IN THE COURT OF APPEALS
STATE OF GEORGIA

COLUMBUS, GEORGIA, BOARD OF TAX ASSESSORS; COLUMBUS, GEORGIA; and LULA LUNSFORD HUFF, TAX COMMISSIONER OF MUSCOGEE COUNTY,	)	CASE NO. A23A0373
Appellants/Defendants,	)	
v.	)	
THE MEDICAL CENTER HOSPITAL AUTHORITY,	)	
Appellee/Plaintiff.	)	

REPLY BRIEF OF APPELLANTS

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A. Spring Harbor Is Not Tax-Exempt "Public Property."

1. The Supreme Court Has Specified the Applicable Test.

This is the test: Does the Authority hold its leasehold interest "for 'public purposes . . . in the furtherance of the legitimate functions of the hospital authority'" and "exclusively" and "only for the benefit of the State and the public"—or does there instead exist "private gain or income"? *Columbus Bd. of Tax Assessors v. Med. Ctr. Hosp. Auth.*, 302 Ga. 358, 362 (2017) ("*Columbus Bd. II*") (quoting *Hosp. Auth. of Albany v. Stewart*, 226 Ga. 530, 531, 537 (1970), and *Sigman v. Brunswick Port Auth.*, 214 Ga. 332, 335 (1958)) (ellipsis in *Columbus Bd. II*).[1] Both appellate briefs begin by reciting this test and seem in broad agreement. (Appellants' Br. at 21-23; Appellee's Br. at 11-12.)

Yet immediately thereafter, the Authority attacks Columbus counsel because we quote a sentence from the Supreme Court's decision but "omit the second sentence" from the opinion the Supreme Court cited—even though the Supreme Court did not quote that sentence either. (Appellee's Br. at 12-13 (emphasis in original).) This is an odd criticism. The Supreme Court did not otherwise cite that

[1] The Authority short-cited each Authority/Columbus appellate opinion as *Columbus Bd. I-IV*. For consistency, Columbus follows suit.

opinion in delineating the test to apply. *See Columbus Bd. II*, 302 Ga. at 358-63. As the Supreme Court noted, that appeal "involved the same parties but different property." *Id*. at 363 n.5. None of the properties in that litigation excluded indigent patients, and they all had the "typical" ownership structure, not the upside-down "unique" one that exists here. (V3-412-15; Elder Dep. 110-11; Thacker Dep. 116-17.) *See Columbus, Ga. Bd. of Tax Assessors v. Med. Ctr. Hosp. Auth.*, 336 Ga. App. 746, 750-52 (2016) ("*Columbus Bd. IV*") (listing properties at issue). The instructions to follow are the Supreme Court's decision in *this* case. *Id*. at 362-63; *see* O.C.G.A. 9-11-60(h) (stating that "any ruling by the Supreme Court or the Court of Appeals in a case shall be binding in all subsequent proceedings").

The Authority criticizes Columbus for this purported omission but disregards many facts from what the Supreme Court termed Judge Peters' 2007 "detailed, 27-page order" with "lengthy factual findings" about "*which entity did in fact build, manage and own[ ] Spring Harbor*." *Columbus Bd. II*, 302 Ga. at 359, 361 n.4 (quoting from V3-309-36) (emphasis in Supreme Court decision). Judge Peters' order is one of the items which led the Supreme Court to note the "mere fact" of ownership and "facts establishing that bonds have a public purpose" does not inevitably mean "that property associated with those bonds is public property." *Id*. at 362-63. The Supreme Court said the superior court had not addressed these

record "inconsistencies" and on remand "should review all submitted record materials," specifically including Judge Peters' "facts found in the bond validation proceedings." *Id*. at 359 n.4, 363 n.6.

However, the proposed order the Authority presented to the superior court post-remand ignored these inconsistencies, as did the signed order. (V5-329-62 (proposed order); V1-4-23 (signed order).) The Authority's appellate brief dismisses Judge Peters' findings as simply "personal policy/political opinions." (Appellee's Br. at 5.) The Authority references the order solely for its position Spring Harbor fulfills a public purpose under the Hospital Authorities Law because the bonds were validated. (*Id*. at 5-6.) It ignores Judge Peters' findings that "clear and convincing evidence" shows the Authority transferred and delegated its rights and duties to Columbus Regional Healthcare System, Inc. ("Columbus Regional") and one "cannot rule as a matter of fact and as a matter of law" the Authority owns Spring Harbor.[2] (V3-310, V3-318.) As the Supreme Court has cautioned, the

[2] The only other statement the Authority cites from Judge Peters' order is his encouragement for the Authority to contest its payment of any real estate taxes. (Appellee's Br. at 6.) Before the 2007 bond refinancing, the ground lease provided that the Authority would pay all real estate taxes, including property taxes. (V3-35-36, V3-41.) That was changed in 2007 to provide that Columbus Regional shall pay all real estate taxes. (V3-64-65, V3-70.) Judge Peters' statement does not indicate "he did not view the property as taxable." (Appellee's Br. at 6.) It shows his concern was the Authority would have to pay taxes for both land that Columbus Regional owns in fee and improvements that benefit and will revert to Columbus Regional. (V3-314-15.)

