

STATE OF MINNESOTA
COUNTY OF WASHINGTON

TAX COURT
REGULAR DIVISION

Allina Health System,

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER FOR JUDGMENT**

Petitioner,

File No: 82-CV-18-2029

vs.

Filed: April 11, 2022

County of Washington,

Respondent.

This matter came on for trial before the Honorable Jane N. Bowman, Judge of the Minnesota Tax Court.

Nicholas A. Furia, Law Offices of Nicholas A. Furia, PLLC, represents Petitioner Allina Health System.

Stuart V. Campbell, Assistant County Attorney, represents Respondent Washington County.

Petitioner Allina Health System (“Allina”) claims its property located in Stillwater, Minnesota, is exempt from property taxation both as an institute of purely public charity and as a public hospital. Washington County disagrees and claims Allina cannot meet its burden to prove exemption. A remote trial was held on August 2, 2021, and the parties submitted post-trial briefs. The court now finds the subject property is statutorily exempt as a public hospital.

FINDINGS OF FACT

1. Allina has sufficient interest in the subject property to bring this petition; all statutory and jurisdictional requirements have been fulfilled, and the court has jurisdiction over the subject property and the parties.

2. This case concerns the validity of the property tax assessment as of January 2, 2017 (for taxes payable in 2018), of property owned by Allina described as Parcel Identification Number 32.030.20.41.0001, located at 1460 Curve Crest Boulevard in Stillwater, Minnesota. Allina claims this property is exempt from property taxation under article X, section 1, of the Minnesota Constitution and Minnesota Statutes section 272.02, subdivisions 4, 7 (2020), as a public hospital and an institution of purely public charity.

Allina Health System

3. Allina operates a network of health care facilities, including hospitals (such as Abbott Northwestern Hospital), clinics, and rehabilitation centers (such as the subject property).

4. Allina is organized and operated exclusively for charitable, educational, and scientific purposes related to the promotion of health.

5. Allina is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

Abbott Northwestern Hospital

6. As of January 2, 2017, Allina operated Abbott Northwestern Hospital, located at 800 East 28th Street in Minneapolis, Minnesota.

7. Abbott Northwestern Hospital, licensed at 952 beds and 44 bassinets, operates as a typical hospital, including emergency, surgical, laboratory, medical treatment, and diagnostic services.

8. The hospital, operating under the umbrella of Allina Health System, is accredited as a hospital by the Joint Commission, an independent organization that surveys accreditation programs for hospitals and other healthcare organizations.

9. Located at the Abbott Northwestern Hospital campus are therapeutic and rehabilitation services operated by Courage Kenny Rehabilitation Institute (“Courage Kenny”).

10. At the hospital, Courage Kenny offers physical rehabilitation and operates the Wasie pool, which offers a variety of warm water therapeutic and rehabilitation services to patients.

Courage Kenny Rehabilitation Institute and Foundation

11. Courage Kenny Rehabilitation Institute, having merged with Allina in 2013, oversees much of the rehabilitation services offered by Abbott Northwestern Hospital.

12. Courage Kenny Foundation’s Articles of Incorporation state its purpose is, in part, “a charitable organization responsible for raising and distributing funds to support Allina’s rehabilitation care continuum of services, including, but not limited to, medical rehabilitation, community-based health and wellness services, advocacy, research and innovation.”

13. Courage Kenny Foundation is also classified as a public charity under section 501(c)(3) of the Internal Revenue Code.

14. Courage Kenny offers rehabilitation and therapy services for Abbott Northwestern Hospital at three different locations: the hospital, a facility in Golden Valley, Minnesota, and the subject property.

The Subject Property

15. The subject property is devoted to and reasonably necessary to accomplish public hospital purposes.

16. There are a variety of services offered at the subject property, which are provided by Allina in conjunction with Courage Kenny.

17. Virtually all the patients referred to the subject property for rehabilitation services are referred there by a physician.

18. The subject property provides a variety of rehabilitation and physical therapy services: aquatic pool therapy, assistive technology, brain injury rehabilitation, cancer rehabilitation and lymphedema, chronic pain management, concussion management, driver assessment and training, Lee Silberman Voice Treatment (for persons with Parkinson's Disease), occupational therapy, pediatric rehabilitation, pelvic rehabilitation, physical medicine and rehabilitation, rehabilitation psychology, speech therapy, spinal cord injury, sports and physical therapy, stroke rehabilitation, and vestibular rehabilitation.

19. A unique feature at the subject property is its warm water pool, kept at 92 degrees.

20. The subject property's specially designed warm water pool facilitates Allina's classes aimed at supporting people with physical ailments, such as arthritis, fibromyalgia, Parkinson's Disease, chronic pain, or people recovering from a stroke.

21. The subject property houses an accessible fitness center. The equipment is adapted so people in need of a variety of physical supports can use the fitness center for physical therapy and exercise.

22. The subject property offers psychology services.

23. The subject property is not a clinic, as it does not offer outpatient doctor consultations, physicals, or diagnostic services.

24. There are several ways in which the subject property funds its operations. Allina first bills a patient's insurance, if available. Alternatively, Allina bills—when applicable—

Medicare and Medicaid (or CMS, which is Centers for Medicare/Medicaid Services) using the same provider number as Abbott Northwestern Hospital. Finally, if a patient is unable to afford services at the subject property, Allina offers to link that patient with a variety of programs to assist them.

25. Because Allina does not collect enough money from billing (whether an insurance company, Medicare/Medicaid, or individual) to cover its expenses, Courage Kenny Foundation, a non-profit that donates to several facilities that focus on health care, funds services at the subject property.

26. Operations at the subject property are also supported by volunteers.

The Subject Property's Relationship with Abbott Northwestern Hospital

27. The subject property and Abbott Northwestern Hospital are both practically and organizationally integrated.

28. Many patients receiving services at the subject property are referred from Abbott Northwestern Hospital, and an even higher number are referred from the Allina Health System as a whole.

