IN THE UTAH SUPREME COURT

SPORTS MEDICINE RESEARCH AND TESTING LABORATORY, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, and UTAH STATE TAX COMMISSION, Respondents.	**BRIEF OF PETITIONER** **Case No. 20220786-SC**

On Petition for Review of Final Decision of the Utah State Tax Commission

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Respondents

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Board of Equalization of Salt Lake County; *represented by* Bradley C. Johnson, Timothy A. Bodily, and LaShel Shaw of the Salt Lake County District Attorney's Office

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INTRODUCTION

This proceeding challenges a ruling by the Utah State Tax Commission ("Commission"), which erroneously concluded that property owned by Sports Medicine Research and Testing Laboratory ("SMRTL") is not used exclusively for charitable purposes. Under the Utah Constitution, and as restated in the Utah Code, property owned by a nonprofit entity and used exclusively for charitable purposes is not taxable. SMRTL is a nonprofit corporation, and SMRTL uses its property solely to accomplish charitable purposes.

SMRTL is one of only two research and testing laboratories in the United States that is accredited by the World Anti-Doping Agency ("WADA") to test performance-enhancing substances in body fluids. This accreditation is critical, as it means SMRTL is authorized to test Olympic athletes. About two decades ago, the United States lost a prior WADA-accredited laboratory, leaving the United States with only one such institution. Given concern over the inadequacy of having only one WADA-accredited lab in the country, several nonprofit organizations helped form and fund SMRTL as a permanent WADA-accredited lab in Utah.

SMRTL is the only WADA-accredited lab in the world not directly funded by a government institution. SMRTL supports both state and federal governments, providing testing that government agencies cannot themselves perform, and doing so for free or at reduced rates. SMRTL also provides consultation services to governmental entities, performs critical research, identifies over-the-counter products that may contain

dangerous substances, and offers free or subsidized testing to many nonprofit, charitable, educational, and research institutions.

The nub, however, is that for SMRTL to perform its functions and achieve its charitable purposes, SMRTL must engage in widespread testing for performance-enhancing substances. Such testing enables SMRTL to maintain the proficiency and expertise required to serve as a WADA-accredited laboratory. The testing also provides SMRTL important data about evolving doping strategies and helps SMRTL identify products that may contain prohibited substances. SMRTL maintains its expertise and obtains this data by testing professional athletes, for which SMRTL charges market rates.

Looking myopically at this activity, the Commission incorrectly denied SMRTL a charitable use exemption, concluding that testing professional athletes is not a charitable use of SMRTL's property. In so concluding, the Commission ignored the critical role the testing plays in enabling SMRTL to achieve its charitable purposes. The Commission also relied on inapposite case law, which provides that when property is used solely to raise revenue, in a manner separate from the entity's charitable purposes, the property is not tax exempt. But SMRTL's revenue-raising activities are not separate from its charitable purposes. Rather, SMRTL's testing of professional athletes presents a straightforward case of an activity substantially related to accomplishing charitable purposes, which falls squarely within Utah's charitable use exemption.

Were this Court to conclude that existing case law precludes a ruling in SMRTL's favor, this Court should revisit its jurisprudence. Decades ago, this Court overruled years of precedent regarding the charitable use exemption and then planted a multifactor test

into its case law that distorts the relevant inquiry, yields inconsistent results, and is badly in need of digging out. Property of nonprofit hospitals has been ruled both exempt and non-exempt under the Court's new framework, which demonstrates the lack of guidance it provides. Under an appropriate constitutional analysis, examining the meaning the people of Utah would ascribe to the constitutional language, SMRTL's property is used exclusively for charitable purposes.

This Court should therefore overrule the Commission's order and hold that SMRTL's application for property tax exemption should be granted.

STATEMENT OF THE ISSUE

1. Did the Commission erroneously conclude that property is not used exclusively for charitable purposes, even though all activities for which the property is used are substantially related to the nonprofit owner's charitable gift to the community?

SMRTL preserved this issue during the formal hearing. R.425, 433–34, 455–58. The Court reviews the Commission's legal conclusions under a correction of error standard. Utah Code § 59-1-610(1)(b); *Mandell v. Auditing Division*, 2008 UT 34, ¶ 11, 186 P.3d 335.

STATEMENT OF THE CASE

A. Statement of Facts

1. SMRTL Is a WADA-Accredited Nonprofit Research and Testing Laboratory.

SMRTL is a research and testing laboratory that specializes in testing for performance-enhancing substances in body fluids and consumer products. R.226–27, 235, 496.

Olympic venues need a WADA-accredited laboratory, and Olympic athletes need access to WADA-accredited testing. R.242, 495. A temporary laboratory was built in Utah in connection with the 2002 Olympic games. R.228. Around that time, one of the two permanent WADA-accredited labs in the United States closed. R.227. There was concern about the United States having to rely on a single accredited laboratory, so several nonprofit charitable and educational organizations, including the U.S. Olympic Committee, the U.S. Anti-Doping Agency, the NFL Foundation for Health Research, and the NCAA helped to form and fund SMRTL as a permanent WADA-accredited lab at the University of Utah. R. 227, 495, 526.

SMRTL was accredited in 2006 and thus became one of only two WADA-accredited labs in the United States. R.229–30, 239, 495. Of the approximately 32 WADA-accredited labs worldwide, SMRTL is the only one not directly funded by a government. R.239–40, 495. To be WADA-accredited, SMRTL must maintain both testing and research programs, must devote at least 7 percent of its budget to scientific research, and must publish its research in peer-reviewed literature. R.495, 519. There is

no for-profit WADA-accredited lab in the world, and no for-profit lab in the United States competes with SMRTL. R.240.

SMRTL's articles of incorporation set forth its purposes. SMRTL "shall be operated exclusively for charitable, scientific and educational purposes, and to foster national and international amateur sports competition, within the meaning of section[] 501(c)(3) of the Internal Revenue Code." R.496, 526–28. SMRTL's purposes thus include to: "promote the health of the general public by promoting the use of effective drug testing as a deterrent to discourage athletes from using performance enhancing and other prohibited substances"; "foster fair and safe national and international amateur sports competition"; "promote, conduct and enhance scientific research relating to the identification and development of effective testing procedures for performance enhancing substances"; "assure the availability of … high quality testing necessary to the enforcement … of prohibitions on the use of performance enhancing and other prohibited substances"; and "distribute information on prohibited substances … and methods of detecting prohibited substance use."[1] R.496, 526–28.

2. SMRTL Provides Free and Reduced-Rate Services to Governmental Entities.

SMRTL provides free and heavily subsidized services to government agencies. R.240–41, 498–501. For example, SMRTL provides substantial testing and consultation services to the Department of Defense ("DOD"), which does not have the same level of

[1] SMRTL's articles of incorporation were updated during the pendency of these proceedings but the changes are immaterial to the issues under review.

expertise as SMRTL. R.241, 259–60. SMRTL performs DOD's steroid testing program. R.240. SMRTL charges DOD 60% less than professional sports leagues for testing, and SMRTL provides DOD with free consultation services. R.260, 498–99.

SMRTL also provides testing and other services for the Drug Enforcement Administration ("DEA") and Federal Bureau of Investigation ("FBI"). R.240–41, 246–47, 498. DEA and FBI lack the capability to perform this testing. R.241, 258. SMRTL provides its testing and consultation services to DEA and FBI for free. R.257–58, 498.

In addition to testing, SMRTL provides services to the government to promote public safety. For example, SMRTL provided support for the science underlying the Designer Anabolic Steroid Control Act, which regulates sales of supplements that contain slightly different chemical versions of steroids. Such "supplements" were causing liver damage and other health problems to the public. SMRTL provided these services for free. R.254–56, 499. SMRTL also supports law enforcement efforts, including through the provision of free testing, which has led to successful prosecutions. R.261–62, 499, 899.

SMRTL also supports state government. SMRTL provides subsidized testing and free consultations to the University of Utah, which is a publicly supported state institution. R.282–83, 315, 498–99. SMRTL does the University of Utah's testing program and loses money on every sample it tests for the University. R.247, 250, 283, 363, 498. SMRTL's employees also give lectures as a free service to the University. R.262–63.

In addition, SMRTL plays a pivotal role in Utah's efforts to return the Olympic games to Utah. SMRTL's ability to provide on-site testing not only strengthens Utah's

position to host the Olympics, it would also likely save the Salt Lake Organizing Committee $6 to $10 million by avoiding construction of a capable lab. R.242, 495. SMRTL also provides discounted testing and free consultation services to organizations associated with the Olympic and Paralympic games. R.247–51, 315, 896–98.

3. SMRTL Also Provides Free and Reduced-Rate Services to Other Charitable Recipients.

Identification of dangerous consumer products. Acting in the public interest, SMRTL identifies over-the-counter products that may contain dangerous substances, tests those products at its own expense, and alerts enforcement agencies and the public about dangers it detects. R.235–37, 268, 274–75, 498–99. SMRTL "often" detects dangerous substances in the over-the-counter products it tests. R.237, 498. SMRTL does not offer product testing as a fee-for-service that would compete with commercial laboratories, but only tests products if SMRTL identifies them as needing testing for public safety. R.274–75.

For example, SMRTL performed a nationwide study and published a research paper in the Journal of American Medical Association ("JAMA") that highlighted a number of over-the-counter products that contained a dangerous class of drugs. R.237–38, 245, 497–99. SMRTL paid to publish the study. R.239, 268. Likewise, when the Huntsman Cancer Institute had a patient showing unusual hormone levels, SMRTL provided free testing of products the patient was using and discovered what was causing the anomaly. R.238–39.

Support of charitable, research, and educational entities. Approximately half of the testing SMRTL performs is free or subsidized. R.501, 893. Accordingly, in addition to providing free and subsidized testing and consulting services to governmental entities, SMRTL also provides subsidized testing for nonprofit, charitable, educational, and research institutions. R.501, 894–98 (listing over 100 entities that have received subsidized testing).

SMRTL does not turn down requests for testing from law enforcement, government, and nonprofit institutions, so long as the requests fall within SMRTL's capability, and all such entities receive free or subsidized testing. R.247–50. SMRTL also provides free consultations to these entities. R.251, 315.

If it charges anything, SMRTL sets a rate intended to recoup only fixed lab costs such as the cost of reagents. R.247–49. A party's ability to pay is considered, and SMRTL often loses money even on lab costs because it does not set prices to make money. R.247–51, 265, 498–99.

SMRTL does not track the value of all discounted and free services provided. R.253, 501. But the subsidy provided to just one entity (the U.S. Anti-Doping Agency, a 501(c)(3) public charity) exceeds $1 million annually. R.254, 284–85, 771.

Public Safety Research. SMRTL spends over $1 million annually performing its own research and also supports the research of other institutions. R.259, 271, 495. As recognized by the IRS, SMRTL performs significant research related to public safety, R.550 ("a public charity described in section 509(a)(4) of the Code"), and SMRTL has

published dozens of scientific peer-reviewed publications of this research, including health effects of and detecting new and varied doping methods. R.265, 777–878, 916–17.

Some of SMRTL's research relates to athletics, but much does not. For example, a blood transfusion study provided information useful to health care workers. R.266. Testing of medicines saved the life of a pediatric endocrinologist's patient and resulted in published research advancing medical understanding. R.246–47. SMRTL collaborated with Columbia University on a study related to breast cancer treatment and worked with Temple University on a nicotine cessation study. R.259. SMRTL did not charge for these services. R.259. SMRTL also joined with other research institutions to perform a ground-breaking Covid study early in the pandemic, for which SMRTL donated hundreds of employee hours, shipping costs, etc. R.263–64, 269, 499, 913–14.

All of SMRTL's studies are publicly available and contribute greater knowledge to the "scientific, medical, or general community." R.265–67, 270–71. SMRTL pays to have its research published. R.239. SMRTL is not contracted to perform research, like a commercial research organization, but receives research grants from charitable and government organizations that only partially cover research costs and do not cover employee time. R.231, 268–71.

4. SMRTL Reduces Drug Use, Maintains Its Capabilities, and Advances Its Public Safety and Research Missions by Testing a High Volume of Athletes.

Deterring drug use. SMRTL tests professional and amateur athletes and thus detects dangerous substances that they are knowingly or unknowingly using. R.497. This testing is intended to promote public health by deterring the use of performance-

enhancing drugs among professional athletes and the members of the public who imitate them. R.527. Testing of amateurs (including Olympic and University athletes) is at reduced rates. R.247–50, 896–98.

Testing Professional Athletes. SMRTL provides undiscounted testing services to professional sports leagues. R.243, 502. SMRTL does not compete with for-profit laboratories for this work because no for-profit lab could conduct the types of tests SMRTL performs. R.240, 243.

Access to professional league testing data and volume is necessary for SMRTL to maintain its proficiency and expertise, to identify matters of public interest (such as doping techniques and substances) to be studied and researched, and to identify and test potentially contaminated, adulterated, or otherwise dangerous consumer products. R.235–37, 243–45, 497–98. The data from testing professional athletes is also critical for SMRTL's research. Indeed, SMRTL's JAMA publication was spurred by data discovered while testing professional athletes, R.237–38, 245, 497–98, and SMRTL's Covid research was made possible due to SMRTL's testing connection to professional sports leagues, R.267–68, 499.

None of SMRTL's revenue from testing professional athletes is taxed by the IRS or Utah as unrelated business income. R.558, 566, 593, 601, 639, 647, 689, 709, 730.

5. SMRTL's Revenue Is Used to Fund Subsidized Testing, Research, and Administrative Costs.

SMRTL's revenue comes primarily from testing blood and urine samples and associated consulting services. R.314–15, 502. From 2017 to 2020, SMRTL performed

an uncounted number of research-related tests and 75,000 to 100,000 additional tests annually. R.324, 329 (only testing associated with a particular client is tracked in accounting system), 501, 893. Approximately half of the additional testing was for professional sports leagues and approximately half was subsidized or free testing to nonprofit, government, charitable, and educational institutions. R.324, 501, 893.

SMRTL's gross annual revenue between fiscal years 2017 and 2019 ranged between $9 and $12 million. R.497. SMRTL's revenues are used for research, to subsidize testing, cover overhead, and to build and maintain its Laboratory. R.232–34, 247. Funds were also expended to help SMRTL stay open despite no sports testing occurring during much of the Covid pandemic. R.273–74. SMRTL does not solicit donations. As SMRTL's president testified, "[*W*]*e* want to be the charity. We don't want to be taking money." R.279.

6. SMRTL Is a Nonprofit Corporation Federally Classified as a Public Charity.

Under state law SMRTL is a Utah nonprofit corporation. R.494. SMRTL's articles of incorporation prohibit any net earnings from being distributed to any individual or non-charitable entity and provide that upon dissolution all assets will be distributed to charity or government. R.494, 528–29. Under federal law SMRTL is classified as a public charity pursuant to Sections 501(c)(3) and 509(a)(4) of the U.S. Code, under the classification "testing for public safety." R.494, 550, 570.

7. The Property at Issue Houses SMRTL's Laboratory and Administrative Offices.

The property at issue ("Property") is located in South Jordan, parcel #27-13-328-001-0000. R.495, 941. The property tax notice for the January 1, 2020 lien date values the Property at $9,876,600, resulting in a property tax assessment of $119,220.44. R.941.

After its formation, SMRTL occupied property at the University of Utah. R.279. SMRTL subsequently purchased the Property and in June 2019 commenced construction of its facilities ("the Laboratory"). R.319–20. The Laboratory houses SMRTL's administrative offices and operations and is essential for SMRTL to fulfill its mission. R.233–34, 272–73, 494–95.

B. Procedural History

1. The Board Denies SMRTL's Exemption Application.

In 2020, SMRTL filed an Exemption Application ("Application") with the Board of Equalization of Salt Lake County ("Board"). R.18–146. The Application claimed an exemption based on the Property's charitable and educational use. R.18. The Board denied the exemption, R.14, and SMRTL timely appealed, R.2, 474.

2. On Appeal, the Commission Also Denies the Exemption.

Following SMRTL's appeal, the Commission held a formal hearing. R.170, 190, 473. During the hearing, the Board claimed that the definition of "charitable" for property tax purposes is quite narrow and SMRTL's activities fall outside that narrow definition. R.210–22. SMRTL countered that, in the property tax context, the term "charitable" has long rested on the notion of a "gift to the community," the term has been "construed with

sufficient latitude to accomplish its intended purpose," and the evidence demonstrates that SMRTL's activities are "charitable" for purposes of the property tax exemption. R.207–10.

During the hearing, SMRTL entered 16 exhibits and called two witnesses: Daniel Eichner, president of SMRTL, and Christopher West, SMRTL's head of finance. R.223–24, 226, 323, 513–941. Mr. Eichner testified at length regarding SMRTL's history, objectives, and services. R.226–322. Mr. West testified as to SMRTL's organizational structure, the number of free or discounted tests SMRTL performs, and the entities that receive discounted testing rates. R.323–30. The Board did not offer exhibits or call any witnesses. R.203–335.

The parties submitted post-hearing briefs. R.365–471. The Board contended that SMRTL's "Property is not exclusively used for charitable or educational purposes because of SMRTL's focus on professional sports." R.366. SMRTL responded that its testing of professional athletes "is essential to its charitable activities," not simply to generate revenue, but to enable SMRTL to maintain the expertise required to fulfill SMRTL's mission, to detect new doping substances and techniques used by athletes, to obtain data for research, and to identify consumer products endangering the public. R.433–34.

The Commission issued its Findings of Fact, Conclusions of Law, and Final Decision on August 2, 2022, and its Amended Findings of Fact, Conclusions of Law, and Final Decision ("Order") on August 30, 2022. R.473–91. In its Order, the Commission observed that "[t]his matter does not present questions of disputed facts." R.504. Instead,

the appeal presented a legal question: "whether the property met the 'used exclusively' and 'charitable purposes' requirements for the exclusive use exemption." *Id.*

When addressing this question, the Commission focused on SMRTL's testing of professional athletes. R.507–08. The Commission ruled that SMRTL failed to establish that its testing of professional athletes, which is performed at "market rates," "qualifies as [a] 'charitable' purpose[]." R.507–08. Accordingly, without determining whether SRMTL's activities are charitable, the Commission denied SMRTL's appeal, concluding that the "'used exclusively' requirement contained in Article XIII, Section 3 of the Utah Constitution and Utah Code § 59-2-1101(3)(a), has not been shown to be met due to the fact that there is more than a de minimis use of the property for testing provided to professional athletes at a full market price." R.510.

