

**CONNECTICUT GENERAL ASSEMBLY
JOINT PLANNING AND DEVELOPMENT
FEBRUARY 25, 2022 HEARING ON H.B. 5168
TESTIMONY OF DANIEL E. CASAGRANDE**

Members of the Committee:

My name is Daniel E. Casagrande. I am a partner in the law firm of Cramer & Anderson, LLP, with offices at 30 Main Street, Danbury, Connecticut 06810.

I respectfully submit this testimony on behalf of The Caring Community of Connecticut, Inc. (“Caring Community”). I represent Caring Community in a pending appeal under C.G.S. § 12-119 from the Town of Colchester’s denial of charitable purpose exemptions under C.G.S. § 12-81(7) for seven properties owned by Caring Community in the town. Prior to the 2015 grand list, Colchester had exempted all of these properties as devoted to a charitable purpose. As of the 2015 grand list, however, the Colchester assessor determined that the properties are not exempt because they constitute “subsidized housing” which is not “temporary” and thus is subject to taxation under § 12-81(7)(B). The case is scheduled for trial this spring.

Caring Community owns and operates 19 “community living arrangement” (“CLAs”) homes in eastern Connecticut, including the seven CLA properties in Colchester that are at issue in the appeal. The parties have agreed that at all relevant times Caring Community has operated these properties exclusively as CLAs, and for no other purpose. Caring Community is recognized by the Internal Revenue Service (“IRS”) as a tax-exempt charitable organization.

It is undisputed that Caring Community’s target clientele are individuals who would otherwise require care in long-term, state-funded and operated CLAs or other large institutional programs. Caring Community’s objective, through its therapeutic CLA programs, is to improve the physical, mental and moral condition of its residents by providing opportunities for community living to individuals who would otherwise not be able to do so, by helping them to develop and maintain healthy relationships with others, and by empowering them to take responsibility for managing their own lives.

The CLAs provide 24-7 intensive care and rehabilitative services to their residents, who suffer from severe intellectual disabilities. The CLAs relieve the state of a legal and financial burden because the CLAs discharge the state’s responsibility to care for these individuals at a cost which is less than what it would cost the state to provide the services in state-operated CLAs and other programs.

Caring Community’s CLAs are individually licensed by the Department of Developmental Services (“DDS”). DDS has adopted regulations that require CLAs to comply with a comprehensive program for the care and treatment of the individuals entrusted to them.

All individuals are accepted by Caring Community without regard to ability to pay. Caring Community’s CLAs do not receive funding from private insurers and do not require or accept

payments (except for certain Social Security disbursements) from residents or their families. DDS reimburses each CLA for the costs of developmental services. These reimbursements are determined by DDS based on the individual's level of need ("LON"), and are funded through Medicaid's Home and Community Based Services ("HCBS") Waiver program. The HCBS waiver program allows for Medicaid funding of state programs authorizing private entities to provide community-based services to individuals who otherwise would require treatment in state programs. The Department of Social Services ("DSS") provides reimbursement for the residential ("room and board") component of the expenses. While these programs reimburse Caring Community for most of the costs of running the CLA properties, they do not provide reimbursement for unexpected deficits.

There is no question that the average length of stay of individuals in Caring Community's CLAs is several years. And Caring Community intends to demonstrate at trial that its CLA properties meet all of the traditional criteria for a charitable purpose exemption set forth in governing Supreme Court caselaw as summarized in St. Joseph's Living Center, Inc. v. Town of Windham, 290 Conn. 695 (2009). Yet the Town has seized on the non-temporary nature of Caring Community's CLA programs to claim, under § 12-81(7)(B), that they are not exempt from taxation. Specifically, the Town relies on the provision in § 12-81(7)(B) that "housing subsidized, in whole or in part by ... state ... government" and "housing for persons ... of low and moderate income shall not constitute a charitable purpose under this section." Section 12-81(7)(B) goes on to allow an exemption for five categories of "temporary housing," including "(iii) housing for ... mentally or physically handicapped individuals or persons with intellectual disability, ... and (v) short-term housing operated by a charitable organization when the average length of stay is less than six months."

As Caring Community intends to prove at trial, however, the fundamental flaw in the Town's argument is that Caring Community's CLAs are not housing within any common sense definition of the term. Each of these facilities provides round-the-clock, comprehensive medical, developmental and rehabilitative services to its patients. These services are performed by highly trained staff pursuant to practices and procedures that are comprehensively regulated and monitored by DDS. The central purpose of Caring Community's CLAs is not the mere provision of shelter, but to provide people with intellectual and developmental disabilities with care, treatment and training in a small private-home setting that maximizes the patients' interaction in their community. The CLA properties meet all the applicable criteria for tax-exempt status under § 12-81(7)(A). Plainly and simply, the primary purpose of the CLAs is not shelter.

I strongly support the enactment of H.B. 5168, Section 2, which would remove the term "temporary" from § 12-81(7)(B)'s exemption for housing for purposes of the five subcategories of charitable activities that include housing as a component. Needless to say, Colchester in all probability would not have revoked the charitable exemption that it for years before had granted to Caring Community's CLAs, had the statute not limited the housing exemption to "temporary housing." More fundamentally, exempting from taxation a charitable purpose entity that provides shelter as part of its charitable mission should not turn on whether the housing is permanent or temporary. If that were the test, then a nonprofit nursing home, like the one in St. Joseph's, that includes housing as one component of its manifestly charitable services to the elderly, would not qualify for an exemption. That makes no sense.

Indeed, the precise mission of Caring Community, like many similar CLAs throughout the state, is to provide long-term care to the severely disabled individuals who otherwise would have to rely on state-run institutions like Mansfield and Southbury to provide such services. Colchester's and other town's attempts to deprive these charitable entities of an exemption simply because they provide long-term care runs counter to the remedial purposes behind the legislature's creation of and state funding for these types of CLAs. Limiting a property tax exemption to CLAs and other similar entities that provide only transitory, not long-term housing, is irrational, unworkable and manifestly unfair.

The modern approach by most states is to construe charitable purpose tax exemptions liberally to achieve the remedial purposes animating the exemption statutes. As the Supreme Court noted in St. Joseph's, "The modern approach to defining a charitable use or purpose is rather broad and liberal.... [T]he definition of charitable uses and purposes has expanded with the advancement of civilization and daily increasing needs of men.... It is no longer restricted to mere relief of the destitute or the giving of alms but comprehends activities, not in themselves self-supporting, which are intended to improve the physical, mental and moral condition of the recipients and make it less likely that they will become burdens on society and more likely that they will become useful citizens." 290 Conn. at 715-16.

Adoption of this bill will unquestionably further these remedial purposes. Failure to pass the bill, on the other hand, would encourage the disturbing recent practice of several local assessors to deny exemptions to charitable purpose entities for reasons unrelated to the critical charitable services these entities provide to disabled persons throughout the state.

I also respectfully request that, in adopting this bill, the Legislature explicitly find that it is intended as a clarification of existing law, thus giving it retroactive effect. This would put an end to the costly pending appeals which several CLAs, including Caring Community, have had to prosecute in order to protect their properties from assessments imposed upon them to date.

I may not be present to testify in person at the February 25 hearing. I ask that this written testimony be entered into the hearing record.

Thank you for the opportunity to comment on this much-needed clarification of § 12-81(7)(B).