

## Pennsylvania Commonwealth Court Decides Tax Exemption for Goodwill Industries

In May 2020, Goodwill Industries of North Central Pennsylvania, Inc. (Goodwill) acquired the building in State College, Pennsylvania, in a high-traffic area that had numerous retail stores in the immediate vicinity. Later that year, Goodwill filed an application with the Centre County Board of Assessment Appeals (the Board) seeking exemption from real property taxes as an institution of purely public charity and averring that it met all of the criteria set forth by the Pennsylvania Supreme Court in *Hospital Utilization Project v. Commonwealth*, 487 A.2d 1306 (Pa. 1985) known as the HUP test. The Board denied the exemption, and Goodwill appealed the case to the trial court.

The parties agreed that Goodwill satisfied the elements of the HUP test and that it met all but one of the criteria under Act 55. The parties disputed that Goodwill met the criteria to donate or render gratuitously a substantial portion of its goods or services. The trial court held a one-day bench trial in which extensive testimony was provided by the president of Goodwill. The trial court reversed the Board, ruled in favor of Goodwill, and granted the real estate tax exemption. Thereafter, the Board appealed to the Commonwealth Court.

The two issues that the Board challenged included:

1. The conclusion by the trial court that Goodwill donated or rendered gratuitously a substantial portion of its services in accordance with Act 55 and
2. That Goodwill did not use the building in a manner to compete with commercial enterprises required by the Consolidated County Assessment Law (CCAL).

As to the first issue, the court indicated that the testimony was clear that Goodwill charged no fees for any of certain services being provided, thereby establishing that at least 5% of the services are rendered gratuitously. Charging for certain other services did not detract from the fact that a substantial portion of other services being provided were free. Moreover, the court noted that the Board's argument under the CCAL that both goods and services had to meet the criteria in the statute was wrong as the statute clearly used the disjunctive of *or*, and therefore, either goods or services counted toward meeting the provisions of the CCAL. As a result, the court concluded that Goodwill clearly met the first issue.

Looking at the second point, which the Board challenged, the court noted that the goods sold by Goodwill are virtually all secondhand goods, and Goodwill does not seek to procure any particular brand, type, style, or quality of goods. Goodwill accepts any donations left by donors. The court sided with the trial court and confirmed that Goodwill's operations are unique and differ significantly from other local businesses in that it lacks control of the composition of the flow of the inventory, which is primarily used items. Moreover, the court noted that the evidence showed that the prices charged by Goodwill are done in a uniform manner without regard to brand or competitor pricing. Finally, the court noted that all revenue generated is directed to Goodwill's general fund and used to support its mission to assist disadvantaged individuals in obtaining stable employment in the community. Accordingly, the court affirmed that Goodwill does not use the building in a manner to compete with the other for-profit retailers in the area.



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