Authority's incomplete emphasis "misconstrue[s]" Judge Peters' order. *Columbus Bd. II*, 302 Ga. at 362.

Underlying this effort is an attempt to emphasize vague and conclusory declarations of "public purposes . . . in the furtherance of the legitimate functions of the hospital authority,"[3] while diminishing the requirement that the Authority's interest must exist "exclusively" and "only for the benefit of the State and the public." (Appellee's Br. at 5, 15, 19-20, 25.) That requirement cannot be met if there exists *any* "private gain *or* income" to Columbus Regional. *Columbus Bd. II*, 302 Ga. at 362 (emphasis added).

2. The Spring Harbor Improvements Are Not Tax-Exempt "Public Property" Because The Authority's Leasehold Interest Provides Columbus Regional "Private Gain or Income."

a. The Columbus Regional Reversion Is Significant, Not "Irrelevant."

The Authority contends the Columbus Regional reversion is "irrelevant." (Appellee's Br. at 19.) This argument disregards both the applicable law and facts. Adopting the Authority's position would nullify the standard the Supreme Court ordered. The test is one of substance, not form. Regardless of the interest the

[3] It is questionable Spring Harbor exists for "public purposes" which would support tax exemption (*see* Appellants' Br. at 33), even though the bonds were validated. *See Columbus Bd. II*, 302 Ga. at 363 ("The question of whether a hospital authority's property interest qualifies for ad valorem tax exemption as 'public property' is a separate and distinct question from the issues presented in a bond validation proceeding.").

Authority holds, the question is whether it holds that interest "*exclusively*" and "*only* for the benefit of the State and the public," without "private gain *or* income" to Columbus Regional. *Columbus Bd. II*, 302 Ga. at 362 (emphasis added); *see id*. at 362-63 (explaining that a form-based "mere fact" of ownership does not suffice for tax exemption). The Authority also ignores Supreme Court precedent issued just two weeks after *Columbus Board II* emphasizing that a reversion provides "gain" to a party. *Smith v. Northside Hosp., Inc.*, 302 Ga. 517, 528 (2017); *see also Richmond Cnty. Hosp. Auth. v. Richmond Cnty*., 255 Ga. 183, 187 (1985) ("The Authority is protected by the reversionary clause in the lease.").

The cases the Authority cites do not support its position.[4] *Stewart* involved gifts to the hospital authority of income-producing property, which income was not shared with any private entity. 226 Ga. at 531; *accord Hosp. Auth. of Albany v. Stewart*, 122 Ga. App. 497 (1970). Likewise, in *Sigman* the Supreme Court explained "[n]o private interest exists in the property of the Authority," and the proposed activities were functions "ordinarily carried on by the State" and its instrumentalities. 214 Ga. at 335, 337. In contrast, the State and its instrumentalities do not operate high-end retirement communities serving only

[4] Columbus has already addressed in relevant detail two of the cases the Authority cites. (*See* Appellants' Br. at 30-31 (addressing *Douglas Cnty. v. Anneewakee, Inc.*, 179 Ga. App. 270 (1986), and *GeorgiaCarry.org, Inc. v. Atlanta Botanical Garden, Inc.*, 306 Ga. 829 (2019).)

Georgia's wealthiest citizens. *Teachers Retirement System of Georgia v. City of Atlanta*, 249 Ga. 196 (1982), involved properties the State's employees and teachers retirement systems acquired through, or in lieu of, foreclosure on secured loans they held in accordance with state law. *Id*. at 197. Again, the income from these properties went solely to benefit the two retirement systems, not any private entity. *Id*. at 198. The facts of these three cases differ greatly from our case.

The Authority cites *Savage v. State*, 297 Ga. 627 (2015), for the first time in its appellate brief. *Savage* is the Atlanta Braves stadium bond validation appeal and pre-dates our Supreme Court decision by two years. It does not involve a hospital authority, and it is not a "public property" tax case. In contrast to our case, the Braves must *pay the authority $6.1 million annually*. *Id*. at 627, 629. The Supreme Court did not cite *Savage* in our case, and it emphasized that "whether a hospital authority's property interest qualifies for ad valorem tax exemption as 'public property' is a separate and distinct question from the issues presented in a bond validation proceeding." *Columbus Bd. II*, 302 Ga. at 363. The Authority can point to no similarly structured transaction that has received judicial approval for the "public property" tax exemption.

The Authority's argument also contains factual errors. The Authority states that Columbus Regional already pays taxes on its "reversionary interest" in Spring Harbor. (Appellee's Br. at 8, 20.) Multiple documents plus deposition admissions

show Columbus Regional currently pays taxes only on the land. (*See* Appellants' Br. at 10 n.4.) It has never paid any tax on a reversionary interest in the improvements. What the Authority cites to imply otherwise does not support its argument. (V3-485 ("the underlying real property"); *accord* V2-14-15 ("the underlying land or dirt" and "the Spring Harbor land).)