29. While both locations offer rehabilitation and therapy services, the two facilities also share staff, a human resources department and director, policies and procedures, management, patient records, performance improvement standards, billing, and public-facing messaging.

30. The subject property and Abbott Northwestern Hospital share similar organizational features.

31. Allina uses Accellion/Epic, a records management system, for patient record-keeping across many of its facilities, including at both the subject property and the hospital.

32. Employees located at both Abbott Northwestern Hospital and the subject property can access the same outpatient-related handbooks.

CONCLUSIONS OF LAW

1. Petitioner submitted sufficient credible evidence to rebut the prima facie validity of the subject property's classification as of the assessment date.

2. As of January 2, 2017, Allina's subject property was exempt from taxation under the statutory public hospital provision. Minn. Stat. § 272.02, subd. 4.

ORDER FOR JUDGMENT

1. The Washington County Assessor's classification of Allina's subject property shall be changed consistent with this opinion.

2. Any real estate taxes paid by petitioner for the subject property for the January 2, 2017 assessment (taxes payable in 2018) shall be refunded, together with interest from the original date of payment.

IT IS SO ORDERED. THIS IS A FINAL ORDER. A STAY OF 30 DAYS IS HEREBY ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Jane N. Bowman, Judge
MINNESOTA TAX COURT

DATED: April 11, 2022

MEMORANDUM

I. INTRODUCTION

The parties dispute the classification of the subject property, an outpatient rehabilitation facility located in Stillwater, Minnesota. Washington County changed the subject's tax status to commercial (meaning the property is taxable) starting with the January 2, 2017 assessment (for taxes payable in 2018), although it had previously treated the property as tax-exempt.¹ Allina contends the subject is exempt under four separate provisions: (1) the statutory public hospitals provision, *see* Minn. Stat. § 272.02, subd. 4; (2) the constitutional public hospitals provision, *see* Minn. Const. art. X, § 1; (3) the statutory institutions of purely public charity provision, *see* Minn. Stat. § 272.02, subd. 7; and (4) the constitutional institutions of purely public charity provision, *see* Minn. Const. art. X, § 1. We now conclude that Allina's property is exempt under the statutory public hospitals provision. Minn. Stat. § 272.02, subd. 4.

As noted above, the public hospitals and institutions of purely public charity exemptions are constitutionally mandated, Minn. Const. art. X, § 1, although they are additionally implemented by statute, Minn. Stat. § 272.02, subs. 4, 7. As it is unnecessary to address constitutional questions when deciding this issue, we decline to do so. *See, e.g., Nielsen v. 2003 Honda Accord*, 845 N.W.2d 754, 756 (Minn. 2013) (courts “will address a constitutional question only if another legal basis to decide a case does not exist”); *State v. Bourke*, 718 N.W.2d 922, 926 (Minn. 2006) (courts’ “general practice is to avoid a constitutional ruling if there is another basis on which a case can be decided.”) (citing *Erlandson v. Kiffmeyer*, 659 N.W.2d 724, 732 n.7 (Minn. 2003)); *see also In re Senty-Haugen*, 583 N.W.2d 266, 269 n.3 (Minn. 1998) (“It is well-settled law that courts should not reach constitutional issues if matters can be resolved

¹ Trial Tr. 141-42 (Aug. 2, 2021); Ex. J41, at 1.

otherwise.”); *Ridgeview Med. Ctr. v. Cnty. of Carver*, No. C3-00-590, 2001 WL 1359835, at *4 (Minn. T.C. Oct. 25, 2001) (finding hospital-owned property exempt from taxation under the statutory public hospitals provision and therefore declining to reach whether the property also satisfied a separate constitutional provision).

II. PROCEDURAL BACKGROUND

On April 27, 2018, Allina filed the current property tax petition, alleging the subject property was constitutionally and statutorily exempt from property taxation as both a public hospital and an institution of purely public charity as of January 2, 2017 (the “Pay 18 matter”) pursuant to article X, section 1, of the Minnesota Constitution and Minnesota Statute section 272.02.² Although the court initially issued a Scheduling Order establishing deadlines for pretrial submissions, it later granted the parties’ joint request to extend those deadlines by 90 days, making the case trial ready on July 30, 2020.³ In the spring of 2021, Washington County moved to consolidate this matter with the subsequent year’s petition (the “Pay 19 matter”), which raised the same claims, and to continue any already-expired deadlines in this Pay 18 matter. *Allina Health Sys. v. Cnty. of Washington*, No. 82-CV-19-905, 2021 WL 1288267, at *2 (Minn. T.C. Apr. 2, 2021). The court denied the County’s motion because continuing this Pay 18 matter was not supported by good cause, and because the requested consolidation would prejudice Allina. *Id.* at *3.

Subsequently, Washington County filed an amended witness list, noting it intended to call an expert witness. *Allina Health Sys. v. Cnty. of Washington*, No. 82-CV-18-2029, 2021 WL 3040976, at *1 (Minn. T.C. July 13, 2021). Allina moved to exclude the late-noticed expert

² Pet. (filed Apr. 27, 2018). Allina also alleged its property was unfairly and unequally assessed, as well as mischaracterized. *Id.* Allina does not currently pursue these claims.

³ Scheduling Order (filed Apr. 15, 2019); Order (filed Apr. 30, 2020).

testimony, to which the County argued the expert’s testimony should be allowed as rebuttal evidence. *Id.* The court concluded that the expert testimony was disguised case-in-chief evidence and, having already denied the County’s request to extend expired deadlines, ruled that the County could not “get admitted through the back door of rebuttal evidence that which the ... court had correctly barred ... at the front door.” *Id.* at *5 (quoting *Life Plus Int’l v. Brown*, 317 F.3d 799, 804 (8th Cir. 2003)).

