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BOARD OF TAX APPEALS

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IN THE SUPREME COURT OF OHIO

DIALYSIS CLINIC, INC.,

Appellant,

-vs-

WILLIAM W. WILKINS,
TAX COMMISSIONER OF OHIO,

Appellee.

Case No. 09-2310

On Appeal from the Ohio Board of Tax Appeals

Ohio Board of Tax Appeals
Case No. 2006-H-2389

NOTICE OF APPEAL OF APPELLANT

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SUPREME COURT OF OHIO

Appellant Dialysis Clinic, Inc., hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Ohio Board of Tax Appeals entered in BTA Case No. 2006-H-2389 on November 24, 2009. This appeal is brought pursuant to Revised Code § 5717.04.

ASSIGNMENTS OF ERROR

The Ohio Board of Tax Appeals erred as follows:

1. The Ohio Board of Tax Appeals erred by finding that Appellant does not use the subject property for a charitable purpose as contemplated by Revised Code §§ 5709.12 and 5709.121.
2. The Ohio Board of Tax Appeals erred by finding that Appellant is not a "charitable institution" as described in Revised Code § 5709.121.
3. The Ohio Board of Tax Appeals erred in finding that the subject property is not exempt from taxation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

 I hereby certify that a copy of the foregoing has been duly served upon the certified mail this day of December, 2009:

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OHIO BOARD OF TAX APPEALS

Dialysis Clinic, Incorporated,)	CASE NO. 2006-V-2389
)	
Appellant,)	(REAL PROPERTY
)	TAX EXEMPTION)
vs.)	
)	DECISION AND ORDER
William W. Wilkins,)	
Tax Commissioner of Ohio,)	
)	
Appellee.)	

APPEARANCES:

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Entered **NOV 24 2009**

Ms. Margulics, Mr. Johrendt, and Mr. Dunlap concur.

This matter is before the Board of Tax Appeals upon a notice of appeal filed by appellant Dialysis Clinic, Incorporated ("DCI"). DCI appeals from a final determination of the Tax Commissioner, in which the commissioner denied DCI's application for exemption of real property from taxation for tax year 2004, and remission of penalties for 2004 and 2005. On review, the commissioner's determination is affirmed.

This matter is considered by the Board of Tax Appeals upon the notice of appeal, the statutory transcript ("S.T."), and the record of the evidentiary hearing ("H.R.") held in this matter. The parties also provided legal arguments through briefs filed with the board.

DCI seeks exemption for one of its outpatient dialysis clinics located in West Chester, Ohio. In support of its exemption application, DCI's then-staff attorney Amy Wheeler submitted the following October 2006 correspondence to the commissioner, which states, in relevant part, as follows:

"DCI is a Tennessee non-profit, public benefit corporation qualified as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code. DCI's mission is to care for and rehabilitate patients suffering from chronic renal failure while constantly striving to improve the methods and quality of treatment. To this end, DCI operates approximately 195 outpatient dialysis clinics in 26 states, supports and participates in kidney-related research, and promotes professional and public education in this field of medicine. Each year, DCI sets aside a significant portion of its profits to be utilized for research ***. For its fiscal year ended September 30, 2005, DCI set aside \$13,622,000 for research on net profits of \$21,378,000.^[1] Additionally, DCI operates a summer camp for children *** who have chronic renal failure or who have received a kidney transplant. The camp *** had 97 campers in June 2006.

"DCI opened its clinic *** in October 2003. The Facility has 14 dialysis stations and currently serves approximately 30 patients providing dialysis services three days per

¹ The record does not contain DCI's federal tax return in support of the referenced 2005 tax year, but does contain copies of returns for 2003 and 2004. S.T. at 19-45 and 46-72. DCI states it netted \$32,167,517 on revenues of \$514,053,981 for tax year 2004, with approximately \$6 million apparently listed for research expenses. S.T. at 46, 47, 59, 63. For tax year 2003, DCI states it netted \$6,306,492 on revenues of \$479,127,641, with \$7 million apparently listed for research expenses. S.T. at 19, 20, 33. The record provides no further details or support regarding these stated research expenses.

week. *** DCI is, and has always been, the sole occupant of the Facility.

“DCI receives reimbursement for the services it provides from three main sources: Medicare, Medicaid and private insurers. Sixty-two percent of the Facility’s patients are covered by Medicare and nine percent are covered by Medicaid. For many Medicare and Medicaid patients, DCI writes off the patient’s responsibility based on indigency in accordance with DCI policy.