SMRTL filed a Petition for Review on August 31, 2022. SMRTL filed an Amended Petition for Review on September 7, 2022. SMRTL then requested that this Court retain the matter, *9/19/22 Ltr.*, and this Court granted SMRTL's request, *10/14/22 Order*.

SUMMARY OF THE ARGUMENT

SMRTL's Property is not taxable because it is used exclusively for charitable purposes within the meaning of article XIII section 3 of the Utah Constitution. Utah law reflects the generally accepted, broad legal definition of charity. Charity is widely understood as a gift to the community, which takes many forms and is a notion that evolves with society's needs and values. This Court has looked to other states and federal law when defining and applying the term "charity" in the context of tax law generally and

property tax specifically. The Utah Legislature has relied on federal law both to define charity and to determine which activities of federally recognized charities are "unrelated" to their charitable purposes. Given how closely federal and state tax law align, federally recognized charities are generally tax exempt under Utah law.

SMRTL is classified as a public charity under federal law and uses its property for charitable purposes. SMRTL's gift to the community includes both lessening government burdens and intentionally giving to the community at a substantial imbalance. SMRTL provides its gift through: free and reduced-cost testing and free consulting services to government agencies and institutions; discounted testing and free consultations to nonprofit, Olympic, Paralympic, educational, and research organizations; identification and testing of adulterated and contaminated consumer products that threaten public safety; and conducting and publishing research that advances public safety.

SMRTL also tests professional athletes. This is an activity substantially related to SMRTL's charitable purposes. It provides not only income, but a volume of testing that supports SMRTL's proficiency and expertise, enables SMRTL to identify dangerous consumer products, and provides data for SMRTL's research. The concept of an activity "substantially related" to exempt purposes is widely recognized and also incorporated in Utah law. The Commission, however, mistakenly applied case law governing entities that do not provide a gift to the community or that conduct activities not substantially related to charitable purposes.

Accordingly, SMRTL's Property qualifies for the charitable use exemption. But were this Court to conclude otherwise, it should revisit its jurisprudence and construe the

charitable use exemption in accordance with its original meaning. Given the services SMRTL provides to governments and other nonprofit institutions, and its substantially related activity of testing professional athletes, SMRTL's use of the Property is exclusively charitable as the people of Utah would understand that term. The Property is therefore tax exempt.

ARGUMENT

I. SMRTL's Property Is Not Taxable Because the Property Is Used Exclusively for Charitable Purposes.

Under Utah law, property used exclusively for charitable purposes is tax exempt. Article XIII, section 3 of the Utah Constitution provides that property (1) "owned by a nonprofit entity" and (2) "used exclusively for religious, charitable, or educational purposes" is not taxable. Utah Const. art. XIII, § 3(1)(f) ("The following are exempt from property tax:…(f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;….").

At the time of SMRTL's Application, the Utah Code likewise provided that property is tax exempt if "owned by a nonprofit entity [and] used exclusively for religious, charitable, or educational purposes." Utah Code § 59-2-1101(1)(b).[2] The statute

[2] As in effect January 1, 2020. The Utah Code was amended, effective July 2020, to provide that "[c]haritable purposes" means, for property other than nonprofit hospitals and nursing homes, "providing a gift to the community." Property Tax Amendments, 2020 Utah Laws Ch. 305 (H.B. 47). "[G]ift to the community" was further defined as "(i) the lessening of a government burden; or (ii)(A) the provision of a significant service to others without immediate expectation of material reward; (B) the use of the property is supported to a material degree by donations and gifts including volunteer service; (C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree; (D)

and the constitution have been construed together as carrying the same meaning and application. *See, e.g.*, *Loyal Order of Moose v. County Board of Equalization*, 657 P.2d 257, 260–62 (Utah 1982); *Randolph v. State*, 2022 UT 34, ¶ 56, 515 P.3d 444 ("Because the Legislature used the words of the constitution in the statute, we presume that the Legislature intended that the phrase … carry the same meaning [as] in the constitution.").

It is undisputed that the Property is owned by SMRTL, a Utah nonprofit corporation. R.504. The first prong of the charitable use exemption is therefore satisfied. The only issue is whether the Property is used exclusively for charitable purposes.

A. Utah Law Broadly Defines Charity as a Gift to the Community and Reflects Generally Accepted Notions of Charitable Use.

1. Like Other Jurisdictions, Utah Broadly Defines Charity as a Gift to the Community.

"Charity" is a broad legal concept that has been around for centuries. As the United States Supreme Court observed, the Statute of Elizabeth, from 1601, "names [numerous] distinct charities" as diverse as the "relief of . . . poor people," to "repair of

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the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and (E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property." Utah Code § 59-2-1101(1)(a), (d), (f).

This language is not, however, applicable here. SMRTL's Application is governed by the version of the Utah Code in effect prior to July 2020. Moreover, the Board has not asserted that this new language applies, and the Commission did not apply it when reviewing SMRTL's Application. Accordingly, the meaning and constitutionality of this new "charitable purposes" standard in the Utah Code is not an issue directly presented in this proceeding. However, to the extent the Commission concluded that a decision here about a constitutional provision is not precedential for future cases because of a change in *statutory* language, R.503 n.48, it plainly erred.

bridges," "sea-banks," "support and help of young tradesman," and supporting "schools of learning." *Ould v. Washington Hospital for Foundlings*, 95 U.S. 303, 310–11 (1877) ("Upon examining the early English statutes and the early decisions of the courts of law and equity, Mr. Justice Baldwin found forty-six specifications of pious and charitable uses recognized as within the protection of the law, in which were embraced all that were enumerated in the statute of Elizabeth.").

The legal concept of charity was largely developed in the context of charitable trusts,[3] and under that body of law a charitable use "may be applied to almost any thing that tends to promote the welldoing and wellbeing of social man." *Id*. at 311; *see also Todd v. Citizens Gas Company of Indiana*, 46 F.2d 855, 865 (7th Cir. 1931) ("[T]he enforcement of charitable uses cannot be limited to any narrow and stated formula. It must expand with the advancement of civilization and the increasing needs of man. New discoveries of science, new fields and opportunities for human action, the differing condition, character and wants of communities change and enlarge the scope of charity.").

Charity, in a legal sense, is thus generally understood "as much broader" than "gifts to the poor and needy" or "steps taken to relieve distress and suffering on the part of those unable to help themselves." *Gossett v. Swinney*, 53 F.2d 772, 776 (8th Cir. 1931). For legal purposes, charity is generally defined as a gift to the community, as the Massachusetts Supreme Court expressed in 1867. *Jackson v. Phillips*, 96 Mass. 539, 539

[3] *See* Restatement of the Law, Charitable Nonprofit Organizations § 1.01, Comment a (2021).

(1867). In *Jackson*, Justice Gray wrote that "[a] charity, in the legal sense, may be more fully defined as a gift ... for the benefit of an indefinite number of persons" in any number of ways, including through "education or religion," bringing relief "from disease [or] suffering," or "lessening the burdens of government." *Id.* Justice Gray's definition of charity has been widely adopted and applied, including in the tax-exemption context.[4]

Federal tax law incorporates these same ideals. In 1959, "charitable" was defined in federal regulations related to section 501(c)(3) of the U.S. Tax Code ("IRC" or "U.S. Code"), where it has remained for over 60 years. T.D. 6391, 1959-2 C.B. 139. The regulation provides that "'charitable' is used in section 501(c)(3) in its generally accepted legal sense" and includes the same types of activities described in *Jackson*: relief of the poor; advancement of religion, education and science; promoting the social welfare; "erection or maintenance of public buildings, monuments, or works;" or otherwise "lessening of the burdens of Government." 26 C.F.R. ("Treas. Reg.") § 1.501(c)(3)-1(d)(2).

[4] *See, e.g., Kelly v. Nichols*, 25 A. 840, 841 (R.I. 1892) ("We know of no definition of a legal charity more accurate, concise, and comprehensive than that given by Mr. Justice GRAY in *Jackson v. Phillips*…."); *Gossett*, 53 F.2d at 777 ("Perhaps the most comprehensive definition, and one that has received widespread acceptance and approval, is that of Judge … Gray in *Jackson v. Phillips*…."); *Vogt v. City of Louisville*, 190 S.W. 695, 697 (Ky. 1917) (applying *Jackson* in tax-exemption context); *Elec. Power Rsch. Inst., Inc. v. City & Cnty. of Denver*, 737 P.2d 822, 826 (Colo. 1987) (same); *In re Certain Real Est. in Brushvalley Twp.*, 128 A.2d 773, 777 (Pa. 1957) (same, citing prior case law, *Fire Ins. Patrol v. Boyd*, 15 A. 553, 540, 555–56 (Pa. 1888), which follows *Jackson*).

Like other jurisdictions, Utah broadly defines "charity" as a gift to the community. *See, e.g.*, *Yorgason v. Cty. Board of Equalization*, 714 P.2d 653, 657 (Utah 1986) ("The test of charitable purpose is public benefit or contribution to the common good or the public welfare."); *id.* at 675 ("It is also necessary that there be an element of gift to the community."); *Utah Cnty. v. Intermountain Health Care, Inc.*, 709 P.2d 265, 277 (Utah 1985) (requiring "a nonreciprocal contribution to the community"); *Salt Lake Cty. v. Tax Comm'n ex rel. Greater Salt Lake Recreational Facilities*, 596 P.2d 641, 643 (Utah 1979) ("Charity is the contribution or dedication of something of value to the poor or at least to the common good.") (footnote omitted); *id.* ("An essential element of charity is an act of giving"); *Youth Tennis Foundation v. Tax Comm'n*, 554 P.2d 220, 221 (Utah 1976) (citing 15 Am. Jur. 2nd for the proposition that "[c]harity in the broad sense is giving of something of benefit to others without expectation of gain").

2. Utah Law Also Aligns with Evolving Notions of Charitable Use.

When addressing the meaning of "charity" and the idea of charitable property use, this Court has made clear that the Utah Constitution and Utah Code incorporate the same legal concepts as developed in other jurisdictions. For example, as early as 1901, when addressing whether a property qualified for a charitable use exemption, this Court discussed cases from Pennsylvania, Maryland, Massachusetts, and Ohio, and cited cases from Michigan, Iowa, Oregon, New Jersey, Illinois, Georgia, Texas, New York, and the U.S. Supreme Court. *Parker v. Quinn*, 64 P. 961, 963–63 (Utah 1901). The Court aligned its decision with the "weight of authority" on the meaning of charitable use. *Id.* at 962.

Additionally, in *Utah County v. Intermountain Health Care, Inc.* ("*IHC*"), this Court's discussion of "charity" as a gift to the community that includes "lessening of a government burden" reveals the unmistakable influence of the Massachusetts Supreme Court's 1867 analysis in *Jackson*. 709 P.2d at 269. Likewise, when addressing a question pertaining to a charitable use exemption in 1983, this Court discussed comparable cases from Mississippi, Florida, Massachusetts, Colorado, Tennessee, and Oklahoma. *Salt Lake County v. Tax Comm'n ex. rel. Laborers Local No. 295*, 658 P.2d 1192, 1195–96 (Utah 1983); *see also Yorgason*, 714 P.2d at 660 (observing that "[o]ther jurisdictions across the country have also held that in order to qualify as an exclusively charitable organization assistance does not have to be cost-free").

Moreover, this Court has welcomed references to federal tax law as useful guideposts in understanding the meaning of the charitable use exemption in the Utah Constitution and Utah Code. For example, the Court approved of the Commission's incorporation of federal charitable "private inurement" rules into its standards for determining whether hospitals are charitable. *Howell v. Cty. Board of Cache County*, 881 P.2d 880, 886 (Utah 1994). The Court reasoned that the federal standard "has been widely applied," and federal courts had created "a well-developed body of law." *Id.* at 886. Likewise, in *Yorgason*, this Court cited federal treatment of charitable activity as a substantial factor in its analysis, observing that "[b]oth this state and the Congress of the United States have recognized that the community benefits from efforts made to provide adequate housing for the low-income elderly and handicapped members of our society." 714 P.2d at 657.

As these examples illustrate, this Court interprets the charitable use exemption in line with the generally accepted understanding of charity and evolving notions of charitable use.

3. Like Other States, Utah Interprets the Charitable Use Exemption to Accomplish Its Intended Purposes.

When applying the charitable use exemption, this Court, like many state courts,[5] has recognized that the "exemption should be strictly construed." *Loyal Order of Moose v. Cty. Board of Equalization*, 657 P.2d 257, 261 (Utah 1982). But that does not render the exemption subject to a special rule, demanding an extraordinarily narrow breadth. Indeed, *all* tax exemptions are construed "strictly against the taxpayer." Utah Code § 59-1-1417(2)(b).

"Strict" interpretation does not mean that tax exemptions are *narrowly* construed to restrict what constitutes a charitable purpose or activity. Rather, "strictness" means the interpretation must be true to the purpose of the exemption. *See supra* n.5 (citing cases). The exemption must be "construed with sufficient latitude to accomplish the intended purpose." *IHC*, 725 P.2d at 1359; *see also MacFarlane v. State Tax Comm'n,* 134 P.3d 1116, 1121 (Utah 2006) ("[T]he rule of strict construction should not be utilized to defeat the intent of the legislative body.").

[5] *See, e.g.*, *Hardesty v. N. Arkansas Med. Servs., Inc.*, 585 S.W.3d 177, 179 (Ark. 2019); *Larimer Cnty. Bd. of Commissioners v. Colorado Prop. Tax Adm'r*, 316 P.3d 60, 72 (Colo. Ct. App. 2013); *Isaiah 61:1, Inc. v. City of Bridgeport*, 851 A.2d 277, 280 (Conn. 2004); *Cedars of Lebanon Hosp. v. Los Angeles Cnty.*, 221 P.2d 31, 35 (Cal. 1950).

Strict construction "does not mean ... that purposes exclusively charitable are limited to the mere relief of the destitute or the giving of alms." *Yorgason*, 714 P.2d at 656 (footnote omitted). Instead, "charitable purposes evolve over time to reflect the varying conditions, characters, interests, and needs of society and different communities." Restatement of the Law, Charitable Nonprofit Organizations § 1.01, Comment d (2021). Accordingly, "what qualifies as a purpose exclusively charitable is 'subject to judgment in the light of changing community mores.'" *Yorgason*, 714 P.2d at 656 (quoting *Greater Salt Lake Recreational Facilities*, 596 P.2d at 643); *see also Eastern Kentucky Welfare Rights Organization v. Simon*, 506 F.2d 1278, 1288 (D.C. Cir. 1974) ("[A]n inflexible construction fails to recognize the changing economic, social and technological precepts and values of contemporary society.").

4. Organizations That Qualify as Charitable Under Federal Law Generally Qualify as Charitable Under Utah Law.

a. Utah Law Incorporates Federal Charity Standards or Adopts Broader Definitions of Charity.

The Utah Code contains dozens of references to and definitions of "charitable" entities and purposes. Many of these explicitly adopt, assume, or link to federal standards. Some are even broader than federal standards.

In some places Utah law either directly uses federal charity standards to define "charitable" or assumes their application. The Charitable Trust Act, for example, which has been part of the Utah Tax Code since 1971, provides that "'[c]haritable organization' means an organization described in [IRC] Section 501(c)(3) and exempt from tax under

[IRC] Section 501(a).” Utah Code § 59-18-102(2).[6] Likewise, under Utah law a preservation easement “may be deemed a charitable contribution for tax purposes in accordance with the [federal] laws, rules, and regulations pertaining to charitable contributions.” Utah Code § 9-8a-506.[7]

Utah law also exempts every federally recognized charity from Utah corporate income tax. Utah Code § 59-7-102(1) (providing that “an organization exempt under [IRC §] 501” is “exempt from a tax under this chapter”). Moreover, the Utah Tax Code adopts the federal definition of “unrelated business income” (“UBI”) that applies to federal charities and, mirroring federal law, imposes a tax on UBI. Utah Code § 59-7-801 (“‘Unrelated business income’ means unrelated business income as determined under [IRC §] 512”); *id*. § 59-7-802 (imposing tax).

Numerous other Utah statutes link “charitable” institutions to the IRC § 501(c)(3) federal standard. *See*, *e.g.*, Utah Code § 4-46-302 (“a charitable organization that qualifies as being tax exempt under Section 501(c)(3)”); *id.* §§ 26-54-102(1),102.5(1) (“a ‘qualified IRC 501(c)(3) charitable clinic’ means a professional medical clinic that ... has obtained tax-exempt status under [IRC §] 501(c)(3)”); *id.* § 4-34-102(4) (“‘Nonprofit charitable organization’ means: (a) an organization that is organized and is operating for charitable purposes and that meets the requirements of the [IRS] that exempt the organization from income taxation under the Internal Revenue Code.”); *id.* §§ 9-17-102; 9-18-102; 9-19-102; 13-1-16; 26-21a-302; 26-21a-304; 26-58-102; 26B-1-302; 53-1-118;

[6] Renumbered from § 59-23-2 in 1987.
[7] Renumbered from § 9-8-506 in 2023.

53-1-120; 53-7-109; 53F-9-401; 61-2-204; 72-2-127; 72-2-130; 80-2-502 (authorizing distributions only to "charitable organizations that ... qualify as being tax exempt under [IRC §] 501(c)(3)"); *id.* § 57-18-3 ("A charitable organization which qualifies as being tax exempt under [IRC §] 501(c)(3) ...."); *id.* § 58-17b-902 ("'Charitable clinic' means a charitable nonprofit corporation that ... is exempt from federal income taxation under [IRC §] 501(c)(3).").

Where Utah law does not explicitly or implicitly adopt federal standards, it has defined charity similarly to the federal standard or even more broadly. *See, e.g.*, Utah Code § 13-22-2(3) ("'Charitable purpose' means any benevolent, educational, philanthropic, humane, patriotic, religious, eleemosynary, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable objective or for the benefit of a public safety, law enforcement, or firefighter fraternal association."); *id.* § 51-8-102 ("'Charitable purpose' means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of governmental purposes, and any other purpose the achievement of which is beneficial to the community."); *id.* § 75-7-405 ("A charitable trust may be created for the relief of poverty, the advancement of education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community."); *id.* § 76-10-601 ("'Charitable organization' means any organization that is benevolent, philanthropic, patriotic, or eleemosynary or one purporting to be such.").

b. Federally Recognized Charitable Entities Are Generally Tax Exempt Under Utah Law.