Per the unopposed request of Allina, the court toured the subject property on July 1, 2021.⁴ The court, counsel for both parties, and two representatives of Allina (Joanie Kiminski and Brian LeLoup), walked through and viewed the subject property for approximately 15 minutes.⁵ *See MT Props., Inc. v. CMC Real Est. Corp.*, 481 N.W.2d 383, 390 (Minn. App. 1992) (“A finder of fact may view a site in order to better understand the testimony and evidence.” (citing *Briggs v. Chicago Great W. Ry.*, 243 Minn. 566, 570, 68 N.W.2d 870, 872 (1955); *Claesgens v. Animal Rescue League*, 173 Minn. 61, 63, 216 N.W. 535, 536 (1927))).

A remote trial was held on August 2, 2021.⁶ At the outset, the County again moved the court for a continuance to allow it the opportunity to obtain expert trial testimony.⁷ Alternatively, the County requested that the briefing associated with the Pay 19 matter’s motion be docketed with the current Pay 18 matter to ensure a complete record.⁸ *See Allina Health Sys.*, 2021 WL 1288267,

⁴ Trial Tr. 5.

⁵ Trial Tr. 5-6.

⁶ Trial Tr. 1.

⁷ Trial Tr. 8.

⁸ Trial. Tr. 8.

at *3. Allina opposed both motions.⁹ The court again denied the County’s motion for a continuance but granted the docketing motion.¹⁰

Allina then introduced its case-in-chief and, after it rested, the County also rested without introducing any witnesses or exhibits.¹¹ The parties filed post-trial briefs on October 8, 2021, in which the County submitted—for the first time—16 exhibits attached to a declaration of Stuart Campbell, counsel for the County. *Allina Health Sys. v. Cnty. of Washington*, No. 82-CV-18-2029, 2021 WL 6119471, at *2 (Minn. T.C. Dec. 20, 2021). The parties then brought simultaneous motions; Allina moved to strike the County’s declaration and exhibits, and the County formally moved to introduce the same into evidence via Evidence Rule 201 on judicial notice. *Id.* Holding that the declaration and exhibits were being used to support facts that were subject to reasonable dispute, *see* Minn. R. Evid. 201(b), the court denied the County’s motion, and thus had no occasion to reach Allina’s motion. *Id.* at *4-5. The parties then filed their post-trial responsive briefs on January 10, 2022.

III. FACTUAL BACKGROUND

A factual understanding of several entities and facilities—Allina Health System, Abbott Northwestern Hospital, Courage Kenny Rehabilitation Institute and Foundation, and the subject property—are necessary for proper analysis.

⁹ Trial Tr. 9-10.

¹⁰ Trial Tr 11-12. The County essentially asked this court to reconsider its prior ruling to exclude the County’s expert testimony. Although this court is not bound by the Minnesota General Rules of Practice, Rule 115.11 outlines the process for bringing a motion to reconsider: “Motions to reconsider are prohibited except by express permission of the court, which will be granted only upon a showing of compelling circumstances.” Minn. R. Prac. 115.11 (2021). Here, the County did not seek permission to bring its motion, nor did it argue there were any “compelling circumstances” to support its motion. *See* Trial Tr. 8-12.

¹¹ Trial Tr. 181.

A. Allina Health System

Petitioner Allina operates a network of health care facilities, including hospitals (such as Abbott Northwestern Hospital), clinics, and rehabilitation centers (such as the subject property).¹² Pursuant to its articles of incorporation, Allina operates “exclusively for charitable, educational and scientific purposes ... related to the promotion of health.”¹³ As such, Allina is tax-exempt under section 501(c)(3) of the Internal Revenue Code.¹⁴ Allina’s leadership team oversees the organization’s entire network of facilities, staff, and medical care.¹⁵

B. Abbott Northwestern Hospital

At all relevant times, Allina operated Abbott Northwestern Hospital, located at 800 East 28th Street in Minneapolis, Minnesota.¹⁶ Abbott Northwestern Hospital, licensed at 952 beds and 44 bassinets,¹⁷ operates as a typical hospital, including emergency, surgical, laboratory, medical treatment, and diagnostic services.¹⁸ *See Perham Hosp. Dist. v. Cnty. of Otter Tail*, 969 N.W.2d 366, 373 (Minn. 2022) (“we can conclude that the plain meaning of a hospital is broad: it is a facility that provides patient care.”). The hospital, operating under the umbrella of Allina Health System, is accredited by the Joint Commission, an independent organization that surveys accreditation programs for hospitals and other healthcare organizations.¹⁹

¹² Exs. J26 & J46.

¹³ Ex. J26, at 1.

¹⁴ Exs. J26 & J23. The IRS determination letter states Allina has been tax-exempt since March 1984. Ex. J23, at 1.

¹⁵ Trial Tr. 39-40.

¹⁶ Exs. J8, J10, J12.

¹⁷ Exs. J8, J10, J12.

¹⁸ Exs. J9-J10.

¹⁹ Trial Tr. 27; Ex. J3, at 21-48; Ex. J5, at 13-40; Ex. J7, at 15-23; Ex. J9, at 19-20; Ex. J11, at 10; Ex. J13, at 12-15; Exs. J17-J18.

Like the subject property, there are therapeutic and rehabilitation services operated by Courage Kenny Rehabilitation Institute, *see infra* Section III.C, at the hospital campus. There, Courage Kenny offers physical rehabilitation and operates the Wasie pool, which offers a variety of warm water therapeutic and rehabilitation services to hospital patients.²⁰

C. Courage Kenny Rehabilitation Institute

Courage Kenny Rehabilitation Institute,²¹ having merged with Allina in 2013,²² oversees much of the rehabilitation services offered by Abbott Northwestern Hospital and at some of Allina's other facilities.²³ Courage Kenny offers rehabilitation and therapy services for Abbott Northwestern Hospital at three different locations: the hospital, a facility in Golden Valley, and the subject property.²⁴ Each location offers a variety of therapeutic services, including a pool.²⁵

Courage Kenny Foundation's Articles of Incorporation, provide, in part, that it is "a charitable organization responsible for raising and distributing funds to support Allina's rehabilitation care continuum of services, including, but not limited to, medical rehabilitation,

²⁰ Ex. J40; Trial Tr. 75.

