

Illinois Supreme Court Declines to Rule on Constitutionality of Illinois Hospitals' Property Tax Exemption Law

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There have been two new developments in the long running saga over a charitable property tax exemption for hospitals in Illinois.

In a long awaited decision, the Illinois Supreme Court in *Carle Foundation v. Cunningham Township* declined to rule on the constitutionality of legislation passed in 2012 that provided for hospital property tax exemptions. On March 23, 2017 the Court vacated a Fourth District Appellate Court decision which declared the legislation unconstitutional, and sent the case back to the Circuit Court of Champaign County.

Meanwhile, the First District Appellate Court yesterday denied a request for reconsideration of its December 2016 ruling in *Oswald v. Hamer*, which determined the 2012 legislation was constitutional.

A Saga that Dates Back to a 2002 Court Ruling

These two cases mark milestones in a long saga for Illinois hospitals, which began with a challenge to Provena Covenant Medical Center's property tax exemption. In 2002, the Illinois Supreme Court ruled Provena was not entitled to a charitable property tax exemption because Provena failed to satisfy the requirements for the statutory charitable institution exemption.

In response, the Illinois General Assembly adopted in 2012 the legislation reviewed in the *Carle* case, which provides for a charitable exemption for hospital property if the value of certain services and activities equal or exceed the estimated property tax liability.

What Happens Next?

The *Carle* case, which was originally filed in 2007, may find its way back to the Illinois Supreme Court for a decision on the constitutional question. The trial court would have to enter a ruling which would be appealed to the Fourth District Appellate Court and then to the Supreme Court, a process which could take years.

The plaintiff in *Oswald* has until May 3 to request an appeal to the Supreme Court seeking a review of the constitutionality of the 2012 legislation. The Supreme Court would have discretion to accept or deny the request for an appeal. It appears unlikely an appeal will be accepted. However, if accepted the Supreme Court would likely directly address the question whether the 2012 legislation is unconstitutional on its face, the only issue presented in *Oswald*.

The Illinois Department of Revenue has not processed exemption applications while waiting for the ruling in *Carle*. The IDOR has not announced whether it will begin processing applications following the *Carle* decision.

So unfortunately the question of constitutionality of the 2012 hospital property tax exemption legislation remains unresolved and could remain so for a long time.

For more information please contact [Stephen Moore](#).

This alert has been prepared by Hinshaw & Culbertson LLP to provide information on recent legal developments of interest to our readers. It is not intended to provide legal advice for a specific situation or to create an attorney-client relationship.

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