Due to Utah law's reliance on federal tax law regarding charitable organizations, an entity that is a tax-exempt charitable organization under IRC § 501(c)(3) is generally tax exempt under Utah law. For example, although all tax exemptions are strictly construed, *every* federally recognized charity is exempt from Utah corporate income tax. Utah Code § 59-7-102(1). Similarly, because the Legislature has wholly adopted the federal definition of UBI, any income a federally recognized charity receives from the conduct of an activity substantially related to its exempt purposes (within the meaning of federal law) is exempt from Utah's unrelated business income tax. *Id*. § 59-7-801. Likewise, any transactions a federally recognized charity conducts in an activity substantially related to its exempt purposes (within the meaning of federal law) is exempt from Utah sales tax. R865-19S-43 ("Religious and charitable institutions must collect sales tax on any sales income arising from unrelated trades or businesses.... The definition of the phrase 'unrelated trades or businesses' shall be the definition of that phrase in [IRC §] 513 ....").

Additionally, with respect to property tax, this Court has relied on federal standards when determining questions of charitable use. *Supra* p.21 (noting this Court's approval of federal charitable "private inurement" rules as guidelines for determining whether hospitals are charitable, as well as this Court's reliance on federal treatment of charitable activity when addressing questions of charitable use).

Federal definitions of charitable entities and federal tax treatment of income generated by such entities is thus deeply enmeshed in state law. As a result, federally recognized charitable entities are generally tax exempt under Utah law.

B. SMRTL's Property Is Used for Charitable Purposes.

1. SMRTL's Classification as a Public Charity Under Federal Law Strongly Suggests SMRTL Uses Its Property for Charitable Purposes.

SMRTL is classified by the IRS as a 501(c)(3) public charity, as an organization that performs the charitable activity of "testing for public safety." Statement of Facts ("SOF") p.11. While not dispositive, SMRTL's federal classification as a public charity strongly suggests SMRTL engages in charitable activities under Utah law. As explained above, Utah's charitable use exemption and the federal definition of a charitable entity are based on the same body of law, and Utah law relies heavily on the federal definition of a charitable entity in section 501(c)(3) as well as federal tax treatment of federally designated charitable entities. There may be some degree of daylight between the federal and state standards regarding when an activity is charitable. But it would be a rare case that falls within that gap. This is not that rare case.

2. SMRTL Gives a Gift to the Community by Lessening Government Burdens.

Under Utah law, a gift to the community "can be identified" in one of two ways: either "in the lessening of a government burden through the charity's operation" or "by a substantial imbalance in the exchange between the charity and the recipient of its services." *IHC* at 269 (citing *Laborers Local No. 295*, 658 P.2d at 1198 (Oaks, J.,

concurring). SMRTL provides a gift to the community under both tests. SMRTL's activities substantially lessen government burdens, and there is a substantial imbalance between the price paid and value received by charitable recipients of SMRTL's services.

This Court has described lessening government burdens as performing an activity "that government would otherwise provide." *Laborers Local No. 295*, 658 P.2d at 1199 (Oaks, J., concurring). The "lessening burdens" bar is not high. In *Yorgason*, the Court considered a building where 98 housing units would house "at least eleven" people that would otherwise be in nursing homes. 714 P.2d at 660. This provided "substantial savings to the government" and thus "provide[d] a gift to the community since it lessens a government burden." *Id*.

The IRS has advised that "[t]he gratuitous performance of services to Federal, state or local governments is charitable in the generally accepted legal sense." Rev. Rul. 74-246, 1974-1 C.B. 130. "A favorable working relationship between the government and the organization is strong evidence that the organization is actually 'lessening' the burdens of the government." Rev. Rul. 85-2, 1985-1 C.B. 178. This includes helping government agencies to augment drug-related law enforcement activities "without the appropriation of additional governmental funds." Rev. Rul. 85-1, 1985-1 CB 177.

SMRTL's activities relieve government burdens because SMRTL is performing activities that would otherwise be government-funded. Indeed, every other WADA-accredited lab in the world is government-funded. SOF p.4.

SMRTL lessens government burdens associated with the Olympics. The State of Utah bears costs associated with preparing for and hosting the Olympics. Prior to the

2002 Olympics, the state earmarked up to $59 million for construction of Olympic facilities. S.J.R.17 (1994); Utah Code § 59-12-103(4)(1996). The State has also authorized formation of the Utah Athletic Foundation ("UAF") (n/k/a the Utah Olympic Legacy Foundation) to engage in activities "to benefit Utah's citizens." *See* S.J.R.17 (1994); H.J.R.24 (2002), S.J.R.1 (2007); S.J.R.11 (2010), S.C.R.9 (2015), H.J.R.9 (2017). UAF operates Olympic venues, and Salt Lake City and the State of Utah continue to back an effort to return the Olympics to Utah.

SMRTL removes from the state the burden of building the lab required to host the Olympics. SOF p.4. SMRTL is prepared to handle on-site testing when the Olympics return to Utah, which would likely save the state $6 to $10 million. SOF p.7. SMRTL also provides substantial support to the U.S. Olympic and Paralympic Committee as well as testing and consultation services to organizations associated with the Olympic games. SOF p.7.

Given the importance of the Olympics to the state, entities associated with the Olympics are generally tax exempt. It is a matter of public record, of which the Court can take judicial notice, that property owned by UAF receives property tax exemptions at Olympic sites in Salt Lake and Summit counties. *See* Addendum (4). Having an Olympic-class drug-testing facility is important enough to the state that SMRTL was formed with the help of and originally housed at the University of Utah. SOF p.4.

SMRTL lessens government burdens associated with drug testing. SMRTL performs testing for many government agencies, including DOD, DEA, FBI, and the University of Utah. SOF pp.5–6. These governmental entities use SMRTL for testing

because they do not have SMRTL's testing capability. SOF pp.5–6. SMRTL provides testing to governmental entities at no charge or a at very reduced rate. SOF p.6. SMRTL also provides consultation time to government agencies at no charge. SOF p.6.

SMRTL lessens government burdens through research and collaboration. **S**MRTL has also collaborated with the U.S. government to help formulate legislation to protect the public from products with a chemical structure similar to banned substances. SOF p.6. SMRTL provided its services for free. SOF p.6. SMRTL also supports law enforcement efforts, including through the provision of free testing, which has led to successful prosecutions. SOF p.6.

All of this activity lessens the burdens of government because SMRTL provides services at reduced or no cost, which the government would otherwise have to fund.

3. SMRTL Gives a Gift to the Community by Providing Services at a Substantial Imbalance.

SMRTL also qualifies for a charitable use exemption due to the substantial imbalance between the value SMRTL provides and the amount paid by charitable recipients of its services.

A substantial imbalance is evident when charitable recipients receive more than they pay. There is a substantial imbalance when the exchange between the donor and the charitable recipients is "nonreciprocal." *IHC*, 709 P.2d at 277. But there is no substantial imbalance where a "senior citizen is paying for all of the services he receives and the rental [price] is not determined by need," *Friendship Manor Corporation v. Tax Comm'n*, 487 P.2d 1272, 1280 (Utah 1971), or where the alleged giver offers its services "to

anyone interested in purchasing them," and its fees are never "lower than fees charged by private, profit-making" organizations, *Eyring Research Institute Inc. v. Tax Commission*, 598 P.2d 1348, 1350 (Utah 1979).

The substantial imbalance here is extensive. SMRTL (1) provides free and heavily subsidized testing services to government agencies and numerous nonprofit organizations, SOF pp.5–9; (2) deters drug use, SOF pp.5, 9–10; (3) advances public safety by identifying dangerous, contaminated, and adulterated over-the-counter products. SOF pp.5–7; (4) identifies adaptations of performance-enhancing techniques, SOF pp.6, 8–9; (5) assisted the federal government in drafting the Designer Anabolic Steroid Control Act, SOF p.6; (6) performed critical research pertaining to the Covid-19 pandemic, SOF p.9; (7) provides free consultations to many government and nonprofit entities, SOF pp.6–9; (8) makes its services available at reduced or no cost to any governmental or nonprofit organization, SOF p.8; (9) performs and publishes research for the benefit of the public, SOF pp.8–9; (10) provides lecturers to teach at the University of Utah, SOF p.6; (11) provides testing and consultation services to organizations associated with the Olympic Games and will provide onsite testing if the Olympics return to Utah, saving the state an estimated $6 to $10 million, SOF p.7.

SMRTL is not fully remunerated for *any* of these public services. Beneficiaries include federal, state, and local governments; law enforcement agencies; nonprofit charitable, research, and educational entities; and the public.

4. Applying This Court's Six-Factor Test, SMRTL Uses Its Property for Charitable Purposes.

In addition to the "lessening of government burdens" and "substantial imbalance" inquiries, in 1985 this Court identified six factors as "useful guidelines for our analysis of whether a charitable purpose or gift exists in any particular case." *IHC*, 709 P.2d at 269–70. Those factors are: "(1) whether the stated purpose of the entity is to provide a significant service to others without immediate expectation of material reward;" "(2) whether the entity is supported, and to what extent, by donations and gifts;" "(3) whether the recipients of the 'charity' are required to pay for the assistance received, in whole or in part;" "(4) whether the income received from all sources (gifts, donations, and payment from recipients) produces a 'profit' to the entity in the sense that the income exceeds operating and long-term maintenance expenses;" "(5) whether the beneficiaries of the 'charity' are restricted or unrestricted and, if restricted, whether the restriction bears a reasonable relationship to the entity's charitable objectives;" and "(6) whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interests, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones." *IHC* at 269–70 & n.6 (citing *North Star Research Institute v. County of Hennepin*, 306 Minn. 1, 6 (1975)).

The Commission's Order did not apply the six factors, and it is unclear what weight they should be accorded in the constitutional analysis. As this Court explained, "each case must be decided on its own facts, and the foregoing factors are not all of equal significance, nor must an institution always qualify under all six before it will be eligible

for an exemption." *IHC* at 270; *see also Yorgason*, 714 P.2d at 657 & n.16 (emphasizing that the "factors operate as guidelines only and should not be read to be exclusive or as equally beneficial in each case); *id.* at 661 (Zimmerman, J., concurring) (concluding that, for a housing project, a different "analytical framework [was] of more use").

Moreover, in 1994 the Court considered and approved administrative standards adopted by the Commission for determining whether hospitals are charitable. *See* Non-profit Hospital and Nursing Home Charitable Property Tax Exemption Standards, Appendix 2B to Utah Tax Commission Property Tax Exemptions Standards of Practice ("Hospital Standards"). The Commission explained that it promulgated the Hospital Standards because the six-factor framework "do[es] not provide … objective standards by which to measure the sufficiency of particular exemption applications" and "could not readily be applied to individual cases so as to promote an acceptable degree of uniformity." *Howell*, 881 P.2d at 883. The Court agreed, observing that "[a]dministrative difficulties experienced by the taxing authorities required the Tax Commission to adopt uniform standards to ensure equal treatment of all entities seeking charitable exemptions." *Id.* at 889.

Yet, whatever their weight, the six factors demonstrate that SMRTL uses its property for charitable purposes.

SMRTL's stated purpose is to provide a significant service to others without expectation of material reward. This factor requires "an examination into the institution's corporate purposes and whether the distribution of assets to private interests was restricted in its articles of incorporation." *Howell*, 881 P.2d at 885.

This factor weighs heavily in SMRTL's favor. Like every organization recognized as a public charity by the IRS, SMRTL's articles of incorporation state its charitable purposes, prohibit distribution of earnings to private parties, and require distribution to exempt parties upon dissolution. SOF pp.5, 11; Treas. Reg. § 1.501(c)(3)-1(b)(1) (requiring statement of charitable purposes); *id.* § (b)(4) (requiring dissolution clause); *id.* § (c)(2) (barring private inurement). SMRTL's articles outline its many charitable purposes and its intent to serve others without expectation of material reward. SOF p.5 (outlining SMRTL's charitable purposes, which include "promot[ing] the health of the general public"; "foster[ing] fair and safe … amateur sports competition"; "and "assur[ing] the availability of … high quality testing necessary to … [enforce] prohibitions on the use of performance enhancing … substances").

SMRTL's receipt of donations and grants. SMRTL was created through the generosity and support of charitable and educational institutions. SOF p.4. SMRTL also receives grants that partially support its research. But SMRTL does not solicit public donations, preferring to *give* to the public. SOF p.11.

However, this factor turns the substantial imbalance test on its head: it requires an entity to receive gifts from the community to evaluate whether the community receives a gift from the entity. SMRTL is committed to providing a gift to the community without requiring the community to fund its efforts, which should not be a strike against SMRTL. This factor is neutral in this case.

SMRTL provides services at reduced or no cost to governmental, charitable, and research entities. Approximately half of the testing SMRTL performs is free or

subsidized. SOF p.11. SMRTL provides free or subsidized testing and consulting services to any government, nonprofit, educational, or research organization that seeks such services. SOF p.8. SMRTL has never turned such an organization away, and over 100 entities have received subsidized testing from SMRTL. SOF p.8. SMRTL sets a price for such testing that is based on ability to pay. SOF p.8. SMRTL often loses money on the services it provides. SOF p.8. SMRTL could charge higher rates for its services, but SMRTL is concerned with fulfilling its charitable mission, not increasing revenue. SOF p.8. Indeed, SMRTL's annual subsidy to the U.S. Anti-Doping Agency alone amounts to 10% of SMRTL's *gross* revenue. SOF pp.8, 11. This factor weighs heavily in SMRTL's favor.

SMRTL's income matches its operating and long-term maintenance expenses. SMRTL uses its revenue to provide free and reduced testing and other services to governmental and charitable institutions, to support its research, and to build and maintain its Laboratory. SOF pp.5–12. When SMRTL's revenue has exceeded its annual operating expenses, SMRTL has been able to use that revenue to stay in existence. For example, SMRTL used its reserve funds to build the Laboratory, which is essential to fulfilling SMRTL's purposes. SOF pp.11–12. SMRTL also used its reserve funds to stay open during the Covid-19 pandemic. SOF p.11. SMRTL is not generating substantial profits or competing with for-profit labs, as no for-profit laboratories conduct the same type of testing as SMRTL. SOF pp.4–5. This factor thus weighs in SMRTL's favor.

SMRTL's restrictions on free and subsidized services further demonstrate its charitable purposes. The only restriction on SMRTL's extension of charitable benefits

is that SMRTL does not provide discounted testing or consulting services to professional athletic organizations, which are not governmental, charitable, or research organizations. Otherwise, SMRTL provides free or subsidized testing to all nonprofit, governmental, charitable, educational, and research parties that seek testing. SOF p.8. SMRTL has never turned away such an applicant. SOF p.8. This factor thus weighs in favor of SMRTL.

SMRTL's dividends, private interests, etc. also demonstrate its charitable purposes. This factor addresses whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interests, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones. Under SMRTL's articles of incorporation, no financial benefit is available to private interests. SOF p.11. SMRTL is not in competition with for-profit labs. SOF pp.4–5. All of SMRTL's activities advance its charitable purposes, and as explained more fully below, its testing of professional athletes is substantially related to and critically important for accomplishing SMRTL's charitable purposes. SOF p.10. This factor also clearly weighs in favor of SMRTL.

Accordingly, as with the "lessening government burdens" and "substantial imbalance" inquiries, analysis of this Court's six-factor framework demonstrates that SMRTL provides a gift to the community and uses the Property for charitable purposes.

C. SMRTL Uses Its Property Exclusively for Charitable Purposes.

Under Utah law property must be used exclusively for charitable purposes to qualify for exemption. This requirement is not interpreted literally, as a literal construction would "virtually eliminat[e] tax exemptions and thereby violate the intent of

the Constitution to promote charity." *Loyal Order of Moose*, 657 P.2d at 262–63; *see also id*. at 264 ("[A] use of true minor import or a de minimus use will not defeat an exemption.").

The Commission erroneously held that SMRTL does not use its property exclusively for charitable purposes within the meaning of art. XIII, section 3, given SMRTL's testing of "professional athletes at a full market price." R.510. The Commission reached this erroneous holding by incorrectly applying this Court's decisions in *Parker v. Quinn*, 64 P. 961 (1901), and *Eyring Research Institute Inc. v. Tax Commission*, 598 P.2d 1348 (1979), and by misunderstanding an issue not addressed by *Parker* or *Eyring Research*: whether revenue-raising activities substantially related to a nonprofit entity's charitable purposes constitute "exclusive use" under state law, as they do under federal law.

The answer is plainly yes, particularly given this Court's approval of a tax exemption for hospitals. In so holding, the Court impliedly agreed with the generally accepted principle that conducting a "substantially related" business activity is within the umbrella of being "exclusively" charitable. The Court should make this explicit.

1. Use of Property Solely for Income Is Not Charitable.

In *Parker*, a relief society rented out a portion of its building "as a source of revenue," rather than for "its own use." 64 P. at 962. That portion of the property did not qualify for exemption because using property solely to raise revenue is not a charitable use. 64 P. at 963. Thus, even where an entity has exclusively charitable purposes, if it

uses its property merely to raise revenue through activity unrelated to its charitable purposes, the property is not exempt.

2. Use of Property for Substantial Noncharitable Purposes Is Not Exclusive Charitable Use.

For a time this Court held that fraternal and benevolent societies and other non-profit entities that use their property primarily for social and other non-charitable activities could qualify for the charitable use exemption. *Loyal Order of Moose*, 657 P.2d at 263. The Court had, for example, approved an exemption where only 10 percent of a lodge's revenue was used for charitable purposes. *Id.* The Court eventually concluded that "deciding whether the contribution of two percent, ten percent, or twenty percent of [an organization's] receipts to charity is enough to qualify [it] for a property tax exemption" is an "impossible situation." *Id*. at 263–64. The Court announced that it was "return[ing] to the standard enunciated in *Parker*" that "charitable use of the property must be exclusive." *Id*. at 264.

In the pre-*Moose* cases, non-charitable entities were using their property for their own inherently non-charitable activities, with a little charity on the side. *See Vogt*, 190 S.W. at 697 ("De Molay Commandery is essentially a fraternal and social organization, and … the charity it dispenses is only an incident to the work it performs."). Indeed, many non-501(c)(3) entities are nonprofit under state law and tax-exempt under federal law, but are *not* organized or operated exclusively for charitable purposes. These include, *inter alia*, § 501(c)(8) fraternal lodges, § 501(c)(7) social clubs, § 501(c)(6) business

leagues, § 501(c)(5) labor unions, and § 501(c)(4) civic leagues. IRC § 501(c). These entities' primary purposes are non-charitable.

