distinct legal entity, while at the same time featuring pass-through taxation similar to that enjoyed by partners.”).
39. That is not to say that a close relationship between two entities is irrelevant to determining whether they share the same charitable purpose. In *Hamilton Cty. Ass’r v. SPD Realty, LLC*, the Tax Court upheld our determination granting an exemption to a property owned by SPD Realty, a for-profit limited liability company, and operated by New Life Generation, a public benefit corporation organized for the charitable purpose of operating a tissue bank. *Hamilton Cty. Ass’r v. SPD Realty, LLC*, 9 N.E.3d 773, 774-78 (Ind. Tax Ct. 2013). After New life had trouble renting a suitable space, its owners formed SPD to buy an office building and lease part of it to New Life. *Id.* at 774-75.
40. On judicial review, the Tax Court upheld our determination that SPD owned the property for a charitable purpose. The Court acknowledged that there are no bright-line tests, and that each exemption case stands on its own facts. *Id.* at 777. But it pointed to the fact that SPD was formed for the sole purpose of acquiring and renting the property to New Life in furtherance of New Life’s charitable tissue-bank operations. *Id.* On those facts, the evidence of the close relationship between SPD and New Life supported our finding

that each had a similar charitable purpose. *Id.* The Court further found that the totality of the evidence showed that SPD and New Life did not have a typical landlord-tenant relationship and that SPD did not have a profit motive. Unlike some commercial landlords, SPD owned only one property, which it rented to New Life. *Id.* It never enforced a lease provision allowing for rent increases, and the rent was designed just to cover SPD's mortgage and operational expenses—not to generate a profit for SPD. Also, unlike a typical commercial landlord, SPD's owners paid a property tax installment from their personal accounts because neither SPD nor New Life had sufficient funds to cover the liability. *Id.* at 777-78.

41. In contrast to *SPD Realty*, the only evidence of SNF's relationship to Majestic is that they have common ownership and that Majestic uses SNF's property. SNF did not offer any evidence about the reasons why the common ownership decided that separate entities should own and operate the property. Nor did it offer a lease or any other evidence about the terms under which Majestic occupied and used the property. Thus, there is insufficient evidence to show that, even if Majestic had a charitable purpose, SPD shared that purpose.

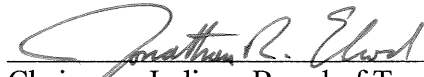
**B. Even if SNF were entitled to an exemption based on Majestic's use of the property to provide care to Medicaid patients, the apartment parcel would not qualify.**

42. Finally, even if we were to decide that Majestic's provision of care to Medicaid patients sufficed to show a charitable purpose for it and SNF (we do not), SNF has still failed to show it is entitled to an 72.55% exemption for all four parcels. In its exemption applications, SNF conceded that providing care to private-pay patients was not an exempt use. And the apartment parcel was occupied solely by private-pay patients. Although SNF argues that Majestic operates all four parcels as a single facility, the predominant use test applies separately to "(A) each part of the property used or occupied; and (B) each part of the property not used or occupied;" for an exempt purpose during the time that the property is used or occupied. I.C. § 6-1.1-10-36.3(b); I.C. § 6-1.1-11-3(c)(5).



## CONCLUSION

43. SNF failed to meet its burden of proving that the subject property was owned, and predominantly used, for charitable purposes. We therefore find that SNF is not entitled to an exemption and that the property is 100% taxable.

  
\_\_\_\_\_  
Chairman, Indiana Board of Tax Review

  
\_\_\_\_\_  
Commissioner, Indiana Board of Tax Review

  
\_\_\_\_\_  
Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>.