²¹ Courage Kenny was previously known as the Courage Center, but later changed names when it merged with Sister Kenny Rehabilitation Institute. Trial Tr. 77-79. Prior to being the Courage Center, the organization was called the Minnesota Society for Crippled Children and Adults. *Id.* at 73-74.

²² Ex. J28.

²³ By way of example, Ms. Joanie Kiminski, Aquatic/Fitness Manager with Courage Kenny, oversees services at the subject property, Abbott Northwestern Hospital's Wasie pool, and the hospital's Golden Valley location. Trial Tr. 72-73.

²⁴ Exs. J37-J40; Trial Tr. 72-73, 75-76.

²⁵ Exs. J37-J40; Trial Tr. 76, 81-83. Prior to the subject property's construction, Courage Kenny offered therapeutic and rehabilitation services in the Stillwater area. Trial Tr. 76. It operated a weekly program whereby patients could receive pool therapy services at the Lake Elmo Elementary school. This situation, however, was not ideal as people had a hard time tolerating the cold water pool. *Id.*

community based health and wellness services, advocacy, research and innovation.”²⁶ The Foundation qualifies as a public charity under section 501(c)(3) of the Internal Revenue Code.²⁷

D. The Subject Property

Before the subject property’s inception, Courage Kenny was approached by Sarah Andersen, of Andersen Windows, about constructing a facility to provide services in the East Metro.²⁸ Andersen Foundation initially donated \$3,000,000 to purchase the land and to construct the subject improvements, which opened in 1989.²⁹ Virtually all the subject’s rehabilitation patients are referred there by a physician.³⁰ Services are provided by Allina via Courage Kenny.³¹

i. The subject property’s current use

The subject property provides a variety of rehabilitation and physical therapy services: aquatic pool therapy, assistive technology, brain injury rehabilitation, cancer rehabilitation and lymphedema, chronic pain management, concussion management, driver assessment and training, Lee Silberman Voice Treatment (for persons with Parkinson’s Disease), occupational therapy, pediatric rehabilitation, pelvic rehabilitation, physical medicine and rehabilitation, rehabilitation

²⁶ Ex. J29, at 1. In the Third Amended and Restated Bylaws of Courage Kenny Foundation, the Preamble notes that “Courage Kenny Foundation ..., a wholly controlled subsidiary of Allina Health System ..., is organized for the benefit of a comprehensive network of inpatient and community based outpatient rehabilitation services provided by hospitals and clinics currently owned and operated by Allina” Ex. J30, at 1.

²⁷ Ex. J24.

²⁸ Trial Tr. 76 (the Andersen family was motivated to offer financial support because Mr. Andersen had received pool therapy services at the Golden Valley location); Trial Tr. 138.

²⁹ Trial Tr. 77, 137-38.

³⁰ Trial Tr. 111.

³¹ Ex. J38, at 2.

psychology, speech therapy, spinal cord injury, sports and physical therapy, stroke rehabilitation, and vestibular rehabilitation.³²

A unique feature at the subject is its warm water pool, kept at 92 degrees.³³ The pool has an accessible ramp and stainless steel wheelchairs so patients can transfer from a personal chair to better access the pool.³⁴ Patients can also enter the pool via steps with handrails (versus a ladder).³⁵ Areas of the pool are flat (rather than constantly sloping) to allow patients to practice balance.³⁶ Along one wall is a submerged bench, so patients can work on upper or lower extremity exercises while sitting.³⁷ The pool area has a whirlpool—also set at 92 degrees—so patients can sit in warm water before or after their pool time.³⁸

The subject's specially designed warm water pool facilitates classes aimed at supporting patients with ailments, such as arthritis, fibromyalgia, Parkinson's Disease, chronic pain, and post-stroke symptoms.³⁹ Allina also offers water yoga and Ai Chi classes (Ai Chi is aquatic Tai Chi), as well as one-on-one sessions designed to meet specific patient needs.⁴⁰ If a patient reaches a certain level of independence, they can use the pool without supervision.⁴¹ The subject property

³² Ex. J37, at 2.

³³ Trial Tr. 81-83.

³⁴ Trial Tr. 82.

³⁵ Trial Tr. 82.

³⁶ Trial Tr. 82.

³⁷ Trial Tr. 82.

³⁸ Trial Tr. 82-83.

³⁹ Trial Tr. 83, 109-110. For example, the subject property offers a "Neuro Splash" class "[d]esigned for people who have had a stroke or who are recovering from a variety of neurological health conditions. Focus is on range of motion, seated balance, standing, walking, balance and core strengthen[ing]." Ex. J33, at 5.

⁴⁰ Trial Tr. 83, 103 (a physical therapist is in the pool with clients at least some of the time).