The very names of many cases reveal that they involve these types of tax-exempt but inherently non-charitable organizations. *See, e.g.*, *Salt Lake Lodge No. 85, Benevolent and Protective Order of Elks v. Groesbeck*, 40 Utah 1 (1911); *Benevolent & Protective Order of Elks No. 85 v. Tax Comm'n*, 536 P.2d 1214 (Utah 1975); *Loyal Order of Moose No. 259 v. Cty. Board*, 657 P.2d 257, 262–63 (Utah 1982); *Salt Lake County v. Tax Comm'n ex. rel. Laborers Local No. 295*, 658 P.2d 1192 (Utah 1983).

In *Loyal Order of Moose*, the Court concluded that the precise percentage of funds that non-charitable organizations dedicate to charitable purposes is irrelevant to the constitutional inquiry. 657 P.2d at 263–64. Such organizations can receive an exemption for a portion of their property that is dedicated exclusively to charitable use. But a labor union, for example, cannot exempt its union hall from property tax by performing some charity on the side. *See Laborers Local No. 295*, 658 P.2d at 1192. The Court determined it would "strictly" – *i.e., correctly* – apply the charitable use exemption "to club houses and to fraternal and benevolent societies" by discontinuing exemptions based on partial charitable use by these non-charitable entities. *See Loyal Order of Moose*, 657 P.2d at 261.

The *Eyring Research* case similarly presents a situation where a federally tax-exempt entity had a "chief preoccupation" that was not charitable. 598 P.2d at 1350. There was *no gift to the community*. Eyring Research Institute neither lessened government burdens nor provided a substantial imbalance in its services: it performed 96

percent of its work on government contracts, but its fees were not "substantially, or even noticeably, lower than fees charged by private, profit-making research organizations." 598 P.2d at 1350. Eyring Research did not provide discounts to government or nonprofits; did not choose its own research topics, but "offer[ed] its chosen research capabilities to anyone interested in purchasing them;" did not publish all of its research; and benefitted the public "only incidentally," rather than as its motivating purpose. 598 P.2d at 1350–51.

3. Business Activity Substantially Related to Advancing Charitable Purposes Is Charitable Use.

The above cases are, therefore, inapposite. They do not address the situation present here, in which a federally classified public charity generates revenue from business activity substantially related to its charitable purposes. Such activity falls squarely within the charitable use exemption.

a. A Charity Can Charge for Services.

Charitable use includes charging market rates to non-charitable beneficiaries, where the activity is substantially related to the charity's exempt purpose. In *Howell*, for example, the county assessors argued that hospitals charging fees to those that can afford it invalidates their charitable activity. 881 P.2d at 888–89. This Court rejected that argument and concluded that "a hospital can charge patients who have the ability to pay a fee sufficient to recover the cost of providing charitable care." *Id.*; *see also Yorgason,* 714 P.2d at 660 ("jurisdictions across the country have also held that in order to qualify as an exclusively charitable organization assistance does not have to be cost-free"); *Youth*

Tennis Foundation, 554 P.2d at 223 ("Sales which are made merely incidental to and consistent with charitable purposes do not change that character or deprive it of attendant protections.").

b. The Concept of Substantially Related Business Activity Is Incorporated into Utah Law.

Federal law provides a well-developed body of law distinguishing between charitable and non-charitable activities based on the connection to the entity's charitable purposes:

> An organization may meet the requirements of section 501(c)(3) although it operates a trade or business as a substantial part of its activities, *if the operation of such trade or business is in furtherance of the organization's exempt purpose or purposes* ….

Treas. Reg. 1.501(c)(3)-1(e)(1) (emphasis added).

A federally tax-exempt entity pays tax on UBI—*i.e.*, income derived from an *unrelated* business activity. *See* IRC §§ 511–513. Federal law thus distinguishes between business activities that are *related* and *contribute importantly to* exempt purposes and those that do not. The "test ... is whether the activities productive of the income in question contribute importantly to the accomplishment of exempt purposes." Treas. Reg. § 1.513-1(d)(4)(iii). These concepts have been widely adopted by states,[8] including Utah.

[8] *See, e.g.*, *Raintree Friends Housing, Inc. v. Indiana Dept. of State Revenue*, 667 N.E.2d 810, 814, 817 (Ind. T.C. 1996) (relying on the "interpretations of the term 'charitable' ... in the context of property taxation" and finding taxpayer "organized and operated exclusively for charitable purposes" where income was not "unrelated business income" as defined in federal law); *GDT CG1, LLC v. Oklahoma County Bd. of Equalization*, 172 P.3d 628, 634, 639 (Okla. Civ. App. 2007) ("Fitness Center's activities ... are substantially related to MJI's exempt purposes.... Fitness Center is used exclusively for charitable purposes and is exempt from ad valorem taxation."); *Harold Warp Pioneer*

For example, the Legislature has adopted the entirety of the federal UBI regime for purposes of determining whether a tax-exempt entity owes Utah income tax on business income. Utah Code §§ 59-7-102(1)(a), 59-7-802(1). UBI is defined in Utah law as "unrelated business income as determined under [the] Internal Revenue Code." *Id.* § 59-7-801. Thus, an entity classified under IRC § 501(c)(3) is exempt from Utah income tax, but is subject to tax on UBI, as defined in federal law.

The Commission also applies federal UBI standards for purposes of sales tax. R865-19S-43 ("Religious and charitable institutions must collect sales tax on any sales income arising from unrelated trades or businesses .... The definition of the phrase 'unrelated trades or businesses' shall be the definition of that phrase in [IRC §] 513 ....").

c. Tax Exemptions for Hospitals Are Otherwise Inexplicable

An observer armed only with *Parker* and *Loyal Order of Moose* might wonder how a hospital could possibly qualify for tax exemption in Utah. After all, the Court made clear that "the contribution of two percent, ten percent, or [even] twenty percent of [an organization's] receipts to charity is" not sufficient to support an exemption. *Loyal Order of Moose*, 657 P.2d at 263–64. Moreover, much of the provision of healthcare does

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Village Foundation v. Ewald, 287 Neb. 19, 26 (2013) (finding "instructive" IRS determination that operating motel and campground was "substantially related to the accomplishment" of foundation's purposes and granting property tax exemption); *Alabama State Florists Ass'n, Inc. v. Lee County Hosp. Bd.*, 479 So.2d 720, 724 (Ala. 1985) ("[T]his activity is substantially related to the purposes constituting the basis for the hospital's exemption and does not constitute unrelated trade or business under § 513 of the [U.S.] Code."); *Davis Memorial Hosp. v. West Virginia State Tax Com'r*, 222 W.Va. 677, 686 (2008) ("[T]he tax exemption … states that … 'support' must include gross receipts from any activity which is not an unrelated trade or business income….").

not directly or immediately lessen government burdens, often there is not a substantial imbalance between the value provided and the price paid by hospital patients, and a hospital generates substantial revenue based on its provision of services.

This Court nevertheless affirmed the grant of a charitable use exemption to nonprofit hospitals in *Howell*, 881 P.2d 880, 884–90 (Utah 1994). *Howell* demonstrates that *Parker* and *Loyal Order of Moose* are not controlling here, as they do not contemplate: (a) an entity organized for charitable purposes, that (b) generates income through activities substantially related to those charitable purposes.

d. Purpose is the Key Inquiry.

Activities viewed in isolation are neither charitable nor uncharitable. Giving money to a poor child can be charitable, negligent, or even abusive. Purpose matters.

A business activity that might not appear charitable in isolation is a charitable activity if it is substantially related to and contributes importantly to an entity's charitable purposes. A nonprofit hospital allows doctors to charge market rates for providing elective surgeries. Nonprofit hospitals might also operate a cafeteria or pharmacy, which can be substantially related to providing care to the sick. As *Howell* demonstrates, such revenue-generating activities are consistent with a charitable use exemption.

4. SMRTL Is a Straightforward Case of a Charitable Entity Generating Income Through An Activity Substantially Related to Its Charitable Purposes.

Testing professional athletes is an integral part of SMRTL's public safety mission. SOF p.10. SMRTL needs the high volume provided by testing professional athletes to maintain the proficiency and expertise that support its accreditation. SOF p.10. SMRTL

needs to perform testing for professional sports leagues to advance its public-safety mission: to detect what substances and techniques are used by elite athletes, who are imitated by the community; to identify areas that need to be studied and researched; to have the data necessary to perform that research; and to identify consumer products that may be dangerous to the public. SOF p.10. None of SMRTL's income from this activity is taxed by the IRS or Utah as UBI, precisely because it is substantially related to SMRTL's charitable purposes. SOF p.10.

With respect to the "exclusive use" requirement, the Commission erred in two respects. First, it erroneously viewed the "exclusive use" requirement under Utah law as materially narrower than the federal standard. R.506–07. Under federal law, an organization operates exclusively for exempt purposes if it engages "primarily" in activities that accomplish exempt purposes. Treas. Reg. § 1.501(c)(3)-1(c)(1). An organization fails the federal "primarily" test if "more than an insubstantial part" of its activities do not further exempt purposes. *Id*. This noticeably resembles Utah's standard from *Loyal Order of Moose*, which looks to whether more than a "minor" or "de minimus" part of activities do not further exempt purposes. 657 P.2d at 264. The resemblance in law also shows up in practice: properties that failed Utah's exclusive use test were used for substantial non-charitable purposes. *See supra* pp.37–39.

Moreover, any distinction is irrelevant here because SMRTL is not relying on the federal standard as a basis for exemption. This is not a case of engaging primarily in charitable activity, or of engaging in a mix of charitable and non-charitable activities. *All* of SMRTL's activities contribute importantly toward its charitable purposes.

Second, the Commission erroneously concluded that a revenue-raising activity that is substantially related to charitable purposes fails the exclusive use requirement. As discussed, the concept of substantially related activity is both widely recognized and incorporated in Utah law. It was error not to apply it in the property tax context.[9]

5. The Commission's References to Lack of Quantification Are a Red Herring.

In its Order, the Commission stated that SMRTL did not quantify the full breadth of its charitable undertakings. *See, e.g.*, R.498 ("there was not specific data presented on how many times SMRTL had discovered dangerous products"); R.498 ("SMRTL did not provide a list of all of the work provided or the value of the work donated to the government agencies."); R.499 (SMRTL "did not calculate exactly how much of a subsidy it was providing to any of the organizations"); R.500 ("Lack of quantifiable data on the actual amount of the gift provided by SMRTL to any given agency, individual or organization."). These statements are a red herring. SMRTL demonstrated that it is exclusively engaged in charitable activities, which is all the constitution requires.

Indeed, this Court has stated that deliberating on exact percentages is a futile endeavor. *Supra*, p.38. Some decisions have addressed whether the gift to the community "outweighs" the taxes foregone by granting exemption. *E.g.*, *Yorgason*, 714 P.2d at 660 & n.29. Were that degree of quantification required, it has been met. The proposed tax on

[9] The Commission also erred by treating SMRTL's property under construction like vacant land. R.507 n.54. "[T]he commencement of construction qualifies the property for tax exemption." *Corporation of Episcopal Church v. Tax Comm'n*, 919 P.2d 556, 560 (Utah 1996).

the Property amounts to a little over $100,000 annually. SOF p.12. SMRTL provides millions in charitable services. SMRTL subsidizes tens of thousands of tests each year – about half of its total non-research testing volume. SOF pp.1–10. The subsidy to one 501(c)(3) client alone, the U.S. Anti-Doping Agency, exceeds $1 million annually. SOF p.8. The dollar quantum of SMRTL's charitable activities, to whatever extent quantification matters, is plainly sufficient.

II. If Prior Case Law Bars a Grant of SMRTL's Application, This Court Should Revisit Its Decisions and Construe the Constitutional Language in Accordance with Its Original Meaning.

As demonstrated above, applying the principles enunciated in this Court's prior decisions, SMRTL uses its property exclusively for charitable purposes. But if this Court were to view prior case law as barring a grant of SMRTL's application, this Court should revisit its construction of the phrase "used exclusively for religious, charitable, or educational purposes" in article XIII, section 3, which likewise dictates the meaning of the charitable use exemption in Utah Code section 59-2-1101(1)(b). As understood by the people of Utah, the phrase "used exclusively for … charitable … purposes" includes the manner in which SMRTL uses its Property.

When determining how much weight to give to a prior decision, this Court examines "(1) the persuasiveness of the authority and reasoning on which the precedent was originally based," and "(2) how firmly the precedent has become established in the law since it was handed down." *Eldridge v. Johndrow*, 2015 UT 21, ¶ 22, 345 P.3d 553. "The second factor encompasses a variety of considerations, including the age of the precedent, how well it has worked in practice, its consistency with other legal principles,

and the extent to which people's reliance on the precedent would create injustice or hardship if it were overturned." *Id.*

A. This Court's Prior Decisions Have Not Resulted in a Well-Developed or Firmly Established Body of Law.

This Court's prior decisions construing the charitable use exemption, as interpreted and applied by the Commission here, are difficult to reconcile. While this Court has defined "charity" and "charitable use" based on generally accepted legal principles, recognized that the constitution's "used exclusively for … charitable … purposes" phrase is not to be interpreted literally, and held that revenue-generating activities unrelated to charitable purpose are not exclusive charitable use, the principles underlying this Court's rulings are otherwise difficult to distill.

This Court has struggled to develop a consistent body of case law following *Parker*, in part because property is rarely divided into parts clearly used for separate and distinct activities, with each part having a readily ascertainable value. From 1911 through 1975, the Court construed the charitable use exemption as applying to entities substantially engaged in charitable activities. Ostensibly "if the use of the property [was] *primarily* to engage in and foster activities which are charitable," the exemption was satisfied. *Loyal Order of Moose*, 657 P.2d at 263 (emphasis in original). Yet the Court's decisions were "difficult to justify" under the "primarily used" approach, as the decisions appeared to construe the charitable use exemption more broadly than even the "primarily used" standard could support. *Id.* at 264.

In 1982, the Court announced it was "overrul[ing]" its prior case law and adopting a different test: "the charitable use of the property must be exclusive," but "a use of true minor import or a de minimus [non-charitable] use will not defeat the exemption." *Id.* A few years later, in 1985, the Court announced its six-factor test for determining "whether a particular institution is in fact using its property exclusively for charitable purposes." *IHC*, 709 P.2d at 279 (ellipsis, citation, and internal quotation marks omitted). Applying that test, the Court held that a nonprofit hospital did not qualify for the charitable use exemption. *Id.* at 278.

The following year, however, this Court characterized its six-factor test "as guidelines only" and not "exclusive or … equally beneficial in each case." *Yorgason*, 714 P.2d at 657 & n.16; *see also id.* at 662 (Zimmerman, J., concurring) (referring to the factors as "six variables" and concluding a different "analytical framework [was] of more use" in the context at issue). And in 1994, this Court further walked back its ruling. The Court affirmed the grant of a charitable use exemption to nonprofit hospitals, stating that the Commission had "understandably concluded" that the Court's six-factor framework was "too elusive for routine administrative application." *Howell*, 881 P.2d at 884–90. This Court approved of the Commission's use of guidelines that incorporated federal charitable "private inurement" rules, observing that the federal standard was "widely applied" and had generated "a well-developed body of law." *Id.* at 886.

Based on this inconsistent body of law, which has remained largely untouched since the mid-1990's, tax exemptions have routinely been granted to hospitals and Olympics-related entities. The role of this Court's six-factor test when evaluating such

exemptions is unclear. Indeed, the Commission did not consider or apply the Court's multi-factor framework when assessing SMRTL's Application. Rather, the Commission simply noted the six-factor test, characterized it as applicable to "nonprofit hospitals," and observed that "some of the factors of the six-factor test" incorporate elements "required both in the constitution and the statutes in effect for tax year 2020." R.505.

Attempting to clarify this uncertain area of the law, the Legislature recently adopted definitions for the charitable use exemption roughly predicated on this Court's six-factor framework. *See* Utah Code § 59-2-1101(1)(a), (d), (f). But the new statutory language is plainly unconstitutional. *See IHC*, 709 P.2d at 268 ("[Article] XIII grants a charitable exemption and our statutes cannot expand or limit the scope of the exemption or defeat it.") (emphasis, citation, and internal quotation marks omitted). The new language requires that the factors be established to demonstrate charitable use, rather than treating the factors as variables that may not be relevant in a particular context, as this Court's case law instructs.

B. This Court's Prior Decisions Are Therefore Entitled to Little Weight.

Should this Court conclude that an element of its case law bars the Court from ruling in SMRTL's favor, this Court should overrule prior case law and construe the charitable use exemption in accordance with its original meaning. The Court's attempt to narrow the scope of the charitable use exemption in *Loyal Order of Moose* did not rest on what the people of Utah would have understood the constitutional language to mean. To the contrary, the Court acknowledged that its holding was *inconsistent* with the

"interpretation of law that ha[d] been relied upon for … many years." *Loyal Order of Moose*, 657 P.2d at 265.

In 1985, the Court again undertook no original meaning analysis and, without addressing the consequences of the change, simply adopted a six-factor test articulated by another court and ruled that property of a nonprofit hospital was not tax exempt. *See IHC*, 709 P.2d at 268–20 & n.6. Yet, just a few years later, the Court affirmed the tax exemption of other nonprofit hospitals, under standards the Commission had developed. *Howell*, 881 P.2d at 882. The Court's jurisprudence has not been further developed, and there is no settled approach in place with respect to the scope and meaning of the charitable use exemption.

Finally, the Court's multifactor test is (1) outdated, given that the Utah Constitution now requires nonprofit status as a prerequisite for the charitable use exemption, (2) admittedly "too elusive for routine administrative application," *Howell*, 881 P.2d at 885, and (3) suffers from the same defects as other multifactor tests. The framework "encourage[s] courts to balance the factors against each other in a way that … distract[s] from the ultimate question," resulting in "a test [planted] into our jurisprudence that" should be "prune[d] back or d[u]g out." *See State v. Sosa-Hurtado*, 2019 UT 65, ¶ 110, 455 P.3d 63 (Pearce, J., concurring). The test also fails to generate predicable results, as exemplified by the Commission's adoption of standards to obtain a workable test, and by the fact that nonprofit hospitals may or may not be exempt, depending on how the six factors are applied. No reliance interests will therefore be upset if the six-factor test is altered or overruled.

Admittedly, the Legislature has attempted to codify the Court's jurisprudence, which is a type of reliance. But the new statutory provision was only recently enacted, and it unconstitutionally prohibits contextual examination of a property's use. The Legislature's unconstitutional reliance on this Court's case law exemplifies the need for clarification, not an interest in maintaining the status quo. The Legislature, along with the Commission and the people of Utah, would benefit substantially from construction of the charitable use exemption that is clear, predictable, and soundly grounded.