“DCI is limited by federal and state laws in the ways in which it can provide charity care. Federal law prohibits healthcare providers from influencing patient choices of one provider over another by offering free items or services. Thus, DCI is not able to provide free items or services to patients who are eligible for Medicare and Medicaid. Because Medicare has a separate program for individuals with chronic renal failure, most patients are eligible for coverage. However, for those who are not eligible (mostly individuals who never worked or illegal aliens) or who have a waiting period before Medicare/Medicaid coverage begins, DCI does provide charity care. Amounts of charity care are kept at the local clinics and are not aggregated across the company. The Facility currently does not have any charity patients.”
S.T. at 114-115.

Attached to its exemption application is a copy of a 1995 amendment to DCI’s restated charter, which states that the corporation’s purpose is as follows:

“To operate dialysis clinics, to dialyze patients and to render such additional care as patients with chronic renal failure may require; to provide training and supplies to enable selected patients to undertake dialysis at home, and to do all acts and things necessary and incidental thereto.

“To receive and maintain a fund or funds of real and personal property or both, and to use and to apply the whole or any part of the income therefrom and the principal thereof exclusively for charitable, scientific or educational purposes related to kidney disease, either directly or by contributions to organizations that qualify as

exempt organizations under Section 501(c)(3) of the Internal Revenue Code and its regulations as they now exist or as they may be hereinafter amended.

“To conduct research relating to kidney disease, dialysis, and transplantation, and to do any act or thing which may promote the effective treatment of kidney disease.” S.T. at 154.

In his final determination, the commissioner decided to review DCI's request for exemption pursuant to R.C. 5709.12(B), noting DCI failed to specify any statutory basis for exemption on its application. S.T. at 1, 120. The commissioner found DCI to be a non-profit institution, but not a charitable one, and concluded R.C. 5709.121 is, therefore, inapplicable. S.T. at 1-2. The commissioner looked at evidence of DCI's use of the subject and found “no evidence of charitable care provided at the property.” The commissioner denied exemption, stating:

“It is noted that merely collecting Medicaid or Medicare reimbursements is not a charitable act, but is receiving full agreed payment under a guaranteed insurance payment for medical services. The Medicaid fees paid are ones agreed to between the health care provider and the Medicaid insurer. Such insured payments are no different than payments agreed to and paid under commercial insurance agreements, whereby the insurer may contract with the care provider to pay a lower fee for services than that charged to uninsured patients. Further, medical care does not become charitable merely because a medical billing is deemed uncollectible and written off; such action being no more than an accounting tool by which a company may offset its business losses. *** Therefore, the write-offs submitted for the subject property or those submitted for the entire DCI system are insufficient to determine the amount of indigent patients seen without regard to ability to pay.” S.T. at 3-4.

In its notice of appeal, DCI asserts the commissioner erred by finding it was not a charitable institution, by finding that it does not use the subject property for a charitable purpose, and by finding that the property is not exempt from taxation.

At the hearing before this board, DCI presented two exhibits and the testimony of Mr. Lee Horn, in-house counsel for DCI, and Mr. Roy Dansro, DCI's regional administrator for the Cincinnati area. The Tax Commissioner presented five exhibits and two witnesses who work for the Ohio Department of Job and Family Services, Ms. Deborah Clement Saxe and Mr. Eric Edwards. Consistent with the facts as stated by his predecessor, Horn testified that DCI's mission is to provide treatment for end-stage renal disease without a profit motive. H.R. at 36, 101; S.T. at 153, 155, 158. He said DCI developed an indigence policy to satisfy Medicare requirements, which prohibit charging less for services than the amount charged to Medicare patients. H.R. at 39-40. To be considered under DCI's indigence policy, patients must complete a financial analysis form, which is then used to determine ability to pay.