⁴¹ Trial Tr. 83-84.

also hosts classes for children. There are community swim lessons offered to the greater community, for example.⁴² There are also swim classes attended by, and designed for, children with disabilities, such as cerebral palsy, spina bifida, and autism.⁴³

In addition to the pool, the subject property houses an accessible fitness center.⁴⁴ Some of the fitness equipment has swinging seats, so persons using wheelchairs can readily mount the apparatus from their personal chairs.⁴⁵ The treadmills start at lower speeds, have lower steps, and have handrails, all adaptations to assist patients with different mobility levels.⁴⁶ The fitness center also offers a wide variety of adaptive classes, such as Stay Fit (a supervised program to work on skills like balance, stretching, and range of motion that is designed for people “who require assistance less than 50% of the time”), Stay Fit Extra (for those who need close monitoring of their exercise program), Beyond Balance (focusing on fall prevention), and Big for Life (for people with Parkinson’s disease or Parkinson’s-like disorders).⁴⁷ Finally, the subject offers psychological services.⁴⁸

There are several medically-related services *not* offered at the subject property. For example, patients cannot get certain treatment provided by hospitals, such as surgery or emergency services. Similarly, patients cannot get certain services traditionally provided by clinics, such as outpatient doctor consultations, physicals, or the diagnoses of medical conditions.⁴⁹

⁴² Trial Tr. 84.

⁴³ Trial Tr. 84.

⁴⁴ Trial Tr. 84.

⁴⁵ Trial Tr. 85.

⁴⁶ Trial Tr. 85.

⁴⁷ Ex. J33, at 4, 9.

⁴⁸ Trial Tr. 112; Ex. J37, at 2.

⁴⁹ Trial Tr. 36, 94-95.

ii. Funding operations at the subject property

Operations at the subject are funded in several ways. Allina first bills a patient's insurance, if available.⁵⁰ Alternatively, Allina bills—when applicable—Medicare and Medicaid (or CMS, which is Centers for Medicare/Medicaid Services) using the same provider number as Abbott Northwestern Hospital.⁵¹ Finally, if a patient is unable to afford services at the subject, Allina offers to link that patient with a variety of assistance programs: MedEligible Services (an advocacy service that helps patients apply for financial assistance), Partners Care Program (assisting low-income patients who do not qualify for Medicaid), Uninsured Discount Program (discounts on medically necessary hospital charges), Special Circumstances (assistance on a case-by-case basis), and MedCredit Financial Services (payment plan).⁵²

Because Allina does not collect enough money from billing (whether an insurance company, Medicare/Medicaid, or individual) to cover its expenses,⁵³ Courage Kenny Foundation, a non-profit that donates to several facilities focusing on health care, funds services at the subject property.⁵⁴ Operations at the subject property are also supported by volunteers.⁵⁵ There was no evidence presented to show a surplus of revenue flowing from the subject property to Abbott Northwestern Hospital or to Allina.

⁵⁰ Trial Tr. 119, 146.

⁵¹ Trial Tr. 25; Ex. J3, at 19-20; Ex. J5, at 41; Ex. J9, at 22; Ex. J11, at 11-12; Ex. J13, at 11; Ex. J15, at 10 (the exhibits show that, when Abbott Northwestern Hospital applied for its annual license to operate, it listed the subject property as an “Off-Site Location[] with the Same Provider Number”); Ex. J19, at 1-2; Ex. J20, at 1-2; Ex. J21, at 1-2. Services provided at the subject property are conversely *not* billed by clinics within Allina's network. Trial Tr. 54-55.

⁵² Trial Tr. 120; Ex. J31. In 2017, 4.58% of patients used a sliding fee scale. Ex. J41, at 2.

⁵³ Trial Tr. 145-47; Ex. J41.

⁵⁴ Ex. J41, at 1 (specifically, Courage Kenny Foundation contributed \$962,520 in 2017).

⁵⁵ Trial Tr. 79-81, 117.

iii. The subject property's relationship with Abbott Northwestern Hospital

As an initial matter, the subject property—as a therapeutic and rehabilitation facility—is considered by Allina as a “hospital department” of Abbott Northwestern Hospital.⁵⁶ Numerous patients receiving services at the subject are referred from Abbott Northwestern Hospital in particular, and an even higher number are referred from the Allina Health System as a whole.⁵⁷ As stated previously, the services overseen by Courage Kenny are offered by Abbott Northwestern Hospital to Abbott’s patients.⁵⁸ Moreover, the subject and Abbott Northwestern Hospital are both practically and organizationally integrated. While both locations offer rehabilitation and therapy services, the two facilities also share staff, a human resources department and director,⁵⁹ policies and procedures, management, patient records, performance improvement standards, billing, and public-facing messaging.⁶⁰

As mentioned previously, Abbott Northwestern Hospital, via Courage Kenny, offers outpatient rehabilitation and therapy services, almost identical to those provided at the subject property.⁶¹ Allina offers these services at both locations to better serve the needs of its patients. Specifically, with two locations, a greater number of patients are served (as capacity would limit

⁵⁶ Trial Tr. 37, 43.

⁵⁷ Trial Tr. 119.

⁵⁸ *See supra* note 23.

⁵⁹ Trial Tr. 39-40.

⁶⁰ Trial Tr. 28, 41. It was for these reasons that the Joint Commission, an independent organization that reviews and surveys accreditation programs for the healthcare industry, recommended Abbott Northwestern Hospital, and its associated facilities (including the subject property), for continued Medicare certification. Exs. J17-J18.

⁶¹ *Compare* Exs. J37-J38, *with* Exs. J39-J40.

those numbers if the subject were unavailable).⁶² Moreover, the subject is more convenient for East Metro patients.⁶³

The subject property and Abbott Northwestern Hospital share similar organizational features. Allina uses Accellion/Epic, a records management system, for patient record-keeping across many of its facilities.⁶⁴ In other words, an authorized person could access a patient's records at both Abbott Northwestern Hospital and the subject property.⁶⁵ Further, Allina has employee handbooks concerning inpatient and outpatient services.⁶⁶ Employees located at both Abbott Northwestern Hospital and the subject can access the same outpatient-related handbooks when consulting on standard practices and procedures.⁶⁷

IV. GOVERNING LAW

Allina posits that its Stillwater rehabilitation facility, the subject property, is tax-exempt as both a public hospital and an institution of purely public charity pursuant to both article X, section 1 of the Minnesota Constitution, and Minnesota Statute section 272.02.⁶⁸

All property is presumed taxable. *Afton Hist. Soc'y Press v. Cnty. of Washington*, 742 N.W.2d 434, 436 (Minn. 2007). Exemptions, such as those raised here, are to be strictly construed. *Camping & Educ. Found. v. State*, 282 Minn. 245, 250, 164 N.W.2d 369, 372 (1969). "Because

⁶² Trial Tr. 115-16.