The Court's prior case law should therefore be revisited, and the charitable use exemption should be interpreted in accordance with its original meaning.

C. The People of Utah Understand the Charitable Use Exemption to Include the Manner in Which SMRTL Uses Its Property.

1. When Construing Constitutional Language, This Court Attempts to Ascertain Its Original Public Meaning.

When engaging in a constitutional analysis, this Court seeks "to ascertain and give power to the meaning of the [constitutional] text as it was understood by the people who validly enacted it as constitutional law." *Randolph*, 2022 UT 34, ¶ 57 (citation and internal quotation marks omitted). "This approach requires us to determine the original public meaning of the constitutional provision in question at the time it was adopted." *Id.* (ellipsis, citation, and internal quotation marks omitted).

"Although the text's plain language may begin and end the analysis, [the] constitutional inquiry does not require us to find a textual ambiguity before we turn to those other sources." *Patterson v. State*, 2021 UT 52, ¶ 91, 504 P.3d 92 (alterations, citation, and internal quotation marks omitted). "Where doubt exists about the

constitution's meaning, we can and should consider all relevant materials." *Id.* (citation and internal quotation marks omitted). Relevant materials include "the [constitutional] language, other provisions in the constitution that may bear on the matter, historical materials, and policy." *Randolph*, 2022 UT 34, ¶ 57 (brackets, citation, and internal quotation marks omitted).

When construing constitutional language that has been repeatedly enacted, this Court does not "look back" to voters' understanding of the language at the time of earlier enactments absent "some evidence that the voters intended the amended language to carry" a meaning from an earlier period. *See Patterson*, 2021 UT 52, ¶ 137. Otherwise, the Court would be required to conclude that at the time of the later enactment, "the public evaluating the proposed amendment … understood that" the language was not being used "as they generally understood it, but as" the language would have been understood by the people of Utah at an earlier time. *See id.* ¶ 138.

2. The People of Utah Understand the Charitable Use Exemption to Include the Manner in Which SMRTL Uses Its Property.

The original Utah Constitution exempted from property taxation "lots with the buildings thereon used exclusively for either religious worship or charitable purposes." Utah Const. art. XIII § 3 (1896). This provision was repeatedly amended and restated, with generally the same language, until 1982. The provision was reworded slightly in 1982, providing that "[p]roperty owned by a nonprofit entity which is used exclusively for religious, charitable or educational purposes" is tax exempt. Utah Const. art XIII § 2

(1982). In subsequent years, this provision was again repeatedly amended and restated, in 1986, 1996, 2002, 2006, 2010, 2012, and 2017.

While the result in this case does not depend on the timeframe on which this Court focuses, there is no reason to conclude that the people of Utah, when enacting language in 2017, would have thought the charitable use exemption meant anything other than their contemporaneous understanding of the language. And as demonstrated above, the people of Utah would have been familiar with the notion of "charitable," both generally and for tax purposes, in a manner that includes the use of SMRTL's property.

As demonstrated above, the concept of exclusive charitable use constitutes a legal term of art, *see S. Salt Lake City v. Maese*, 2019 UT 58, ¶ 27 n.10, 450 P.3d 1092, well-embedded in Utah law. The term reflects a broad notion of "charitable" that evolves over time, heavy reliance on federal classification of "charitable" entities and income tax standards, treatment of substantially related business activity as part of an entity's tax-exempt purposes, and the grant of tax-exempt status to Olympic-affiliated nonprofit entities. SMRTL is organized for charitable purposes and provides extensive benefits to the community through its free and reduced-cost testing, consultation, research, and other charitable activities. The people of Utah would thus understand the charitable use exemption to include the manner in which SMRTL uses its property.[10]

[10] It is not possible to provide a full stare decisis analysis and complete discussion of the original meaning of the charitable use exemption, along with arguments addressing this Court's current case law, within the 14,000 word limit applicable to this brief. Should this Court anticipate revisiting its construction of the charitable use exemption for purposes of this case, SMRTL requests the opportunity to provide supplemental briefing on these issues.

CONCLUSION

For the foregoing reasons, SMRTL respectfully requests that the Commission's Order be overruled and that this Court grant SMRTL's application for a property tax exemption for 2020.

DATED this 28th day of August, 2023.

RAY QUINNEY & NEBEKER P.C.

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CERTIFICATE OF COMPLIANCE

1) I hereby certify that this brief complies with the word limit prescribed by Utah R. App. P. 24(g), in that it contains 13,935 words, excluding the parts of the brief exempted by Rule 24(g)(2). In addition, pursuant to Rule 24(a)(11)(A), the word processing system used to prepare the brief (Microsoft Word) has been relied upon to determine the word count.

2) I hereby certify that this brief complies with Utah R. App. P. 21(h) governing public and private records.

DATED this 28th day of August, 2023.

RAY QUINNEY & NEBEKER P.C.

/s/ Samuel A. Lambert

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of August 2023, true and correct copies of this **BRIEF OF PETITIONER** was delivered via email to:

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ADDENDUM

(1) Utah Constitution article XIII, section 3

(2) Utah Code § 59-2-1101 (version in effect for tax year 2020)

(3) Amended Findings of Fact, Conclusions of Law, and Final Decision dated August 30, 2022. (R.493–511)

(4) Public tax records for Olympic-related properties in Salt Lake and Summit Counties

Utah Constitution article XIII, section 3 (emphasis added)

(1) The following are exempt from property tax:

(a) property owned by the State;

(b) property owned by a public library;

(c) property owned by a school district;

(d) property owned by a political subdivision of the State, other than a school district, and located within the political subdivision;

(e) property owned by a political subdivision of the State, other than a school district, and located outside the political subdivision unless the Legislature by statute authorizes the property tax on that property;

(f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(g) places of burial not held or used for private or corporate benefit;

(h) farm equipment and farm machinery as defined by statute;

(i) water rights, reservoirs, pumping plants, ditches, canals, pipes, flumes, power plants, and transmission lines to the extent owned and used by an individual or corporation to irrigate land that is:

(i) within the State; and

(ii) owned by the individual or corporation, or by an individual member of the corporation; and

(j)(i) if owned by a nonprofit entity and used within the State to irrigate land, provide domestic water, as defined by statute, or provide water to a public water supplier:

(A) water rights; and

(B) reservoirs, pumping plants, ditches, canals, pipes, flumes, and, as defined by statute, other water infrastructure;

(ii) land occupied by a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is owned by the nonprofit entity that owns the reservoir, ditch, canal, or pipe; and

(iii) land immediately adjacent to a reservoir, ditch, canal, or pipe that is exempt under Subsection (1)(j)(i)(B) if the land is:

(A) owned by the nonprofit entity that owns the adjacent reservoir, ditch, canal, or pipe; and

(B) reasonably necessary for the maintenance or for otherwise supporting the operation of the reservoir, ditch, canal, or pipe.

(2)(a) The Legislature may by statute exempt the following from property tax:

(i) tangible personal property constituting inventory present in the State on January 1 and held for sale in the ordinary course of business;

(ii) tangible personal property present in the State on January 1 and held for sale or processing and shipped to a final destination outside the State within 12 months;

(iii) subject to Subsection (2)(b), property to the extent used to generate and deliver electrical power for pumping water to irrigate lands in the State;

(iv) up to 45% of the fair market value of residential property, as defined by statute;

(v) household furnishings, furniture, and equipment used exclusively by the owner of that property in maintaining the owner's home; and

(vi) tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue.

(b) The exemption under Subsection (2)(a)(iii) shall accrue to the benefit of the users of pumped water as provided by statute.

(3) The following may be exempted from property tax as provided by statute:

(a) property owned by a disabled person who, during military training or a military conflict, was disabled in the line of duty in the military service of the United States or the State;

(b) property owned by the unmarried surviving spouse or the minor orphan of a person who:

(i) is described in Subsection (3)(a); or

(ii) during military training or a military conflict, was killed in action or died in the line of duty in the military service of the United States or the State; and

(c) real property owned by a person in the military or the person's spouse, or both, and used as the person's primary residence, if the person serves under an order to federal active duty out of state for at least 200 days in a continuous 365-day period.

(4) The Legislature may by statute provide for the remission or abatement of the taxes of the poor.

Utah Code § 59-2-1101 (version in effect for tax year 2020) (emphasis added)

(1) As used in this section:

(a) "Educational purposes" includes:

(i) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(ii) an activity in support of or incidental to the teaching, training, or conditioning described in Subsection (1)(a)(i).

(b) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

(c) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(d) "Nonprofit entity" includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

(e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part.

(2)(a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption under Section 59-2-1104.

(3)(a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part; and

(b) designate one or more persons to perform the functions given the county under this part.

BEFORE THE UTAH STATE TAX COMMISSION

SPORTS MEDICINE RESEARCH AND TESTING LABORATORY, Petitioner, v. BOARD OF EQUALIZATION OF SALT LAKE COUNTY, STATE OF UTAH, Respondent.	**AMENDED[1] FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION** Appeal No. 20-1618 Parcel No.: 27-**13**-328-001-0000 Tax Type: Property Tax/Exemption Tax Year: 2020 Judge: Phan

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. Subsection 6 of that rule, pursuant to Sec. 59-1-404(4)(b)(iii)(B), prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. Pursuant to Utah Admin. Rule R861-1A-37(7), the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must send the response via email to taxredact@utah.gov, or via mail to Utah State Tax Commission, Appeals Division, 210 North 1950 West, Salt Lake City, Utah 84134.

Presiding:

Jennifer N. Fresques, Commissioner
Jane Phan, Administrative Law Judge

Appearances:

For Petitioner:	Samuel Lambert, Attorney at Law
	Bruce Olson, Attorney at Law
For Respondent:	Bradley Johnson, Deputy District Attorney for Salt Lake County
	Tim Bodily, Deputy District Attorney for Salt Lake County

[1] The Findings of Fact, Conclusions of Law, and Final Decision previously issued on August 2, 2022 incorrectly listed the parcel number as 27-12-328-001-0000, which should be 27-13-328-001-0000. This Decision is being amended to correct that error.

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 4, 2022, in accordance with Utah Code Ann. §59-2-1006 and §63G-4-201 et seq. Based upon the evidence and testimony presented at the hearing and the legal arguments submitted by the parties in posthearing briefing,[2] the Tax Commission hereby makes its:

FINDINGS OF FACT

1. Petitioner Sports Medicine Testing and Research Laboratory ("SMRTL") is appealing Respondent's ("County's") denial of an exclusive use property tax exemption for property owned by SMRTL for tax year 2020. SMRTL had filed an Application for Exemption with the County dated February 27, 2020.[3] The County had notified SMRTL of the denial by letter dated May 21, 2020.

2. SMRTL timely appealed the County's decision to the Utah State Tax Commission and the matter proceeded to this Formal Hearing.

3. The parties were not in dispute that SMRTL owned the property subject to this appeal.

4. The parties were not in dispute that SMRTL was a nonprofit entity. The parties had submitted Stipulated Exhibit 1 which contained a letter from the Internal Revenue Service dated June 8, 2013. The letter stated that SMRTL was classified as an organization exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The letter also stated, "Based on the information you provided, we determined you meet the requirements for classification as a public charity described in section 509(a)(4) of the Code."[4] SMRTL was incorporated under the Utah Revised Nonprofit Corporation Act on December 1, 2003.[5] As noted in its Articles of Incorporation, "No part of the net earnings of the corporation shall inure to the benefit of or be distributable to any member of the corporation which is not then an exempt organization described in section (501)(c)(3) of the Internal Revenue Code . . ."[6]

5. The parties stipulated to the admissibility of the exhibits offered at the Formal Hearing and Stipulated Exhibits 1-15 were received into the hearing record. SMRTL offered as fact witnesses Dr. Daniel Eichner, CEO of SMRTL, and Christopher West, Head of Finance for SMRTL. The County did not offer any other fact witnesses at the Formal Hearing, but did examine the SMRTL witnesses.

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[2] Both Petitioner and Respondent submitted simultaneous Posthearing Briefs on May 16, 2022, and both submitted Reply Briefs dated May 26, 2022.
[3] Stipulated Exhibit 1.
[4] Stipulated Exhibit 1, p. 0078.
[5] Stipulated Exhibit 1, p. 0011.
[6] Stipulated Exhibit 1, p. 0013.

6. The property subject to this appeal is parcel no. 27-13-328-001, located at 10644 South Jordan Gateway in South Jordan, Utah. SMRTL had acquired the land in March of 2019 and had commenced construction of the building to serve as its administrative offices and laboratory in June 2019. Construction was not complete as of the January 1, 2020 lien date.[7] Dr. Daniel Eichner, CEO of SMRTL, testified that the property is 2 acres of land, and has a multi-storied parking structure and a building that has "about 80,000 square feet of lab space." Dr. Eichner acknowledged, "we do not utilize the whole building right now." He explained the plan was that "if the Olympics comes back here, that we wouldn't need a new facility, and that would greatly enhance the organizing committee's bid for saving money and so forth."[8]

7. SMRTL had been operating its laboratory facility for a number of years at a location in Research Park at the University of Utah, prior to the purchase of the subject property. Dr. Eichner testified that they had wanted SMRTL to stay in Research Park, but were not able to get that worked out with the University of Utah. With their lease running out on their Research Park location, SMRTL had purchased the subject property land and commenced construction of the new laboratory space.[9]

8. Dr. Eichner testified that SMRTL was created as a joint effort among the University of Utah, the United States Anti-Doping Agency ("USADA"), the NFL Foundation for Health Research ("NFLFHR")[10] and the NCAA. He explained that SMRTL was created at the time when one of the two permanent World Anti-Doping Agency ("WADA") accredited labs in the United States had shut down and as all Olympic, Paralympic and Pan American games athletes needed access to WADA-accredited testing in order to compete, there was concern in the United States about having to rely on a single accredited laboratory.[11]

9. In 2006 SMRTL received accreditation from WADA and since then it has been one of only two laboratories in the United States qualified to test Olympic, Paralympic and Pan American games athletes for performance-enhancing and other prohibited drugs.[12] WADA requires that SMRTL maintain both a testing and a research program. SMRTL represented that it must devote at least 7% of its budget to scientific research related to performance enhancing drugs and publish its research in peer-reviewed literature.[13] There are 32 WADA accredited labs

[7] Stipulated Exhibit 1, p. 0004.
[8] Transcript pp. 122-124.
[9] Transcript, p. 35.
[10] Stipulated Exhibit 1, p. 0004.
[11] Transcript, p. 30.
[12] Testimony of Mr. Eichner, Transcript pp. 31-32.
[13] Stipulated Exhibit 1, p. 0004.

in the world. SMRTL's representative testified that SMRTL is the only WADA accredited lab that is non-government funded.[14]

10. As set out in its Articles of Incorporation, SMRTL's mission and purposes were stated as the following:[15]

> Section 3.1 Purposes. The corporation is organized and shall be operated exclusively for charitable, scientific and educational purposes, and to foster national and international amateur sports competition, within the meaning of sections 501(c)(3) of the Internal Revenue Code of 1986, as amended, and to the corresponding provisions of any subsequent federal tax law (the "Internal Revenue Code"). Subject to the foregoing, the specific purposes and objectives of the corporation shall include, but not be limited to the following:
> (a)to promote the health of the general public by promoting the use of effective drug testing as a deterrent to discourage athletes from using performance enhancing and other prohibited substances which endanger health and/or enhance athletic performance;
> (b) to foster fair and safe national and international amateur sports competition by promoting drug-free sports competition at all amateur and professional levels, which shall be accomplished through: (i) the detection of previously unknown performance enhancing substances, and (ii) the ongoing development and refinement of techniques for identifying and testing for the prohibited use of performance enhancing or other prohibited substances and doping methods;
> (c) to promote, conduct and enhance scientific research relating to the identification and development of effective testing procedures for performance enhancing substances;
> (d) to assure the availability of, and to conduct, high quality testing necessary to the enforcement by applicable enforcement bodies of prohibitions on the use of performance enhancing and other prohibited substances and doping methods;
> (e) to promote educational opportunities relating to anti-doping research;
> (f) to develop ethical principles relating to testing procedures for use of performance enhancing and other prohibited substances;
> (g) to maintain and distribute information on prohibited substances, prohibited doping methods, and methods of detecting prohibited substance use;
> (h) to enter into collaborative agreements with other anti-doping laboratory organizations for the purpose of detecting and prohibiting the use of performance enhancing and other prohibited substances;
> (i) to make distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code; and
> (j) to undertake such other lawful activities which may be consistent with these purposes, or for which a nonprofit corporation may be organized under Chapter 6, Title 16, Utah Code Annotated.

11. Dr. Eichner testified that the summary provided in the Articles of Incorporation was an accurate summary of SMRTL's purposes.[16] He testified that SMRTL was "a sports medicine research and testing laboratory." He explained "we do

[14] Testimony of Mr. Eichner, Transcript pp. 41-42.
[15] Stipulated Exhibit 1, pp. 0011-0013.
[16] Transcript, p. 37.

research and we do testing, and we specifically specialize in performance-enhancing substances."[17]

12. SMRTL filed federal Forms 990 Return of Organization Exempt from Income Tax. For Tax Year 2018, Form 990, Line 8 indicated that SMRTL had received $397,134 in contributions and grants and $10,967,994 in Line 9 program service revenue, which Part VIII of the form indicated came from testing fees. The contribution and grants were reported to all be from one source, Partnership for Clean Competition. SMRTL had reported $11,716,266 in total revenue on Line 12.[18] For tax year 2019 SMRTL had reported on Line 8, $627,878 in contributions and grants, $9,051,886 in program revenue and $9,813,945 in total revenue.[19] Schedule B of that form listed that the contributions and grants had come from three different organizations: the Partnership for Clean Competition; the World Anti Doping Agency; and Major League Baseball.[20] Schedule O of both the 2018 and the 2019 returns indicated that SMRTL had only one member or stockholder and that its sole member was the NFL Foundation for Health Research, which it listed as a 501(c)(3) organization.[21]

13. Dr. Eichner discussed that he felt SMRTL was performing a function related to public safety. He explained that by testing professional and amateur athletes, SMRTL learns "what may be getting used, because it's a snapshot that the government will never see because there's no routine testing in the community . . . to see whether people are potentially consuming or administering dangerous substances knowingly or unknowingly." He explained that from "the testing that we do in the regular amateur athletics or in the professional leagues, we get a snapshot of what could be used in the community, and then we can focus in on those products, we could purchase and acquire the different products that may be getting used, abused, knowingly or unknowingly, and then make . . . important recommendations to the . . . enforcement agencies, in some instances, or just the greater general public as far as these things are dangerous for these reasons."[22] Dr. Eichner testfied, "we've worked directly with the federal government in certain instances, with state governments, with a lot of medical institutes to help . . .educate these people" on "the different problems or dangers that could be associated with

[17] Transcript, pp 28-29.
[18] Stipulated Exhibit 3.
[19] Stipulated Exhibit 4.
[20] Stipulated Exhibit 4, p. 0244.
[21] Stipulated Exhibit 4, p. 0252.
[22] Transcript, pp. 37-38.

some of these products."'[23] He provided the example of data they initially discovered while testing professional athletes that led to SMRTL performing a nationwide study and publishing a research paper in the Journal of American Medical Association ("JAMA") that highlighted a number of over-the-counter products that were masquerading as supplements even though they contained a dangerous class of drugs called selective androgen receptor modulators. [24]

14. However, there was not specific data presented on how many times SMRTL had discovered dangerous products, how many times SMRTL had notified the public about dangerous products or how many times SMRTL had reported dangerous products to government agencies.