The policy states: "DCI's indigence policy is not a charity or gift to patients. DCI retains all rights to refuse to admit and treat a patient who has no ability to pay." Appellant's Ex. 4 at 2. The policy further states "all patients are personally responsible to pay for the treatment and services that DCI provides them." *Id.* It explains that reasonable collection actions will be taken against those who do not pay, including court action. "DCI has an affirmative obligation to collect copays and deductibles per managed care contracts." *Id.* Finally, the stated purpose of the indigence policy is to:

“*** [E]stablish a uniform and equitable system to determine if a DCI patient is indigent such that DCI may deem certain charges for DCI’s services provided to an indigent patient as an uncollectible bad debt. If DCI determines that a patient’s indigence as established by this policy renders certain charges to that patient as uncollectible bad debt, then DCI may ‘write-off’ certain categories of charges to the patient as opposed to subjecting an indigent patient to reasonable collection efforts.” Appellant’s Ex. 4 at 1.

Horn testified that the policy addresses “the requirement that we not charge or offer services to patients cheaper than the Medicare rate.” H.R. at 47. He further explained that indigent patients must first exhaust all possible insurance payment options before amounts owed will be considered under the policy. H.R. at 47, 70-71. If a patient qualifies under the indigence policy and is unable to pay for treatment, Horn testified that the patient will be billed for the outstanding amount and then, “after a certain amount of time,” DCI’s accounts-receivable billing department will write off the charge as an uncollectible bad-debt expense from the accounts-receivable ledger. H.R. at 78-81, Appellant’s Ex. 5.

Horn also testified as to the insurers that reimbursed DCI for services provided to patients during the period October 2006 to September 2007. H.R. at 90-101.² He said that on a company-wide basis, Medicare insured almost 75 percent of DCI patients for the 2006 to 2007 period. Horn obtained this percentage from a document he said he received from the company’s controller, which also indicates private insurers covered 12.6 percent of DCI’s patients, with Medicaid, HMOs, and the

² He said he was unable to testify regarding insurers for the relevant exemption application period. *Id.*

Veteran's Administration insuring, respectively, 6.2, 5, and 1.3 percent of patients. Appellee's Ex. C. This exhibit also indicates that DCI provided 1,836,058 treatments per year to a monthly average of 13,082 patients, generating \$526,891,082 in charges.³ Of this, 11,840 treatments per year were provided for a monthly average of 96 indigent patients with no insurance. *Id.* DCI characterized approximately \$6.7 million of the charges for this period as a "bad debt charity write off" for those patients insured by Medicare.⁴

Finally, Horn testified that DCI voluntarily agrees to accept patients insured by Medicare and Medicaid. H.R. at 119-120. He also said DCI did not conduct research or its summer camp at the subject facility in West Chester. H.R. at 132.

DCI's other witness, Dansro, manages the subject in West Chester, three other dialysis clinics located throughout the Cincinnati area in Walnut Hills, Western Hills, and Forest Park, as well as a clinic in Maysville, Kentucky. H.R. at 135. Dansro testified that DCI's dialysis service is the same as that of a for-profit provider, but DCI invests excess revenue toward construction of new clinics and research to combat kidney disease. H.R. at 141, 220. He cited \$1.7 million in research funding he said DCI gave to the University of Cincinnati Medical College from 2004 to 2008. H.R. at 142, 215-217. He said that while DCI does not turn away patients without the ability to pay, all DCI patients are referred to its clinics after being treated and

³ Of these total charges, Medicare and private insurers make up 55.8 and 31.7 percent, respectively. *Id.*

⁴ See appellant's Ex. 5 at procedure 1001, attachment 1001A, cost code A101.

discharged from hospitals, so they rarely lack insurance.⁵ H.R. at 139, 168. In fact, Dansro said all patients treated at the subject since it opened in late 2003 have had some type of insurance. H.R. at 172, 221-222. He testified that of the approximately 350 total patients at the five clinics he manages, presently between six and nine receive treatment without insurance or the ability to pay. H.R. at 173-174. However, it is unclear from Dansro's testimony how long any patient receives treatment without insurance since he also testified that DCI's social workers supervise these patients in applying for Medicare and Medicaid.⁶ Id.

Finally, Dansro testified that clinics with fewer patients tend to lose money, such as the subject with 10 to 40 patients, while clinics with a higher volume tend to generate revenues in excess of expenses, such as Walnut Hills with 140 patients. H.R. at 152-156; 206-207. Based on data compiled by an employee under Dansro's supervision, the West Chester clinic generated \$552,488 in charges during 2004 with approximately 10 total patients and \$866,646 during 2005 with approximately 25 total patients. H.R. at 197-198, 221; Appellee's Ex. B. For these

⁵ For patients without insurance, Dansro testified that DCI's charge is \$800 per treatment. Private insurers have negotiated charges of \$175 to \$475 per treatment, with Medicaid-insured patients charged the maximum reimbursement amount of \$155 per treatment. While Medicare patients are responsible for a 20 percent copayment of the Medicare rate, which is \$160 per treatment, approximately 85 percent of DCI's Cincinnati area Medicare patients have a secondary insurer that covers the copayment. H.R. at 166-168, 183-186.