⁶³ Trial Tr. 115-16.

⁶⁴ Trial Tr. 28, 37-39.

⁶⁵ Trial Tr. 37, 46, 53-54; Exs. J19-J21.

⁶⁶ Trial Tr. 40.

⁶⁷ Trial Tr. 40. Although the policies and procedures must be appropriate for the patient population, both employees at Abbott Northwestern Hospital and the subject property may access policies and procedures on such topics as: environment of care, patient care, infection prevention (such as cleaning process for toys), or medication management (such as storage). *Id.* at 47.

⁶⁸ Pet. 2.

tax exemptions are ‘an exception in derogation of equal rights,’ all property is presumed to be taxable, and the taxpayer bears the burden of proving entitlement to an exemption.” *Under the Rainbow Child Care Ctr., Inc. v. Cnty. of Goodhue*, 741 N.W.2d 880, 884 (Minn. 2007) (citing *Camping & Educ. Found.*, 164 N.W.2d at 372).

A. Burden of Proof

An assessor’s classification of real property is prima facie valid. Minn. Stat. § 271.06, subd. 6(a) (2020) (“[T]he order of ... the appropriate unit of government in every case shall be prima facie valid.”); *Schmieg v. Cnty. of Chisago*, 740 N.W.2d 770, 773 (Minn. 2007). “[A] prima facie case simply means one that prevails in the absence of evidence invalidating it.” *S. Minn. Beet Sugar Coop v. Cnty. of Renville*, 737 N.W.2d 545, 558 (Minn. 2007) (quoting *Tousignant v. St. Louis Cnty.*, 615 N.W.2d 53, 59 (Minn. 2000)). A petitioner has the burden of overcoming prima facie validity. *Id.*; *Schmieg*, 740 N.W.2d at 773. The court finds Allina presented sufficient evidence, through testimony and exhibits introduced at trial, to overcome the prima facie validity of the County’s commercial classification of the subject property. Allina, having overcome prima facie validity, continues to bear the ultimate burden of proof to demonstrate that the subject property is exempt. *E.g.*, *Croixdale, Inc. v. Cnty. of Washington*, 726 N.W.2d 483, 487 (Minn. 2007); *see Conga Corp. v. Comm’r of Revenue*, 868 N.W.2d 41, 53 (Minn. 2015); *see also Minn. Energy Res. Corp. v. Comm’r of Revenue*, 909 N.W.2d 569, 573 (Minn. 2018).

B. Qualifications for a Public Hospital Exemption

The Minnesota Constitution exempts public hospitals, stating: “Taxes shall be uniform upon the same class of subjects and shall be levied and collected for public purposes, but ... public hospitals ... shall be exempt from taxation ...” Minn. Const. art. X, § 1. Statute similarly provides that “[a]ll public hospitals are exempt.” Minn. Stat. § 272.02, subd. 4. Longstanding case law

acknowledges that—to be exempt—public hospitals “should be operated for the benefit of the public in contradistinction to being operated for the benefit of a private individual, corporation, or group of individuals.” *State v. Browning*, 192 Minn. 25, 29 (1934). It is not necessary that the public own the hospital, that it dispense public charity, or that it render its services without charging for them. *Village of Hibbing v. Comm’r of Tax’n*, 217 Minn. 528, 533, 14 N.W.2d 923, 925 (1944).

Here, however, neither party claims the subject property is a public hospital; rather, Allina argues the subject property is an auxiliary property to a public hospital,⁶⁹ which is tax-exempt because it is “owned by a public hospital *and* is used for the accomplishment of the purposes for which the hospital was organized.” *Abbott-Northwestern Hosp., Inc. v. Cnty. of Hennepin*, 389 N.W.2d 916, 919 (Minn. 1986) (emphasis in original) (exempting the hospital’s neighboring lodging facility). In this case, Allina argues the main hospital facility is the Abbott Northwestern Hospital, located on Chicago Avenue in Minneapolis, which meets the public hospital criteria as it is open to the public and operates without private profit.⁷⁰ *See id.*

For auxiliary properties, including those that are separated from a hospital, such as the subject property, the supreme court has held that for the exemption to apply, the property must be devoted to what a public hospital does and must be reasonably necessary for the accomplishment of the purposes of the institution seeking exemption. *State v. Fairview Hosp. Ass’n*, 262 Minn. 184, 187, 114 N.W.2d 568, 571 (1962). An “auxiliary property need not be ‘essential’ or ‘indispensable’ to the accomplishment of an exempt purpose; nor must it necessarily be adjacent or close to the public hospital itself.” *Chisago Health Servs. v. Comm’r of Revenue*, 462 N.W.2d

⁶⁹ Pet’r’s Post-Tr. Br. 12-13 (filed Oct. 8, 2021).

⁷⁰ Exs. J23 & J26; Ex. J46, at 2, 46, 52.

386, 388-89 (Minn. 1990) (quoting *Fairview Hosp. Ass’n*, 114 N.W.2d at 571).⁷¹ “The test, in a sense, measures the degree to which the auxiliary facilit[y] and the public hospital are functionally interdependent.” *Id.* at 390 (as opposed to a test based on “economic necessity,” *id.* at 389).