15. Dr. Eichner also testified that SMRTL performed work for various federal government agencies. He testified SMRTL performed testing for the Department of Defense's steroid testing program. He testified that "we do work for the DEA, the FBI. So various law enforcement agencies as well."[25] Dr. Eichner explained that although the Department of Defense and the DEA had their own labs, they still used the SMRTL lab, "because we're such a speciality lab in what we do."[26] He also asserted in his testimony that SMRTL performs work for the DEA for free and did "a lot of pro bono work for" the Department of Defense.[27] However, SMRTL did not provide a list of all of the work provided or the value of the work donated to the government agencies.

16. When asked what SMRTL charged for the testing he testified that "a lot of the stuff, we don't charge. And so, you know, the DEA work, we don't charge." He also testified about some testing done for specific medical patients and SMRTL did not charge for those tests. He also testified that SMRTL did testing for the University of Utah, and "we lose money on that one."[28] Dr. Eichner testified that "the professional leagues will pay what they should pay, and then everything else is, if you will, subsidized from those programs." Regarding how pricing was set for the discounted testing, Dr. Eichner testified that "traditionally what we try to do is we try to recoup our testing costs. So the reagents, you know, to run the analysis, we try to make sure we cover those ones there. Sometimes, you know, we get it fine, sometimes we don't and we lose money, and sometimes we might make, you know, a few dollars as well. But traditionally speaking,

[23] Transcript, p. 39.
[24] Transcript, pp. 39; 47.
[25] Transcript, p. 42.
[26] Transcript, p. 43.
[27] Transcript, p. 51.
[28] Transcript, p. 49.

we're not setting those programs to make money."[29] Dr. Eichner gave the example that they would charge $250 for a test to the professional league and for that test on average do three different screens, but for "our subsidized programs, we might do five or six different screens and we might only charge them $140."[30] He testified regarding SMRTL's charges to the Department of Defense, "I think they get a hundred dollar testing program that we would charge the professional leagues $250 for, and then they get a lot of their consultation for free."[31] However, Dr. Eichner testified that SMRTL did not calculate exactly how much of a subsidy it was providing to any of the organizations.[32] Dr. Eichner acknowledged that they charged the market rate for testing professional athletes but explained that this was needed in order for SMRTL to perform its research and also allowed SMRTL to remain in business.[33]

17. Dr. Eichner testified that SMRTL had worked directly with the federal government to get the Designer Steroid Substance Control Act passed. He explained that when DSSCA passed,[34] "it shut down most of the rogue chemists that were selling steroids trying to masquerade them as supplements . . there was a lot of people that were saved from bad liver damage."[35]

18. Dr. Eichner also testified SMRTL occasionally performed testing for research institutions.[36] SMRTL did provide some press releases or otherwise published information about some of SMRTL's activities. There was a press release dated April 8, 2021 from the United States Attorney's Office of the Eastern District of Lousianna regarding a conviction and sentencing for distribution of prescription medications, in which they gave SMRTL credit for assisting. There was an article dated October 2019 about the UFC anti-doping policy which mentioned that SMRTL had done testing and provided information. There was a blog post dated June 3, 2016 that discussed a seminar at the University of Utah involving Dr. Eichner. There was also a press release dated May 13, 2020, which discussed SMRTLs involvement in the first nationwide study for COVID-19 antibodies. [37]

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[29] Transcript, pp. 49-50.
[30] Transcript, p. 54.
[31] Transcript, p. 62.
[32] Transcript, p. 55.
[33] Transcript, p. 48.
[34] This act was passed in 2014. *See* https://www.congress.gov/bill/113th-congress/house-bill/4771.
[35] Transcript, p. 57.
[36] Transcript, p. 48.
[37] All press releases are in Stipulated Exhibit 13.

19. Dr. Eichner testified that SMRTL performed a significant amount of research and shared its findings in medical and science publications. He noted that SMRTL had published a research paper on a dangerous and unapproved class of drugs being sold as supplements.[38] SMRTL provided evidence that SMRTL or Dr. Eichner had been involved in the publication of numerous scientific or medical papers. SMRTL submitted a list of the publications that had occurred in the 2020-2022 time period. There were 17 publications on this list.[39] In addition, SMRTL provided copies of numerous medical or scientific articles that had been published in 2018 and 2019, for which SMRTL or its employees were involved. There was an article published in Haematologica in 2018 titled *Evaluation of Serum Markers for Improved Detection of Autologous Blood Transfusions.* There was a clinical research article published October 5, 2018, titled *Effects and Urinary Detection of Clomiphene in Men*. There was a research article published in eLifesciences.org, dated December 17, 2019, titled *Single-cell Modeling of Routine Clinical Blood Tests Reveals Transient Dynamics of Human Response to Blood Loss* and an editorial published in Clinical Chemistry September 30, 2019, titled *Dried Blood Spots May Improve Detection of Blood Doping*. A research article was published in Wiley on March 17, 2019, titled *Anti-Doping Analytes in Serum*. Another research article was published in Wiley on January 21, 2019, titled *Assessing Serum Albumin Concentration Following Exercise-Induced Fluid Shifts in the Context of the Athlete Biological Passport*, and another article was published on October 23, 2019 titled *Hematological Changes Following an Ironman Triathlon: An Antidoping Perspective*. There was an article published in the Journal of Pharmaceutical and Biomedical Analysis on August 10, 2019, titled *Investigating Oral Fluid and Exhaled Breath as Alternative Matrices for Anti-doping Testing* and an article was published in ScienceDirect on June 8, 2019, titled *Growth Hormone, Growth Hormone Secretagogues, and Insulin-like Growth Factor-1 in Sports: Prohibited Status, Therapeutic Use Exemptions and Analytical Detectability.*[40]

20. Although testimony was presented regarding free and discounted testing provided to government and other organizations or individuals, there was a lack of quantifiable data on the actual amount of the gift provided by SMRTL to any given agency, individual or organization. The most specific information provided was in SMRTL's Financial Statements. For the fiscal year ending June 30, 2020, the financial

[38] Transcript, pp. 39-40.
[39] Stipulated Exhibit 14.
[40] Copies of all publications are included in Stipulated Exhibit 10.

statements indicated that during that fiscal year, the National Football League accounted for 29.3% of the total testing fees, Major League Baseball accounted for 38.7% of the total testing fees and the United States Anti-Doping Agency accounted for 17.6% of the total testing fees.[41] Therefore, during that fiscal year, 85.60% of SMRTL's testing fees came from those three agencies and 68% came from just Major League Baseball and the National Football League. This did not purport to be a list of all agencies for which SMRTL was performing these tests; it was just the three agencies with the largest percentage of fees. For the fiscal year ending June 30, 2019, the National Football League accounted for 28.7% of total testing fees, Major League Baseball accounted for 26.1% of total testing fees and the United States Anti-Doping Agency accounted for 20.1% of total testing fees.

21. Christopher West, Head of Finance for SMRTL, testified that he was able to produce from SMRTL's accounting records Stipulated Exhibit 12, which listed the total billable tests for each of the years 2017 through 2020 and how many of those tests were billed at market rates and how many at a discount.[42] Mr. West, however, explained that SMRTL did not keep track of tests that had been nonbilled, which would be the ones that SMRTL had performed for free.[43] Mr. West's exhibit showed the following:

	Billable Tests		
	Market	Discount	Total
2017	40,683	42,359	83,042
2018	52,656	44,092	96,748
2019	53,112	45,971	99,083
2020	38,848	36,863	75,711

22. SMRTL also produced with the same exhibit a list of the entities to which SMRTL had given discounts. On the list were four Utah universities, a number of universities located in other states, and many other organizations, including military and other U.S. government organizations, law enforcement organizations and anti-doping organizations around the world.[44] Regarding the nongovernmental entities, the list did not indicate if each individual entity was a nonprofit entity. Additionally, there was no listing of the number of discounted tests provided to any of the agencies or the value of the discounting provided to any of the agencies.

[41] Stipulated Exhibit 7, p. 0216.
[42] Transcript, p 126.
[43] Transcript, p. 131.
[44] Stipulated Exhibit 12.

23. The evidence submitted at the hearing shows that although SMRTL does provide discounted testing and even some free testing for performance enhancing and other prohibited substances, more than half of the testing was performed for professional sports organizations to which SMRTL had charged market rates. Additionally, significantly more than half of SMRTL's testing revenue for the fiscal year ending June 30, 2020 came from SMRTL charging full price for the tests it provided to professional sports leagues.

24. Dr. Eichner testified that although SMRTL lost money in the beginning, the revenue has exceeded expenses every year since 2012.[45] SMRTL's financial statements showed the following total revenue and gains, total expenses and total increase in assets for each fiscal year from 2017 to 2020:[46]

	2017	2018[47]	2019	2020
Total Revenue and Gains	$9,612,660	$11,042,488	$11,611,441	$9,722,313
Total Expenses	$6,537,546	$7,400,476	$7,953,524	$9,342,400
Increase in Net Assets	$3,075,114	$3,642,012	$3,657,917	$379,913

25. There was no evidence submitted by SMRTL that any discreet portion of the subject property was used only for the free or subsidized testing for performance enhancing or banned substances or for the research SMRTL published, separate from where SMRTL conducted its testing for the professional sports organizations at market prices.

26. The County did not offer additional fact witnesses or additional evidence independent from the SMRTL witnesses or the stipulated exhibits.

APPLICABLE LAW

Utah Code Ann. §59-2-103(1) provides for the assessment of property, as follows:

> All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

Article XIII, Section 3 of the Utah Constitution exempts certain property from tax, as provided below in relevant part:

[45] Transcript, p 34.
[46] Stipulated Exhibits 5, 6 & 7.
[47] This was the Revenue and Gain, Total Expenses and Increase in Net Assets, reported for 2018 in Exhibit 5, SMRTL's 2017-2018 Financial Statements. Exhibit 6, SMRTL's 2018-2019 Financial Statements, contained somewhat different amounts for tax year 2018. Exhibit 6 Indicated $11,030,095 in Total Revenue and Gains, $7,388,083 in Total Expenses and still indicated $3,642,012 in Increased Net Assets.

(1) The following are exempt from property tax...
(f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes...

Utah Code §59-2-1101(1)(b) provides:

"Exclusive use exemption" means a property tax exemption under Subsection 3(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes.

Utah Code §59-2-1101(3)(a)[48] provides that certain properties are exempt from property tax as follows, in pertinent part:

The following property is exempt from taxation...

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes...

Guidance on what constitutes a "nonprofit entity" is provided in Utah Code Ann. §59-2-1101(1)(d):

"Nonprofit entity" includes an entity if the:
(i) entity is treated as a disregarded entity for federal income tax purposes;
(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and
(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

A property owner may appeal the decision of the County Board of Equalization pursuant to Utah Code §59-2-1102(7) as follows:

Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

A person may appeal a decision of a county board of equalization, as provided in Utah Code Ann. §59-2-1006(1), below:

Any person dissatisfied with the decision of the county board of equalization concerning the assessment and equalization of any property, or the determination of any exemption in which the person has an interest, or a tax relief decision made under designated decision-making authority as described in Section 59-2-1101, may appeal that decision to the commission by filing a notice of appeal specifying the grounds for the appeal with the county auditor

[48] This was the law in effect for tax year 2020, which is the law applicable in this appeal. Effective for tax year 2021, the Utah Legislature amended Utah Code Sec. 59-2-1101 in House Bill 47, 2020 General Session. These changes were substantial and statutorily defined or redefined "charitable purposes" "gift to the community" "educational purposes" and "nonprofit entity." Because these changes were so significant, this decision should not be considered precedent for subsequent tax years beginning with tax year 2021.

> within 30 days after the final action of the county board or entity with designated decision-making authority described in Section 59-2-1101.

A party claiming an exemption has the burden of proof, and must demonstrate facts to support the application of the exemption. *See Butler v. State Tax Comm'n, 3*67 P.2d 852, 854 (Utah 1962). Further, in *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n,* 919 P.2d 556 (Utah 1996), the Court wrote, "[t]he burden of establishing the exemption lies with the entity claiming it, although that burden must not be permitted to frustrate the exemption's objectives." In addition, the Court noted, "[e]xemptions are strictly construed[,]" but noted that the strict construction "should not be so narrowly applied, however, that it defeats the purpose of the exemptions."

CONCLUSIONS OF LAW

1. Utah Code §59-2-103 provides that all tangible property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, unless otherwise provided by law.

2. Utah law does provide several exemptions from property tax including the exclusive use exemption at issue in this appeal. A property may qualify for the exemption at issue in this appeal if the property is owned by a nonprofit entity and used exclusively for religious, charitable or educational purposes. See Utah Constitution, Art. XIII, Sec. 3 and Utah Code §59-2-1101(3).

3. In this appeal, it is undisputed that SMRTL qualified as a nonprofit entity for purposes of the exemption. It was also undisputed that SMRTL owned the property subject to this appeal.

4. This matter does not present questions of disputed facts as the Findings of Fact as stated above were largely uncontested between the parties. Instead this appeal presents questions of law to the Tax Commission. The issues in this appeal are whether the property met the "used exclusively" and "charitable purposes" requirements for the exclusive use exemption provided at Utah Code §59-2-1101(3)(a)(iv). SMRTL argued that the property qualifies for the exemption because it is "used exclusively" for "charitable purposes" based on a broad interpretation of Utah Code §59-2-1101(3)(a)(iv), while the County argued that the property failed to meet both the "used exclusively"and "charitable purposes" requirements for this exemption based on the more narrow interpretation applied in the Utah case law.

5. During tax year 2020, there was no statutory definition of "used exclusively" or "charitable purposes" for purposes of Utah Code §59-2-1101(3)(a)(iv).[49] However, the Utah courts have provided guidance on how these terms are to be interpreted in a number of cases. In *Loyal Order of Moose v. Salt Lake County*, 657 P.2d 257, 264 (Utah 1982), the Utah Supreme Court discussed "exclusive" and provided guidance on how to apply the exclusive test when a property is used for both exempt and non-exempt purposes, making clear "the constitutional exemption is to be strictly construed and the charitable use of the property must be exclusive . . . ." In C*ounty Bd. of Equalization ex rel. Utah County v. Intermountain Health Care*, 709 P.2d 265, 269 (Utah 1985), regarding "charitable purposes," the Utah Supreme Court stated that "essential to this definition is the element of gift to the community." The court explained that "a gift to the community can be identified either by a substantial imbalance in the exchange between the charity and recipient of its services or in the lessening of a government burden through the charity's operation."[50] The following year the Utah Supreme Court again had occasion to consider what would "constitute charitable" purposes in *Yorgason v. County Bd. of Equalization*, 714 P.2d 653, 657 (Utah 1986). *Yorgason* involved a property that provided housing for low-income elderly and disabled persons. In that case, the Court stated that "the test of charitable purpose is public benefit or contribution to the common good or the public welfare. It is also necessary that there be an element of gift to the community." The Court found that the housing project met both tests, finding a gift to the tenants because they paid well below market rents and noting the low-income housing project "provides a gift to the community since it lessens a government burden." *Id.* at 660.

6. SMRTL argued that rather than adopting the more limited Utah case law interpretations of "used exclusively" and "charitable purposes," the State Tax Commission should consider the broader federal definitions set out in the Federal Regulations, which interpret the term "charitable" in a broad sense. SMRTL pointed to Treas. Reg. § 1.501(c)(3)-1(d)(2) which provides:

> The term *charitable* is used in section 501(c)(3) in its generally accepted legal sense and is, therefore, not to be construed as limited by the separate enumeration in section 501(c)(3) of other tax-exempt purposes which may fall within the

[49] In the current version of the Utah Code there is a statutory definition for "charitable purposes" but this did not become effective until tax year 2021. The Tax Commission applies the law in effect for tax year 2020.

[50] In the *IHC* case, the Court set out a six-factor test for nonprofit hospitals to qualify for the exemption based on the Constitution of Utah and statutory provisions in effect at that time. It should be noted that at that time, the requirement that the property be owned by a nonprofit entity did not exist in the constitutional provisions and some of the factors of the six-factor test brought in nonprofit elements that were required both in the constitution and the statutes in effect for tax year 2020.

> broad outlines of *charity* as developed by judicial decisions. Such term includes: Relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

However, as noted by the County in its legal argument at the hearing and its posthearing briefing, the federal income tax exemptions are broader than the Utah property tax exemptions. The County pointed out that Utah's Constitution lists only three non-profit exclusive use exemptions, which are the charitable, religious, and educational exemptions. The County pointed out that 26 U.S.C. 501(c)(3) provides eight different income tax exemptions,[51] including fostering amateur sports competition and scientific purposes exemptions. The County also argued that the term "exclusive" has been interpreted more broadly in federal income tax law than the Utah courts have interpreted that term for the Utah property tax exemption. The County noted that "although 26 U.S.C. 501(c)(3) uses the same "exclusive" language that the Utah Constitution does, 26 C.F.R. § 1.501(c)(3)-1(c)(1) clarifies that "[a]n organization will be regarded as operated exclusively for one or more exempt purposes only if it engages ***primarily*** in activities which accomplish one or more of such exempt purposes . . . (emphasis added)." The County explained that "this is precisely what the Utah Supreme Court rejected in *Loyal Order of Moose*."[52] From review of these decisions, the Utah courts have not looked to the broader federal income tax exemption law to define "used exclusively" or "charitable purposes."[53] The Tax Commission,

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[51] 26 U.S.C. § 501(c) **(**3) provides the following are exempt from federal income tax**:**

> Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

[52] Counties' Post Hearing Reply Brief, pg 3, citing *Loyal Order of Moose v. Salt Lake County*, 657 P.2d 257, 263 (Utah 1982).