⁶ Medicare established a special program to insure patients, regardless of age or income, who require dialysis due to end-stage renal disease, according to the testimony of the commissioner's witness, Eric Edwards, a Medicaid rules and policy expert for the Ohio Department of Job and Family Services. H.R. at 261-262, 269; S.T. at 115. He testified that patients can experience a one- to three-month long waiting period after completing a Medicare application before becoming eligible for benefits. Id.

two years combined, insurers were responsible for approximately \$1.4 million in charges, with approximately \$8,000 billed to patients. *Id.*

We begin our review by observing that the findings of the Tax Commissioner are presumptively valid. *Alcan Aluminum Corp. v. Limbach* (1989), 42 Ohio St.3d 121, 123. Consequently, it is incumbent upon a taxpayer challenging a determination of the Tax Commissioner to rebut that presumption. *Belgrade Gardens v. Kosydar* (1974), 38 Ohio St.2d 135, 143; *Midwest Transfer Co. v. Porterfield* (1968), 13 Ohio St.2d 138, 142. Moreover, the taxpayer is assigned the burden of showing in what manner and to what extent the commissioner's determination is in error. *Federated Dept. Stores, Inc. v. Lindley* (1983), 5 Ohio St.3d 213, 215. When no competent and/or probative evidence is developed and properly presented to the board to establish that the commissioner's determination is "clearly unreasonable or unlawful," the determination is presumed to be correct. *Alcan Aluminum*, at 123.

The rule in Ohio is that all real property is subject to taxation. R.C. 5709.01. Exemption from taxation is the exception to the rule. *Seven Hills Schools v. Kinney* (1986), 28 Ohio St.3d 186. The burden of establishing that real property should be exempt is on the taxpayer. Exemption statutes must be strictly construed. *American Society for Metals v. Limbach* (1991), 59 Ohio St.3d 38, 40; *Faith Fellowship Ministries, Inc. v. Limbach* (1987), 32 Ohio St.3d 432; *White Cross Hospital Assn. v. Bd. of Tax Appeals* (1974), 38 Ohio St.2d 199; *Goldman v. Robert E. Bentley Post* (1952), 158 Ohio St. 205; *Natl. Tube Co. v. Glander* (1952), 157 Ohio St. 407; and *Willys-Overland Motors, Inc. v. Evatt* (1943), 141 Ohio St. 402.

to its *** charitable *** purposes and not with a view to profit.”

Thus, in deciding whether property is exempt under the charitable use provisions of R.C. 5709.12(B) and 5709.121, the first determination is whether a charitable or noncharitable institution is seeking exemption. If the institution is noncharitable, its property may be exempt if it uses the property exclusively for charitable purposes. *Highland Park Owners, Inc.*, supra. If the institution is charitable, its property may be exempt if it uses the property exclusively for charitable purposes or it uses the property under the terms set forth in R.C. 5709.121.⁷ *Olmsted Falls Bd. of Edn. v. Tracy* (1997), 77 Ohio St.3d 393, 396; *Episcopal Parish v. Kinney* (1979), 58 Ohio St.2d 199; *White Cross Hosp. Assn. v. Bd. of Tax Appeals* (1974), 38 Ohio St.2d 199.

Furthermore, “[w]hen charges are made for the services being offered, we must consider the overall operation being conducted to determine whether the property is being used exclusively for charitable purposes.” *Bethesda Healthcare, Inc. v. Wilkins*, 101 Ohio St.3d 420, 2004-Ohio-1749, at ¶36. “Whether an institution renders sufficient services to persons who are unable to afford them to be considered

⁷ To determine whether property is exempt in accordance with R.C. 5709.121, “property must [1] be under the direction or control of a charitable institution or state or political subdivision, [2] be otherwise made available ‘for use in furtherance of or incidental to’ the institution’s ‘charitable *** or public purposes,’ and [3] not be made available with a view to profit.” *Cincinnati Nature Center v. Bd. of Tax Appeals* (1976), 48 Ohio St.2d 122, 125. “When considering R.C. 5709.121 and the question of whether a charitable institution uses its property in furtherance of or incidentally to its charitable purposes, this court focuses on the relationship between the actual use of the property and the purpose of the institution.” *Community Health Professionals, Inc., v. Levin*, 113 Ohio St.3d 432, 2007-Ohio-2336, at 21.

as making charitable use of property must be determined on the totality of the circumstances; there is no absolute percentage.” Id. at ¶39.