V. THE PARTIES’ ARGUMENTS & ANALYSIS

Allina argues its Stillwater facility is exempt as both a public hospital and an institution of purely public charity.⁷² Washington County argues the facts presented at trial do not amount to an exemption under either theory.⁷³ We find the subject property, as an auxiliary facility to Allina’s Abbott Northwestern Hospital, is exempt under the statutory public hospital provision. Minn. Stat. § 272.02, subd. 4.⁷⁴

A. The Subject Property is Exempt as an Auxiliary to a Public Hospital

The issue in this case is whether the subject property is an auxiliary property to Abbott Northwestern Hospital, a determination which hinges on whether the subject property and Abbott Northwestern Hospital “are functionally interdependent.” *See Chisago Health Servs.*, 462 N.W.2d at 390.⁷⁵

To determine whether the subject property is “functionally interdependent” with Abbott Northwestern Hospital, we necessarily start the analysis with the hospital’s purpose, which is

⁷¹ *See also Fairview Hosp. Ass’n*, 114 N.W.2d at 571 (noting that “ ‘necessary’ should not be read in its strictest sense, restricting the exemption to the land actually occupied by such college buildings as are devoted to the purposes of class rooms, lecture rooms, libraries, and the accommodation of students.”). Further, the *Fairview Hospital* court granted an exemption for an auxiliary property that was 22.6 miles away from the main school of nursing. *Id.* at 569.

⁷² Pet’r’s Post-Trial Br 1.

⁷³ Resp’t’s Post-Trial Br. (filed Oct. 8, 2021).

⁷⁴ As a result, we need not—and do not—reach a conclusion based on Allina’s constitutional arguments, nor Allina’s statutory institution of purely public charity argument.

⁷⁵ *See supra* Section IV.B.

generally to provide patient care. *See Perham Hosp. Dist.*, 969 N.W.2d at 373. With its 952 beds and 44 bassinets, Abbott Northwestern Hospital offers traditional hospital services, including emergency, surgical, laboratory, medical treatment, and diagnostic services.⁷⁶ A number of patients are referred from the hospital (and other Allina facilities) to the subject property for services.⁷⁷

The therapeutic and rehabilitative services provided by the subject property support the hospital's purpose to provide patient care. Specifically, the subject property serves distinct communities of patients from Abbott Northwestern Hospital, including those referred for aquatic pool therapy, assistive technology, brain injury rehabilitation, cancer rehabilitation and lymphedema, chronic pain management, concussion management, driver assessment and training, Lee Silberman Voice Treatment, occupational therapy, pediatric rehabilitation, pelvic rehabilitation, physical medicine and rehabilitation, rehabilitation psychology, speech therapy, spinal cord injury, sports and physical therapy, stroke rehabilitation, and vestibular rehabilitation.⁷⁸ The subject property's design, including the warm water pool and adaptive fitness center, allow Courage Kenny to better assist the hospital's (and other) referrals.

In addition to the subject property's services being functionally interdependent with the needs of patients referred from Abbott Northwestern Hospital, the facilities' operations are also functionally interdependent. Not only is the subject property—as a therapeutic and rehabilitation facility—*named* by Allina as a “hospital department” of Abbott Northwestern Hospital,⁷⁹ the subject *operates* as a division of the hospital. Patients who have been seen at the subject property

⁷⁶ Exs. J1, J8-J10, J12.

⁷⁷ Trial Tr. 119.

⁷⁸ Ex. J37, at 2.

⁷⁹ Trial Tr. 37, 43.

are billed similarly.⁸⁰ The two facilities share staff.⁸¹ Further, employees at both facilities can access the same outpatient-related handbook.⁸² Finally, the two facilities share a human resources department and director,⁸³ policies and procedures, management, patient records, performance improvement standards, billing, and public-facing messaging.⁸⁴

Conversely, there was no evidence presented at trial showing the properties' relationship was economically necessary. "The test, in a sense, measures the degree to which the auxiliary facilit[y] and the public hospital are functionally interdependent." *Chisago Health Servs.*, 462 N.W.2d at 390 (as opposed to a test based on "economic necessity"). Although services at both facilities are billed by Allina through the hospital,⁸⁵ evidence at trial showed the subject property's revenue (in conjunction with donations), funded operations at the subject property.⁸⁶ There was no evidence showing services at Abbott Northwestern Hospital were being funded by revenue generated at the subject property. *See Allina Medical Clinics v. Cnty. of Meeker*, No. C0-02-256 et al., 2005 WL 473908, at *8 (Minn. T.C. Feb. 18, 2005) (when denying an auxiliary facility designation, this court noted the "Clinic enjoys a positive business relationship with the County Hospital."). Indeed, the organizations running the hospital and the subject property—Allina and Courage Kenny—are both non-profit organizations, thereby lacking a profit-driven motivation.

⁸⁰ *See supra* Section III.D.ii and note 51; Trial Tr. 25, 28, 37-39, 46, 53-54.

⁸¹ Trial Tr. 39.

⁸² Trial Tr. 40.

⁸³ Trial Tr. 39.

⁸⁴ Trial Tr. 28, 41. *See supra* note 60.

⁸⁵ Trial Tr. 52.

⁸⁶ Ex. J41.

For these reasons, we determine that the subject property is functionally interdependent with Abbott Northwestern Hospital, thereby making it an auxiliary facility under Minnesota's statutory public hospital provision.

B. Washington County's Arguments

Washington County first asks this court to consider the subject property a "clinic."⁸⁷ Whether or not a facility is a "clinic" is not dispositive as to whether it can be considered an auxiliary property under the public hospital doctrine. *Compare City of Springfield v. Comm'r of Revenue*, 380 N.W.2d 802 (Minn. 1986) (holding a medical clinic was *not* exempt), with *Westerbrook Health Ctr. v. Cnty. of Cottonwood*, No. CX-03-128, 2004 WL 3021372 (Minn. T.C. Dec. 14, 2004) (holding a medical clinic *was* exempt). Although the court declines to characterize the subject property as a "clinic," the distinction is immaterial under the auxiliary property of a public hospital doctrine.

