

State high court reverses tax ruling against UHC

by Matt Harvey Assistant Managing Editor | Posted: Wednesday, March 26, 2014 11:56 pm

CLARKSBURG — The state Supreme Court, by a 4-1 vote, has reversed a Harrison County Circuit Court ruling that United Hospital Center must pay property tax on its Bridgeport hospital site for tax year 2011.

The property tax was assessed for that tax year during 2010. The assessment was done prior to UHC moving from Clarksburg to a newly constructed site in Bridgeport in early October of 2010.

The hospital would have owed more than \$1 million in property tax, and likely upward of \$2 million total counting interest, if the Supreme Court had upheld a finding by Harrison Circuit Judge John Lewis Marks Jr.

Marks in January 2013 rejected UHC's appeal of County Assessor Cheryl Romano's finding that the hospital owed the money. Even before Marks got the case, a tax commissioner had upheld Romano's decision.

The majority of the justices felt "compelled to conclude that charitable purposes were unquestionably being achieved by the Hospital on the legal date of assessment."

"Accordingly, we hold that a healthcare corporation, qualified as a charitable organization under federal law, whose construction of a replacement hospital facility is substantially complete on the legal date of assessment and who has significant department staff on site working to fulfill the organization's charitable purposes, comes within the spirit," the opinion stated.

Justice Allen H. Loughry II authored the signed opinion. Chief Justice Robin Jean Davis was the lone "no" vote and reserved the right to file a dissenting opinion.

During oral arguments earlier this year, Spilman Thomas & Battle lawyer Mike Garrison appeared on behalf of the hospital.

Garrison made deep inroads with the justices on one point: That UHC's location in Bridgeport housed the entire computer technology staff at the time of the assessment.

Harrison County Assistant Prosecutor James Armstrong had handled the state's case at the circuit court level and also helped in the presentation to the state Supreme Court.

Romano and the state tax commissioner followed both the regulations and West Virginia Code, Armstrong and Senior Deputy Attorney General Kathy Schultz had contended.

And ruling for UHC would fly in the face of that, they had indicated.

But the justices didn't buy the county's argument.

“Upon analysis, we are simply not persuaded by respondents’ contention that on-site physical provision of charitable healthcare is the only means by which the Hospital can demonstrate the requisite ‘actual use’ of the Bridgeport property for charitable purposes,” Loughry wrote.

“While the respondents wish to view the Hospital’s entitlement to an ad valorem tax exemption solely under the regulations that pertain to hospitals, (Section 19) of the subject regulation makes clear that the use of the property ‘must be for one or more exempt purposes,’” Loughry wrote.

“In short, if the Hospital qualifies under the more general purpose of simply using its property for charitable purposes and not being held or leased out for profit, that is sufficient,” Loughry wrote.

Doug Coffman, vice president of finance and chief financial officer for UHC, said the hospital was “very pleased with the ruling.”

“Our attorneys from Spilman Thomas & Battle did a good job presenting our position, and we think it was the right decision,” Coffman said.

The hospital had kept about \$2 million in escrow pending the decision. That money now will go back into UHC’s operations, Coffman said.

“I think it’s worth noting that the hospital did pay over a million dollars in property taxes during the construction of the new building” during tax years 2009 and 2010, Coffman said.

“I think the assessor did a good job doing her job, and on this point, we just agreed to disagree and had to go this route,” Coffman said.

Romano said the decision will have an impact on other county taxpayers.

“Any time values go off the books, the levy rates stay higher, and all residential (taxpayers) and small businesses have to pay the difference,” she said. “That’s a lot of money that went off the books in Bridgeport. And the school board loses, and the county commission.”

Garrison and an officer for the hospital initially came to Romano about the matter, asking for her to grant the tax exemption, the assessor said.

“I told them all property’s assumed to be taxable,” she said. “I have to go by the rules and regulations. I show them the rules and regulations saying that a hospital under construction is not tax-exempt until in full use as a charitable hospital. It’s just right there in black and white.

“They said, ‘Oh, boy.’ I said, ‘I’m going to have to tell you I’m going to have to tax this,’” Romano said. “I worked hard on this for a long time. They said they wanted a ruling, so I got a ruling. Once I got the ruling, as far as I’m concerned, I’m out of it, I did my job. I taxed it because the rules and regulations said I had to tax it.”

Romano to this day insists that she acted correctly, and that first a state tax commissioner, and later Marks, ruled correctly.

“Because they’re the Supreme Court, they can overturn it,” she said. “I just don’t understand it.”

She added that “I feel sorry for the people of the county.”

“I work for everyone, and none of them gets a break. No one takes their taxes off the books,” she said.

“No one supports them or helps them. (The justices) have opened up a can of worms as far as I’m concerned.”

The other Spilman Thomas & Battle lawyer representing the hospital was Dale Steager. He formerly held state posts as general counsel for the state Department of Revenue, state Tax Department, and was longtime director of the Legal Division of the state Tax Department. According to his biography, he helped write or amend many of the state’s tax and revenue laws.