While the General Assembly has not defined what activities of an institution constitute charitable purposes, the Supreme Court of Ohio held in *Planned Parenthood Assn. of Columbus, Inc. v. Tax Commr.* (1966), 5 Ohio St.2d 117, paragraph one of the syllabus, that:

“[I]n the absence of a legislative definition, ‘charity,’ in the legal sense, is the attempt in good faith, spiritually, physically, intellectually, socially and economically to advance and benefit mankind in general, or those in need of advancement and benefit in particular, without regard to their ability to supply that need from other sources, and without hope or expectation, if not with positive abnegation, of gain or profit by the donor or by the instrumentality of the charity.”

In the present matter, we first find that DCI does not qualify for exemption under R.C. 5709.12(B) as an institution that uses the property exclusively for charitable purposes. *Highland Park Owners, Inc.*, supra. As DCI concedes, it provides no free or charitable service at the subject property. Consequently, for DCI to qualify for exemption, it must be found that DCI is the type of institution permitted the broader definition of “exclusive charitable use” found under R.C. 5709.121, where the threshold requirement is that the property owner be a charitable or educational institution, state or political subdivision. *True Christianity Evangelism v. Tracy* (1999), 87 Ohio St. 3d 48, 50. Although the record indicates DCI is a not-for-profit corporation that may operate the subject property without a view to profit, we are unable to find that DCI is a charitable institution.

When we look at the “relationship between the actual use of the property and the purpose of the institution,” *Community Health Professionals, Inc.*, supra, we find DCI does not use the subject property in furtherance of or incidently to its charitable purpose because it conducts no charitable activity at the clinic. Instead, like the operations of a for-profit corporation, it charges all patients for dialysis services, voluntarily enters contracts with government and private insurers to set charges for the provision of these services, and does not donate any of its services without charge or at a reduced charge. The only distinction we can find between DCI’s clinics and for-profit dialysis clinics is the manner in which a portion of excess revenue is used. From the limited record, it appears that the owner’s intent is to raise funds from its clinic operations to apply in part toward further clinic development and alleged research.⁸ However, any charitable purpose based on this use is vicarious. “It is only the use of property in charitable pursuits that qualifies for tax exemption, not the utilization of receipts or proceeds that does so.” *Hubbard Press v. Tracy* (1993), 67 Ohio St.3d 564, 566. See, also, *Seven Hills Schools*, supra; *Vick v. Cleveland Memorial Medical Foundation* (1965), 2 Ohio St.2d 30, 33.

Further, DCI explicitly states that its “indigence policy is not a charity or gift to patients. DCI retains all rights to refuse to admit and treat a patient who has no ability to pay.” Appellant’s Ex. 4 at 2. The policy also states “all patients are personally responsible to pay for the treatment and services that DCI provides them.”

⁸ Other than the bare information reported on corporate tax returns and witness testimony regarding one donation to the University of Cincinnati, we find no evidence regarding research or contributions by DCI. See footnote 1, supra; H.R. at 142.

Id. If payment is not received for services provided, then DCI pursues collection action, including court action, which presumably means obtaining judgment and recording a lien against non-paying patients. While DCI characterizes as charity its accounting practice of eventually writing off a portion of some patient charges deemed uncollectible bad debt, we find no evidence of DCI acting as a donor at any time by relinquishing its legal right to payment from patients for services provided.