[53] The County cites in its Reply Brief, p. 4, ft. 8, Fri*endship Manor Corp. v. Tax Commission*, 487 P.2d 1272, 1276-1277 (Utah 1971) ("The fact that plaintiff is exempt from federal taxation under the provisions of the Internal Revenue Code is not determinative . . . ."); *Utah County v. IHC*, 709 P.2d 265, 275 (Utah 1985) ("Yet Budge decisively rejected . . . the contention that all nonprofit corporations are entitled to a charitable exemption for purposes of property tax"); *Salt Lake County v. ex rel Laborers Local No. 295 Building Ass'n*, 658 P.2d 1192, 1198 (Utah 1983) (Oaks, concurring) ("Nonprofit character and use is necessary, but it is not sufficient"). *See also Eyring Research Institute Inc. v. Tax Commission*, 598 P.2d

therefore, applies the more narrow tests and guidance set out by the Utah courts to determine whether the subject property qualifies for the Utah property tax exemption.

7. It was the County's argument at this hearing that none of SMRTL's activities met the "charitable purposes" requirement. The County also argued that whether some part of SMRTL's activities could be considered charitable was irrelevant because SMRTL did not meet the "used exclusively" requirement for the exclusive use property tax exemption. The County pointed out that SMRTL's work with professional sports organizations to provide for a market fee testing for performance-enhancing and other prohibited substances is clearly not charitable. The facts noted in the findings above establish that this encompasses more than half of the testing provided by SMRTL and accounts for most of SMRTL's revenue. Therefore, the use of the subject property for this non-charitable purpose is not de minimis and the property cannot be considered to be "used exclusively" for charitable purposes. The County's position is consistent with the guidance from the Utah courts. In *Loyal Order of Moose*, the Utah Supreme Court discussed how to apply the exclusive use test when a property is used for both exempt and non-exempt purposes. Discussing a previous case, *Parker v. Quinn*, 64 P. 961 (1901), the Court in *Loyal Order of Moose* noted that when some discreet parts of a property are used exclusively for the charitable purposes, a partial exemption could be granted for those discreet parts. In *Loyal Order of Moose,* at 264, the Court found that the entire property had a mixed use and concluded:

> The evidence reveals that the Lodge's property was not used exclusively for charitable purposes but was used for both charitable and social purposes. Therefore, under the rule that the charitable use must be exclusive . . . , whether the non-charitable use was primary or not primary is not the test. Clearly, the non-charitable use was not de minimus and the property does not qualify for an exemption.

Applying the facts in the subject appeal to the guidance provided by the Court, SMRTL did not demonstrate that some discreet part of the building was actually used only for charitable purposes. Like in Loyal Order of Moose, SMRTL used the building for all of its various testing and other activities. SMRTL does not meet the used exclusively test because a more than de minimis portion of its activities at the subject property are not charitable and there was no indication of a separation of one part of the building used for testing for performance enhancing and other prohibited drugs in professional athletes and one part used exclusively for the testing that SMRTL provided for no charge or at discounted rates.[54] As noted in the Findings of Fact

1348, 1351 (Utah 1979) ("The fact that a person or entity is exempt from federal taxation under the Internal Revenue Code is not determinative of a claim for an exemption under Utah law, though it may be a factor for consideration").

[54] It also became apparent at the hearing that a portion of the building is not currently being used for any purpose except for a possible future increase in testing demands. In *Corporation of the Episcopal Church in*

above, for more than half of the testing that SMRTL conducts, SMRTL is testing professional athletes for performance enhancing and other prohibited substances and charging market rates for the testing performed. There is no case law or statutory support for SMRTL's contention that this qualifies as "charitable" purposes. Less than half of SMRTL's testing is at a discounted rate, which SMRTL argues is a charitable purpose. As noted by the County, "for purposes of the exclusive use test, it is irrelevant how much charity a non-profit provides if the property is also being used for non-charitable activities. The only question when there are non-charitable activities mixed with charitable ones is whether those non-charitable activities are de minimis. As beneficial as SMRTL's other activities are to non-professional sports, the fact remains that SMRTL's activities relating to for-profit professional sports do not qualify as charitable activities."[55]

8. SMRTL argued at the hearing that performance enhancing and banned substance testing that SRMTL provided at a market price to the professional sports league was a necessary element of its charitable activities. SMRTL's witnesses testified that charging the full price for these services was the reason that SMRTL was able to provide the discounted or free testing as these were subsidized from the full price fees. SMRTL also argued that testing the professional league athletes was necessary for SMRTL's research and ability to alert government agencies and the public about dangerous or illegal products. However, as the County pointed out in its post hearing briefing, the argument that selling services at a market price to raise revenue for subsidized and discounted testing was rejected by the Court in *Quinn*. In *Quinn*, a Relief Society rented a portion of its building to tenants to raise revenue to help its charitable purposes of ministering to the poor. Despite the use of that revenue to fulfill its charitable activity, the Court found that raising revenue, even to carry out charitable activities, is not a charitable purpose. Accordingly, the Court denied the exemption for the portion of the property used to raise revenue. In the subject appeal SMRTL is arguing that it is raising revenue through its commercial activities of conducting testing of professional athletes and charging market rates, so that it can use the revenue generated from the commercial activities to carry out charitable activities. Based on the Court's reasoning in *Quinn,* SMRTL's commercial activities could not be considered charitable activities even if it were shown that the proceeds from the commercial activities were used to fund charitable activities. Since SMRTL's commercial activities are not de minimis, SMRTL has failed to establish that the property met the "used exclusively" for charitable purposes requirement.

Utah v. Commission, 919 P.2d 556, 559 (Utah 1996) the Court held that reserving property for a future purpose defeats the exemption.

[55] County's Prehearing Brief, pg. 9.

9. Regarding SMRTL's argument that the testing for the professional sports leagues was necessary for its research, the County pointed to the court's decision in *Eyring Research Institute Inc. v. Tax Commission,* 598 P.2d 1348 (Utah 1979). In *Eyring* the court set out a test applicable to determining whether a research institution was using property for charitable purposes. Eyring was a non-profit research institution organized "for the purpose of undertaking scientific research projects which it deems to be in the public interest."[56] The Court in *Eyring* found Eyring "failed to sustain its burden of proving entitlement to the exemption" finding it did not operate "exclusively for . . . charitable purposes." In *Eyring* the court noted five factors it had considered[57] and concluded, "we need not, and we do not, conclude that any single characteristic listed above is fatal to the assertion of an exemption as a charity. Each claim for the exemption must be reviewed on its own facts."[58] In its argument the County weighed each of the *Eyring* factors and argued they weighed against SMRTL's research activity meeting the charitable purposes standard.[59] Ultimately the Commission need not reach a conclusion based on the law in

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[56]*Eyring Research Institute Inc. v. Tax Commission,* 598 P.2d 1348, 1349-1350 (Utah 1979).

[57] The five factors listed in *Eyring* are as follows:

> 1. Almost half of Petitioner's research efforts were expended for the Department of Defense in areas not recognizable as charitable.
> 2. Petitioner's efforts are circumscribed by individual employment contracts and are thus focused on a finite and ascertainable number of individual clients, benefiting the public only incidentally.
> 3. The benefits realized by the State of Utah and its political subdivisions because of the use to which Petitioner devotes its property are not sufficient to justify an exemption.
> 4. Petitioner's willingness to restrict disclosure of its findings at the request of a nongovernmental client might assist that client in acquiring a proprietary interest in data developed by the Petitioner, precluding the public's access to Petitioner's research.
> 5. If Petitioner's function as a disseminator of scientific information is paramount to its purpose of satisfying its individual clients under the terms of its employment contracts, the record fails to demonstrate it.

Eyring Research Institute v. Tax Com'n of Utah, 598 P.2d 1348, 1351 (Utah 1979).

[58] *Eyring*, 598 P.2d 1348, 1351.

[59] The County provided this *Eyring* analysis at page 24 of its Prehearing Brief:

> In denying the exemption, the court noted several concerns, most of which apply to SMRTL to an even greater degree. First, the Court explained that almost half of Eyring's research efforts were for the Department of Defense in areas the Court did not view as charitable. SMRTL's activities raise a similar, but even more significant, concern. Eyring's non-charitable activities were mostly conducted for governmental entities. SMRTL, in contrast, has more than half of its activities conducted for for-profit professional sports organizations. If Eyring failed to qualify because half of its work was for the Department of Defense, SMRTL surely fails to qualify given its work with for-profit professional sports.
>
> Second, the Court pointed out that Eyring's efforts were focused on individual clients and the public was benefited only incidentally. Again, this concern applies equally to SMRTL. Just as Eyring sold its services to individual clients, so does SMRTL. While the public indirectly benefited from both Eyring and SMRTL's activities, the public is not a direct charitable recipient in either case.

effect for tax year 2020 as to whether SMRTL's activities of providing free and subsidised testing for performance enhancing and banned substances to nonprofit or government entities, some free testing for research or medical cases and conducting and publishing research meets the charitable purposes requirement, because even if that was found to be the case, the "used exclusively" requirement contained in Article XIII, Section 3 of the Utah Constitution and Utah Code §59-2-1101(3)(a), has not been shown to be met due to the fact that there is more than a de minimis use of the property for testing provided to professional athletes at a full market price.

Based on the findings of fact and conclusions of law noted herein, Petitioner's appeal should be denied for tax year 2020.

Jane Phan
Administrative Law Judge

Third, the Court noted the benefits realized by the government was not sufficient to justify its exemption. Since 96% of Eyring's work was performed for the government, Eyring had a much better argument than SMRTL that it was lessening a government burden. But the Court found that offering activities to governmental entities was not sufficient if they were not charitable activities. SRMTL provides much less of its services to governmental entities than Eyring did. If Eyring's activities for the government were insufficient for exemption, then SMRTL's much fewer activities for the government is even less sufficient.

Fourth, the Court was concerned that Eyring was willing to restrict disclosure of its findings at the request of a nongovernmental client, precluding the public's access to the research. While there is no evidence that SMRTL restricts any of its findings as Eyring did, it is also true that SMRTL's research is not geared towards the public and none of its articles are posted on its website. As even SMRTL's President affirmed, most of the public would not be able to understand most of SMRTL's research papers. There is no direct benefit to the public from SRMTL and it is at best only indirect. It would also be surprising if SMRTL's for-profit clients (or any of its clients) were disclosing their test results to the public. At least, SMRTL has not provided any evidence that the public has access to client's test results.

Finally, the Court found that the record did not support finding that Eyring's dissemination of scientific information was paramount to satisfying its individual clients. The same can be said of SMRTL. SMRTL's significant activities and connections with professional sports shows that for-profits play a large part in SMRTL's work. And at least in Eyring, 96% of its clients were governmental entities. But even governmental entities as clients were still a concern for the Court because it was the clients who Eyring directly worked for rather than the general public. Again, SMRTL is in a much worse position than Eyring was since such a large number of SMRTL's clients are for-profit clients compared with Eyring.

DECISION AND ORDER

Based on the foregoing, the Tax Commission denies Petitioner's appeal seeking the exclusive use property tax exemption for the subject property for tax year 2020. It is so ordered.

DATED this **30th** day of **August**, 2022.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

STATE TAX COMMISSION SEAL STATE OF UTAH

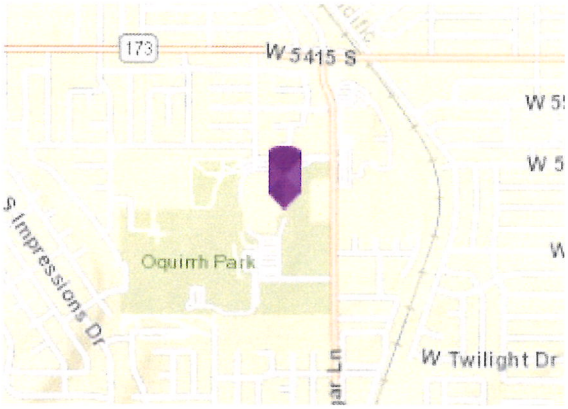
Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §59-1-601 et seq. and §63G-4-401 et seq.

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel	**20-13-277-004-0000**
Owner	UTAH ATHLETIC FOUNDATION
Address	5658 S COUGAR LN # 103
Total Acreage	0.01
Above Ground sqft.	
Property Type	660 - CND-OFFICE
Tax District	ABR
% Exempt	100
Exempt Type	TOTAL

Value History

	Record	Land Value	Building Value	Market Value	Tax Rate
2023		$ 130,400	$ 2,591,900	$ 2,722,300	
2022	1	$ 107,900	$ 2,254,500	$ 2,362,400	.0137350
2021	1	$ 101,200	$ 1,937,500	$ 2,038,700	.0151730
2020	1	$ 98,900	$ 1,830,300	$ 1,929,200	.0162430
	90	$ 98,900	$ 1,830,300	$ 1,929,200	



Land Record 20-13-277-004-0000

Record ID 1		Influence Effect		Lot Shape	REGULAR	Traffic	LIGHT
Lot Use	COMMERCIAL	Assmt. Class	COM-SECONDRY	Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type	PRIMARY-SQFT	Lot Depth		Neighborhood	6525	Street type	TWO-WAY
Land Class		Acres	0.59	Nbhd Type	STATIC	Street Finish	PAVED
Income Flag	YES	Zone	PF	Nbhd Effect	TYPICAL	Curb Gutter	Y
Seasonal use		Sewer	PUBLIC	Topography	LEVEL	Sidewalk	Y
Influence Type		Number Lots					

Commercial Section 101

Number of Occurances		Perimeter	490	Year Built	2018
Building Number		Stories	1.0	Effective Year Built	2020
Class	C	Street Height	14	Year Remodeled	
Depreciation Grade	G	Ground Floor Area	10884	Economic Life	60
Tenant Apeal	G	Exterior Wall type	SO	Remaining Eco. Life	58
Foundation	Y	% office		Land Building ratio	0.72
Rental Class	B				

Commercial Group 101-1

Commercial Use	660
Cost Grade	G
Inside Grade	G
Outside Grade	G
Over all Condition	E
Inside Condition	E
Outside Condition	E
Base Floor	1
Base Floor Area	10884
Number of Floors	1
Additional Floor Area	
Total Floor Area	10884
Lighting	A
Heating/Cooling type 1	PU
Heating/Cooling type 2	
Partitioning	
Total Income Area	10884
Total Number of Income U.	1
Average Inc Unit Size	10884
Percent Heated 1	100
Percent Heated 2	
Percent Sprinklers	
Rentable Square Footage	10884
Number of Units	1
Legal Description	20-13-277-004-0000

UNIT 103, KEARNS ATHLETE TRAINING & EVENT CENTER CONDO

Click here for **Classic Parcel Details Page** **Search Again?**

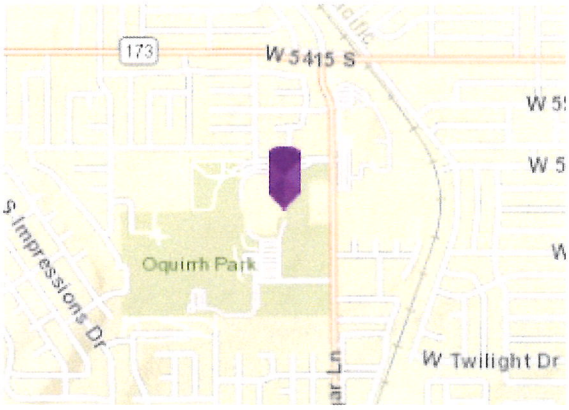
This page shows the assessor's CAMA data, as it was, on May 22, 2023.

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel	**20-13-277-003-0000**
Owner	UTAH ATHLETIC FOUNDATION
Address	5658 S COUGAR LN # 102
Total Acreage	0.01
Above Ground sqft.	
Property Type	660 - CND-OFFICE
Tax District	ABR
% Exempt	100
Exempt Type	TOTAL

Value History

	Record	Land Value	Building Value	Market Value	Tax Rate
2023		$ 372,700	$ 482,300	$ 855,000	
2022	1	$ 308,400	$ 419,600	$ 728,000	.0137350
2021	1	$ 289,100	$ 360,600	$ 649,700	.0151730
2020	1	$ 282,700	$ 340,600	$ 623,300	.0162430
	90	$ 282,700	$ 340,600	$ 623,300	



Land Record 20-13-277-003-0000

Record ID 1		Influence Effect		Lot Shape	REGULAR	Traffic	LIGHT
Lot Use	COMMERCIAL	Assmt. Class	COM-SECONDRY	Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type	PRIMARY-SQFT	Lot Depth		Neighborhood	6525	Street type	TWO-WAY
Land Class		Acres	0.59	Nbhd Type	STATIC	Street Finish	PAVED
Income Flag	YES	Zone	PF	Nbhd Effect	TYPICAL	Curb Gutter	Y
Seasonal use		Sewer	PUBLIC	Topography	LEVEL	Sidewalk	Y
Influence Type		Number Lots					

Commercial Section 101

Number of Occurances		Perimeter	188	Year Built	2018
Building Number		Stories	1.0	Effective Year Built	2020
Class	C	Street Height	14	Year Remodeled	
Depreciation Grade	G	Ground Floor Area	1743	Economic Life	60
Tenant Apeal	G	Exterior Wall type	SO	Remaining Eco. Life	58
Foundation	Y	% office		Land Building ratio	0.72
Rental Class	B				

Commercial Group 101-1

Commercial Use	660
Cost Grade	G
Inside Grade	G
Outside Grade	G
Over all Condition	E
Inside Condition	E
Outside Condition	E
Base Floor	1
Base Floor Area	1743
Number of Floors	1
Additional Floor Area	
Total Floor Area	1743
Lighting	A
Heating/Cooling type 1	PU
Heating/Cooling type 2	
Partitioning	
Total Income Area	1743
Total Number of Income U.	1
Average Inc Unit Size	1743
Percent Heated 1	100
Percent Heated 2	
Percent Sprinklers	
Rentable Square Footage	1743
Number of Units	1
Legal Description	20-13-277-003-0000

UNIT 102, KEARNS ATHLETE TRAINING & EVENT CENTER CONDO

Click here for Classic Parcel Details Page Search Again?