The County next argues Allina's claim for tax exemption as a public hospital fails because its Stillwater facility competes with other neighboring therapy facilities.⁸⁸ The County asserts that tax-exempt status would "open the door to large healthcare conglomerates to reclassify their clinics in order to evade property tax, giving them a further competitive advantage over independent healthcare competitors."⁸⁹ In dicta, the supreme court stated the following concerning competition:

The difficulty with granting tax exemption to auxiliary properties which help an exempt institution to survive or to prosper financially is two-fold. First, it is difficult to know where to draw the line; almost any auxiliary facility can be found to improve the financial well-being of a hospital. Secondly, these exemptions, because they are exceptions to the requirement of uniform taxation, tend to give an

⁸⁷ Resp't's Post-Trial Br. 14-18.

⁸⁸ Resp't's Post-Trial Br. 14-16.

⁸⁹ Resp't's Post-Trial Br. 24-27.

unfair competitive advantage to the exempted facility over similar facilities privately operated.

Chisago Health Servs., 462 N.W.2d at 390-91. This court is not persuaded by the County's anti-competition argument for three reasons.

First, competitiveness is not the test this court is to rely upon. *See id.* at 389-90 (advancing the “functionally interdependent” test as opposed to a test based on “economic necessity”). Second, the supreme court was concerned with tax-exempt facilities competing with clinics when a tax-exempt facility helps “an exempt institution to survive or to prosper,” which was not alleged, nor proven, in the present case. On the contrary, Allina presented credible evidence at trial that revenues generated at the subject property were used to fund operations *at the subject property* (as opposed to being directed toward funding Abbott Northwestern Hospital).⁹⁰ Indeed, to continue providing services at the subject, Courage Kenny Foundation annually donates a substantial amount of money.⁹¹ Third, implicit in the County's argument that “large healthcare conglomerates” will reclassify their clinics to gain a property tax edge is the notion that these conglomerates are for-profit entities.⁹² The statute does not allow a for-profit hospital to claim its auxiliary facilities as tax-exempt. *See* Minn. Stat. § 272.02, subd. 4. Rather, as explained above, *see supra* Section III.A-C, Allina, Abbott Northwestern Hospital, and Courage Kenny are all non-profit organizations, with charitable, educational, and scientific purposes.⁹³

⁹⁰ Ex. J41.

⁹¹ Ex. J41 (in 2017, Courage Kenny Foundation donated \$962,520 of the subject property's \$4,415,396 net operating revenue). Additionally, one reason the original Courage Center merged with Allina was to receive support—including financial—from Allina to maintain its rehabilitation and therapy operations. Trial Tr. 144-45.

⁹² Resp't's Post-Trial Br. 24-27

⁹³ Exs. J23-J30.

The County alternatively argues that this “case is distinguishable from nonbinding Tax Court decisions because Allina failed to present evidence qualifying how the diagnoses and acuity of their patients differ from other outpatient therapy clinics.”⁹⁴ We agree with the County⁹⁵ that its proposed legal standard is not appropriate here.

The County further argues that Allina fails to carry its burden because although the subject property helps “Allina attract and retain patients, [it is] not ‘reasonably necessary’ to operate the hospital.”⁹⁶ Specifically, the County cites the subject’s location (Stillwater) and its offerings (the warm water pool and the adaptive fitness center) to argue these features attract patients that are not necessary to continue the hospital’s operation.⁹⁷ An “auxiliary property need not be ‘essential’ or ‘indispensable’ to the accomplishment of an exempt purpose....” *Chisago Health Servs.*, 462 N.W.2d at 388-89 (citation omitted). “The test, in a sense, measures the degree to which the auxiliary facilit[y] and the public hospital are functionally interdependent.” *Id.* at 390. As an initial matter, there is no dispute that, should the subject property cease to exist, Abbott Northwestern Hospital would continue to operate.⁹⁸ This fact, however, is immaterial to the court’s analysis. Rather, as we have already explained, *see supra* Section V.A, the subject property and Abbott Northwestern Hospital are functionally interdependent because, among other things, the subject operates as an integral, but distinct, physical rehabilitation and therapy department to the hospital.

⁹⁴ Resp’t’s Post-Trial Br. 23-24 (citing *Ridgeview Med. Ctr. v. Cnty. of Carver*, No. C3-00-590, 2001 WL 1359835, at *2 (Minn. T.C. Oct. 25, 2001), and *Naeve Health Care Ass’n v. Cnty. of Freeborn*, No. C6-92-541, 1993 WL 35164 (Minn. T.C. Feb. 11, 1993)).

⁹⁵ Resp’t’s Post-Trial Br. 24.

⁹⁶ Resp’t’s Post-Trial Br. 18-22.

⁹⁷ Resp’t’s Post-Trial Br. 18-22.

⁹⁸ Trial Tr. 36-37.

Finally, the County argues the subject property’s more than 25-mile distance from Abbott Northwestern Hospital puts it outside of the hospital’s primary service area, thereby enhancing unfair competition.⁹⁹ The supreme court has determined the distance between a hospital and its auxiliary facility is not relevant. *See Fairview Hosp. Ass’n*, 114 N.W.2d at 571 (while affirming a 22.6-mile distance between two properties was not dispositive, the supreme court stated that it is not necessary “that the location of the property be adjacent or even in close proximity to the central structures of the institution claiming exemption.”). Having previously rejected the County’s competitiveness argument, we now—with guidance from the supreme court—reject the County’s claim that the distance between Abbott Northwestern Hospital and the subject property defeats Allina’s public hospital claim.

Having determined that the subject property is functionally interdependent with Abbott Northwestern Hospital, Allina has met its burden to show its auxiliary property is tax-exempt under the public hospital provision of Minn. Stat. § 272.02, subd. 4.

J.N.B.H.

⁹⁹ Resp’t’s Post-Trial Br. 27-29.