In an Illinois tax exemption case involving a hospital, *Provena Covenant Med. Center v. Dept. of Revenue* (August 26, 2008), 384 Ill. App.3d 734, the court discusses the relationship between charity and gift giving as follows:

“‘Charity’ is an act of kindness or benevolence. There is nothing particularly kind or benevolent about selling somebody something. ‘Charity’ is ‘generosity and helpfulness[,] esp[ecially] toward the needy or suffering’ (Merriam-Webster’s Collegiate Dictionary 192 (10th ed. 2000)) – not merely helpfulness, note, but generosity. ‘Generosity’ means ‘liber[ality] in giving.’ Merriam-Webster’s Collegiate Dictionary 484 (10th ed. 2000). To be charitable, an institution must give liberally. Removing giving from charity would debase the meaning of charity, and we resist such an assault upon language. See C. Borek, Decoupling Tax Exemption for Charitable Organizations, 31 Wm. Mitchell L. Rev. 183, 187 (2004) (“the ‘legal’ meaning [of ‘charitable’] has so stretched the term beyond its etymological boundaries as to render the concept vacant, unoccupied by any useful legal notion of what ‘charitable’ means”).

“***

“[A] gift is, by definition, free goods or services: ‘something voluntarily transferred by one person to another without compensation’ (Merriam-Webster’s Collegiate Dictionary 491 (10th ed. 2000)). Defining ‘gift’ in any other way would do violence to the meaning of the word. One can make a gift by charging nothing at

all. Or one can make a gift by undercharging a person, that is, charging less than one's cost (using cost as a baseline prevents the creation of an artificial gift through inflation of prices (37 Loy. U. Chi. L.J. at 511-12)), and in that case, part of the goods or services is given without compensation. ***. Provena quotes [a case that states]: 'Charity,' in law, is not confined *** to mere almsgiving.' That is true. But it is confined to giving. Charity is a gift, and one can give a gift to a rich person as well as to a poor person, the object being 'the improvement and promotion of the happiness of man.' *** Regardless of whether the recipient of the goods or services is rich or poor or somewhere in between, it is nonsensical to say one has given a gift to that person, or that one has been charitable, by billing that person for the full cost of the goods or services – whether the goods or services be medical or otherwise. For a gift (and, therefore, charity) to occur, something of value must be given for free." *Id.* at 25-26 (internal case citations omitted).

Based on a review of the record, we find no evidence quantifying any meaningful act of DCI "giving" anything to patients. *Planned Parenthood Assn. of Columbus, Inc.*, *supra*. Again, DCI concedes it provides no free or charitable service at the subject property. DCI's policy states that it "retains all rights to refuse to admit and treat a patient who has no ability to pay." Even if DCI agrees to temporarily provide treatment to a patient without the ability to pay, it appears that it does so with the expectation that the patient will qualify for some type of insurance and payments will soon begin. *Id.*

As to the alleged charitable Medicare write-offs, the record provides no evidence as to the relevant application year. Instead, in 2006 to 2007, DCI generated \$526,891,082 in charges and characterized approximately \$6.7 million, or 1.27 percent, of these charges as a "bad debt charity write off" for those patients insured by

Medicare. However, we are unable to find these write offs charitable since federal law expressly prohibits DCI from providing charitable care to patients insured by Medicare. Reply brief at 10.

Further, even if we were to accord this evidence any weight, since DCI presented no evidence as to actual costs, we are unable to determine from the record whether the amounts written off were anything more than simply excess charges over costs. And finally, even if we were to accept DCI's position as to the written-off bad debt, we would find 1.27 percent to be insufficient to meet the charitable service standards required for exemption. See, for example, *Bethesda Healthcare, Inc.*, supra. That finding would be buttressed by the fact that DCI provided, subject to its indigence policy, a monthly average of 96 uninsured indigent patients with less than one percent (.64 percent) of the 1,836,058 total dialysis treatments provided that year to a monthly average of 13,082 patients. We would also find this company-wide amount deficient. Consequently, we are unable to find DCI acts as a donor "without hope or expectation, if not with positive abnegation, of gain or profit." *Planned Parenthood Assn. of Columbus, Inc.*, supra.

While the alleged research efforts of this organization may be laudable and while the individuals availing themselves of the dialysis services provided certainly benefit, DCI is not providing its services without an expectation that it will be compensated. Thus, DCI is not a charitable organization and the subject property is not entitled to exemption from taxation. Accordingly, it is the decision and order of

the Board of Tax Appeals that the Tax Commissioner's final determination must be,
and is, affirmed.

I hereby certify the foregoing to be a true
and complete copy of the action taken by
the Board of Tax Appeals of the State of
Ohio and entered upon its journal this
day, with respect to the captioned matter.



Sally F. Van Meter, Board Secretary