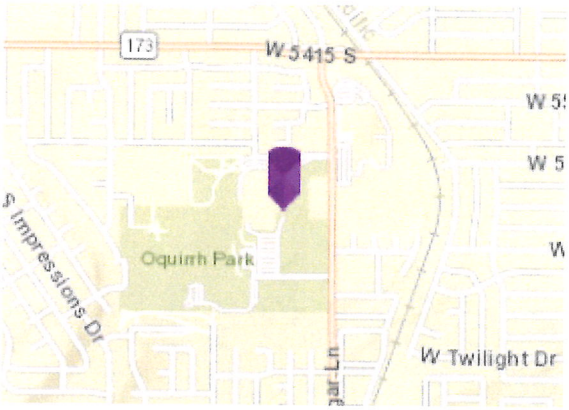
This page shows the assessor's CAMA data, as it was, on May 22, 2023.

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel	**20-13-277-006-0000**
Owner	UTAH ATHLETIC FOUNDATION
Address	5658 S COUGAR LN # 202
Total Acreage	0.01
Above Ground sqft.	
Property Type	660 - CND-OFFICE
Tax District	ABR
% Exempt	100
Exempt Type	TOTAL

Value History

	Record	Land Value	Building Value	Market Value	Tax Rate
2023		$ 14,900	$ 403,700	$ 418,600	
2022	1	$ 12,300	$ 351,000	$ 363,300	.0137350
2021	1	$ 11,600	$ 300,900	$ 312,500	.0151730
2020	1	$ 11,300	$ 284,700	$ 296,000	.0162430
	90	$ 11,300	$ 284,700	$ 296,000	



20-13-277-006-0000

Land Record

Record ID 1		Influence Effect		Lot Shape	REGULAR	Traffic	LIGHT
Lot Use	COMMERCIAL	Assmt. Class	COM-SECONDRY	Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type	PRIMARY-SQFT	Lot Depth		Neighborhood	6525	Street type	TWO-WAY
Land Class		Acres	0.59	Nbhd Type	STATIC	Street Finish	PAVED
Income Flag	YES	Zone	PF	Nbhd Effect	TYPICAL	Curb Gutter	Y
Seasonal use		Sewer	PUBLIC	Topography	LEVEL	Sidewalk	Y
Influence Type		Number Lots					

Commercial Section 101

Number of Occurances		Perimeter	163	Year Built	2018
Building Number		Stories	1.0	Effective Year Built	2020
Class	C	Street Height	14	Year Remodeled	
Depreciation Grade	G	Ground Floor Area	1372	Economic Life	60
Tenant Apeal	G	Exterior Wall type	SO	Remaining Eco. Life	58
Foundation	Y	% office		Land Building ratio	0.72
Rental Class	B				

Commercial Group 101-1

Commercial Use	660
Cost Grade	G
Inside Grade	G
Outside Grade	G
Over all Condition	E
Inside Condition	E
Outside Condition	E
Base Floor	2
Base Floor Area	1372
Number of Floors	1
Additional Floor Area	
Total Floor Area	1372
Lighting	A
Heating/Cooling type 1	PU
Heating/Cooling type 2	
Partitioning	
Total Income Area	1372
Total Number of Income U.	1
Average Inc Unit Size	1372
Percent Heated 1	100
Percent Heated 2	
Percent Sprinklers	100
Rentable Square Footage	1372
Number of Units	1

Legal Description 20-13-277-006-0000

UNIT 202, KEARNS ATHLETE TRAINING & EVENT CENTER CONDO

Click here for Classic Parcel Details Page Search Again?

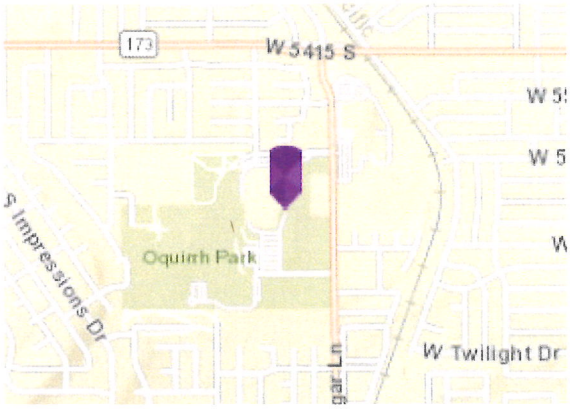
This page shows the assessor's CAMA data, as it was, on May 22, 2023.

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel	**20-13-277-007-0000**
Owner	UTAH ATHLETIC FOUNDATION; TC OQUIRRH REC
Address	5658 S COUGAR LN # 203
Total Acreage	0.01
Above Ground sqft.	
Property Type	660 - CND-OFFICE
Tax District	ABR
% Exempt	100
Exempt Type	TOTAL

Value History

	Record	Land Value	Building Value	Market Value	Tax Rate
2023		$ 74,500	$ 1,577,500	$ 1,652,000	
2022	1	$ 61,700	$ 1,371,800	$ 1,433,500	.0137350
2021	1	$ 57,800	$ 1,176,300	$ 1,234,100	.0151730
2020	1	$ 56,500	$ 1,112,800	$ 1,169,300	.0162430
	90	$ 56,500	$ 1,112,800	$ 1,169,300	



Land Record 20-13-277-007-0000

Record ID 1		Influence Effect		Lot Shape	REGULAR	Traffic	LIGHT
Lot Use	COMMERCIAL	Assmt. Class	COM-SECONDRY	Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type	PRIMARY-SQFT	Lot Depth		Neighborhood	6525	Street type	TWO-WAY
Land Class		Acres	0.59	Nbhd Type	DEVELOPING	Street Finish	PAVED
Income Flag	YES	Zone	PF	Nbhd Effect	TYPICAL	Curb Gutter	Y
Seasonal use		Sewer	PUBLIC	Topography	LEVEL	Sidewalk	Y
Influence Type		Number Lots					

Commercial Section 101

Number of Occurances		Perimeter	399	Year Built	2018
Building Number		Stories	1.0	Effective Year Built	2020
Class	C	Street Height	14	Year Remodeled	
Depreciation Grade	G	Ground Floor Area	6239	Economic Life	60
Tenant Apeal	G	Exterior Wall type	SO	Remaining Eco. Life	58
Foundation	Y	% office		Land Building ratio	0.72
Rental Class	B				

Commercial Group 101-1

Commercial Use	660
Cost Grade	G
Inside Grade	G
Outside Grade	G
Over all Condition	E
Inside Condition	E
Outside Condition	E
Base Floor	2
Base Floor Area	6239
Number of Floors	1
Additional Floor Area	
Total Floor Area	6239
Lighting	A
Heating/Cooling type 1	PU
Heating/Cooling type 2	
Partitioning	
Total Income Area	6239
Total Number of Income U.	1
Average Inc Unit Size	6239
Percent Heated 1	100
Percent Heated 2	
Percent Sprinklers	100
Rentable Square Footage	6239
Number of Units	1

Legal Description 20-13-277-007-0000

UNIT 203, KEARNS ATHLETE TRAINING & EVENT CENTER CONDO 10758-2340

Click here for Classic Parcel Details Page Search Again?

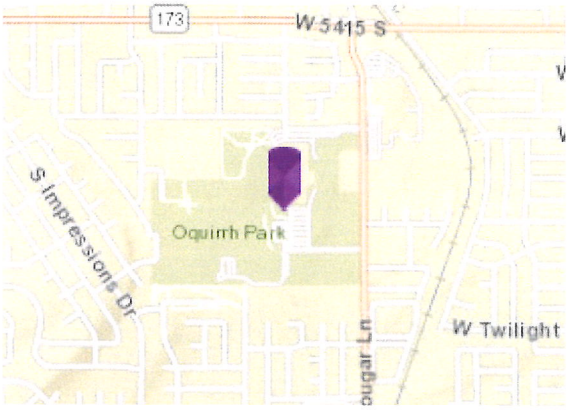
This page shows the assessor's CAMA data, as it was, on May 22, 2023.

SLCo ---> Assessor ---> Parcel Search ---> Valuation Summary ---> Printable Version

Parcel	**20-13-276-022-0000**
Owner	UTAH ATHLETIC FOUNDATION
Address	5662 S COUGAR LN
Total Acreage	0.07
Above Ground sqft.	
Property Type	953 - GOV-BLD/LND
Tax District	ABR
% Exempt	100
Exempt Type	TOTAL

Value History

	Record	Land Value	Building Value	Market Value	Tax Rate
2023		$ 44,200	$ 0	$ 44,200	
2022	1	$ 36,600	$ 0	$ 36,600	.0137350
2021	1	$ 34,300	$ 0	$ 34,300	.0151730
2020	1	$ 33,500	$ 0	$ 33,500	.0162430
	90	$ 33,500	$ 0	$ 33,500	



20-13-276-022-0000

Land Record

Record ID 1		Influence Effect		Lot Shape	REGULAR	Traffic	LIGHT
Lot Use	COMMERCIAL	Assmt. Class	COM-SECONDRY	Lot Location	INTERIOR	Traffic Influence	TYPICAL
Lot Type	PRIMARY-SQFT	Lot Depth		Neighborhood	6525	Street type	TWO-WAY
Land Class		Acres	0.07	Nbhd Type	DEVELOPING	Street Finish	PAVED
Income Flag		Zone		Nbhd Effect	TYPICAL	Curb Gutter	Y
Seasonal use		Sewer	PUBLIC	Topography	LEVEL	Sidewalk	Y
Influence Type		Number Lots					

Legal Description **20-13-276-022-0000**

BEG W 940.53 FT & N 0^32' W 307.31 FT FR E 1/4 COR SEC 13, T2S, R 2W, SLM; NW'LY ALG A 40 FT RADIUS CURVE TO L 35.5 FT; N 74^14'56" W 118.04 FT M OR L; N 89^28' E 138.94 FT M OR L;S 0^32' E 55.95 FT (BEING PT OF LOT 1, OQUIRRH RECREATION & PARKS SUB)

Click here for Classic Parcel Details Page Search Again?

This page shows the assessor's CAMA data, as it was, on May 22, 2023.

Summit County Treasurer
Corrie Forsling
STATEMENT OF TAXES DUE

Account Number 0274971
Acres 254.4
Assessed To

Parcel PP-63-A

UTAH ATHLETIC FOUNDATION
C/O:PATTY FRECHETTE
PO BOX 980337
PARK CITY, UT 84098-0337

Legal Description

THAT PORTION OF THE FOLLOWING DESC PARCEL LYING IN SEC 25 T1SR3E SLBM DESC AS BEG AT THE NE COR OF SEC 25 T1SR3E SLBMSD COR BEING A BRASS CAP MONUMENT SET BY THE SUMMIT COUNTY SURVEYOR IN 1975; THS 0*04'26" E 1645.34 FT ALONG THE E SEC LINE OF SD SEC 25 TO A PT ON THE BOUNDARY BETWEEN THE SUN PEAK P...
Additional Legal on File

Situs Address

3419 OLYMPIC PARKWAY

Year	Tax	Interest	Fees	Payments	Balance
Grand Total Due as of 08/25/2023					**$0.00**

Tax Billed at 2022 Rates for Tax Area 10 - 10 - PCSD A,J,K,U (C-C) (E-E)

Authority	Tax Rate	Amount
SUMMIT COUNTY MUNICIPAL SER	0.0003760000	$0.00
SUMMIT COUNTY GENERAL FUND	0.0006190000	$0.00
STATE ASSESS & COLLECT LEVY	0.0000150000	$0.00
LOCAL ASSESS & COLLECT LEVY	0.0001040000	$0.00
WEBER BASIN WATER CONSERVAN	0.0001670000	$0.00
PARK CITY FIRE DISTRICT	0.0004430000	$0.00
MOSQUITO ABATEMENT	0.0000180000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0004120000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001550000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001060000	$0.00
PARK CITY SCHOOL DISTRICT	0.0038080000	$0.00
CHARTER SCHOOL LEVY - PARK	0.0000210000	$0.00
Taxes Billed 2022	0.0062440000	$0.00

Values	Actual	Assessed
EDUCATIONAL, RELIGIOUS AND CHARITABLE - (NON -PROFITS)	$636,000	$636,000
Total	$636,000	$636,000

PLEASE REMIT PAYMENT TO:
SUMMIT COUNTY TREASURER
P.O. BOX 128
COALVILLE, UT 84017

Interest on unpaid taxes accrues daily. Please find full payoff amount on the Treasurer's page at www.summitcounty.org.

Summit County Treasurer
Corrie Forsling
STATEMENT OF TAXES DUE

Account Number 0483590
Acres 5.2
Assessed To

Parcel PP-62-KJS

UTAH ATHLETIC FOUNDATION
C/O:PATTY FRECHETTE
PO BOX 980337
PARK CITY, UT 84098

Legal Description

(A PARCEL LOCATED IN SEC 24 T1SR3E SLBM; DESC AS FOL:) BEG AT THE MOST E'LY COR OF LOT 6, KIMBALL JUNCTION
SUB AMENDED, AS RECORDED WITH THE OFFICE OF THE SUMMIT COUNTY RECORDER, & RUN TH ALG THE N LINE OF SAID
LOT 6 THE FOLLOWING THREE COURSES: 1) NW 131.10 FT, 2) NW 231.42 FT, 3) NW 237.52 FT T... Additional Legal on File

Situs Address

2855 OLYMPIC PKWY

Year	Tax	Interest	Fees	Payments	Balance
Grand Total Due as of 08/25/2023					**$0.00**

Tax Billed at 2022 Rates for Tax Area 10 - 10 - PCSD A,J,K,U (C-C) (E-E)

Authority	Tax Rate	Amount
SUMMIT COUNTY MUNICIPAL SER	0.0003760000	$0.00
SUMMIT COUNTY GENERAL FUND	0.0006190000	$0.00
STATE ASSESS & COLLECT LEVY	0.0000150000	$0.00
LOCAL ASSESS & COLLECT LEVY	0.0001040000	$0.00
WEBER BASIN WATER CONSERVAN	0.0001670000	$0.00
PARK CITY FIRE DISTRICT	0.0004430000	$0.00
MOSQUITO ABATEMENT	0.0000180000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0004120000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001550000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001060000	$0.00
PARK CITY SCHOOL DISTRICT	0.0038080000	$0.00
CHARTER SCHOOL LEVY - PARK	0.0000210000	$0.00
Taxes Billed 2022	0.0062440000	$0.00

Values	Actual	Assessed
EDUCATIONAL, RELIGIOUS AND CHARITABLE - (NON -PROFITS)	$3,397,680	$3,397,680
EXEMPT IMPROVEMENTS	$9,650,000	$9,650,000
Total	$13,047,680	$13,047,680

PLEASE REMIT PAYMENT TO:
SUMMIT COUNTY TREASURER
P.O. BOX 128
COALVILLE, UT 84017

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Summit County Treasurer
Corrie Forsling
STATEMENT OF TAXES DUE

Account Number 0465187
Acres 3.00
Assessed To

Parcel KJS-6-1AM

UTAH ATHLETIC FOUNDATION
C/O:PATTY FRECHETTE
PO BOX 980337
PARK CITY, UT 84098-0337

Legal Description

LOT 6 KIMBALL JUNCTION SUBDIVISION FIRST AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE CONT 130,680 SQ FT OR 3.00 AC 1982-65

Situs Address

Year	Tax	Interest	Fees	Payments	Balance
Grand Total Due as of 08/25/2023					**$0.00**

Tax Billed at 2022 Rates for Tax Area 10 - 10 - PCSD A,J,K,U (C-C) (E-E)

Authority	Tax Rate	Amount
SUMMIT COUNTY MUNICIPAL SER	0.0003760000	$0.00
SUMMIT COUNTY GENERAL FUND	0.0006190000	$0.00
STATE ASSESS & COLLECT LEVY	0.0000150000	$0.00
LOCAL ASSESS & COLLECT LEVY	0.0001040000	$0.00
WEBER BASIN WATER CONSERVAN	0.0001670000	$0.00
PARK CITY FIRE DISTRICT	0.0004430000	$0.00
MOSQUITO ABATEMENT	0.0000180000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0004120000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001550000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001060000	$0.00
PARK CITY SCHOOL DISTRICT	0.0038080000	$0.00
CHARTER SCHOOL LEVY - PARK	0.0000210000	$0.00
Taxes Billed 2022	0.0062440000	$0.00

Values	Actual	Assessed
EDUCATIONAL, RELIGIOUS AND CHARITABLE - (NON -PROFITS)	$1,149,984	$1,149,984
Total	$1,149,984	$1,149,984

PLEASE REMIT PAYMENT TO:
SUMMIT COUNTY TREASURER
P.O. BOX 128
COALVILLE, UT 84017

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Summit County Treasurer
Corrie Forsling
STATEMENT OF TAXES DUE

Account Number 0465187
Acres 3.00
Assessed To

Parcel KJS-6-1AM

UTAH ATHLETIC FOUNDATION
C/O:PATTY FRECHETTE
PO BOX 980337
PARK CITY, UT 84098-0337

Legal Description

LOT 6 KIMBALL JUNCTION SUBDIVISION FIRST AMENDED; ACCORDING TO THE OFFICIAL PLAT ON FILE IN THE SUMMIT COUNTY RECORDERS OFFICE CONT 130,680 SQ FT OR 3.00 AC 1982-65

Situs Address

Year	Tax	Interest	Fees	Payments	Balance
Grand Total Due as of 08/25/2023					**$0.00**

Tax Billed at 2022 Rates for Tax Area 10 - 10 - PCSD A,J,K,U (C-C) (E-E)

Authority	Tax Rate	Amount
SUMMIT COUNTY MUNICIPAL SER	0.0003760000	$0.00
SUMMIT COUNTY GENERAL FUND	0.0006190000	$0.00
STATE ASSESS & COLLECT LEVY	0.0000150000	$0.00
LOCAL ASSESS & COLLECT LEVY	0.0001040000	$0.00
WEBER BASIN WATER CONSERVAN	0.0001670000	$0.00
PARK CITY FIRE DISTRICT	0.0004430000	$0.00
MOSQUITO ABATEMENT	0.0000180000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0004120000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001550000	$0.00
SNYDERVILLE BASIN RECREATIO	0.0001060000	$0.00
PARK CITY SCHOOL DISTRICT	0.0038080000	$0.00
CHARTER SCHOOL LEVY - PARK	0.0000210000	$0.00
Taxes Billed 2022	0.0062440000	$0.00

Values	Actual	Assessed
EDUCATIONAL, RELIGIOUS AND CHARITABLE - (NON -PROFITS)	$1,149,984	$1,149,984
Total	$1,149,984	$1,149,984

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