The Authority tries to downplay the reversion's value. It claims that, with depreciation, Spring Harbor's improvements may be "at or beyond the end of [their] useful life" when the bonds are repaid by 2037. (Appellee's Br. at 22.) Given that the Authority and Columbus Regional calculate the "remaining life expectancy" of new Spring Harbor residents at thirteen years (calendar year 2023 + 13 years = 2036, or one year before the bonds must be repaid), the Authority and Columbus Regional should probably start disclosing this impending uselessness in Spring Harbor's marketing materials. (V2-367.) Obviously, the Authority's contention is absurd. It ignores the offsetting use of revenues for subsequent improvements. Moreover, the cited financials show the tax bills have *undervalued* the property—including by $10 million in 2006 alone.[5] (V2-245; V2-467.)

The Authority contends that it could just "raze Spring Harbor" if it desired.

[5] Columbus did not "cherry-pick[ ] the [$53 million] number from a 2011 audit." (Appellee's Br. at 21-22 (brackets added).) Columbus did not even cite that audit. (V2-515.) Columbus cited both the 2006 & 2011 tax bills and what Judge Peters stated as the value in 2007. (Appellants' Br. at 11, 13, 25 (citing V2-467-68 & V3-314).)

(Appellee's Br. at 8.) Even overlooking its hubris, this astonishing statement exposes the Authority's lack of knowledge about the contract and bond documents. First, Spring Harbor's residents contract under a residence agreement and pay six-figure entrance fees—in addition to substantial, ongoing monthly fees—with the expectation they will actually live there. (V1-427-29; V3-171-98.) Second, both the Authority and Columbus Regional are subject to security deeds, with prohibitions against the Authority's proposed razing. (V4-163-222; *see* V4-199 (requiring "prior written consent" to "demolish" or "alter" any building or structure).) The reversion to Columbus Regional is extremely valuable. Contentions otherwise are wrong in both law and fact.

b. Columbus Regional Benefited from Bond Proceeds.

The record shows Columbus Regional has benefited from the Authority's bond issuances, including $3.3 million in reimbursement from the 2004 bond issuance. (V3-225, V3-323, V3-332.) The Authority ignores all evidence showing the substantial gain Columbus Regional has received from this tax-exempt financing and instead simply labels Columbus' assertions an impermissible collateral attack on the bond validations. (Appellee's Br. at 25.) Simply reciting statements in the bond validations saying they support the "public purposes" for which the Authority was established does not make Spring Harbor "public property." Bond validation is not conclusive on taxability. *See Columbus Bd. II*,

302 Ga. at 363.

The bond validations cannot support the conclusion Spring Harbor furthers the Authority's "public purposes"—such as hospital operations and indigent care—when the Authority's documents state that "all revenue received" for Spring Harbor is "restricted" pursuant to the bond agreements and must remain in Spring Harbor's operating fund until the bonds are repaid. (V2-379 (emphasis in original).) *See generally Stewart*, 226 Ga. at 531 (referencing "hospital operations"); *DeJarnette v. Hosp. Auth. of Albany*, 195 Ga. 189, 200 (1942) (referencing duty to "indigent sick"). The Authority is responsible for repayment on the bonds, but as soon as the bonds are repaid Columbus Regional can terminate the relationship. This situation differs from the Authority-cited *Sigman* case in which the government authority could retake the property. 214 Ga. 332-33. Columbus Regional benefited from tax-exempt financing and now seeks to add a massive property tax exemption. (*See also* Appellants' Br. at 7-8, 24.) While the decision to validate the bonds may no longer be scrutinized, bond validations are not a shield to the question of taxability. *See Columbus Bd. II*, 302 Ga. at 363. The record shows the substantial gain Columbus Regional has received.

c. The Management Agreement Benefits Columbus Regional.

The Authority's response to record evidence that Columbus Regional Senior Living, Inc. ("CRSL") can take 5% of Spring Harbor's annual operating revenues

is simply to reiterate the Authority must contract for operations management "with knowledgeable entities" because it has no employees. (Appellee's Br. at 26-27.) First, this response wholly ignores that another entity, CRSA Management, LLC ("CRSA"), was hired to "perform [CRSL's] duties and obligations" because CRSL possessed "no experience in the operation or management of continuing care retirement communities." (V1-405; V3-115; *accord* V3-330.) The record shows CRSA receives a fixed fee for Spring Harbor management services. (V2-497; V3-118.) Yet the Authority's agreement with CRSL allows CRSL to take up to 5% of Spring Harbor revenues (even if there is no net income) in addition to all reimbursable expenses. (V3-135-36.) Predictably, given the intent to benefit Columbus Regional, this allowance lasts until the bond repayments end or the property reverts to Columbus Regional. (V3-136.) This arrangement exemplifies Judge Peters' concern for the circular transactions and "maze of [c]orporate structures" here. (V3-315.) Second, that CRSL is a nonprofit does not matter. The Management Agreement impermissibly provides "private gain or income" to a nongovernmental entity, CRSL. *Columbus Bd. II*, 302 Ga. at 362; *see id*. at 359 (noting CRSL is a private entity).

d. Spring Harbor Contributes Nothing to Support Columbus/Muscogee County's Indigent.

No one who is indigent can reside at Spring Harbor. This is fact, not "caricature." (Appellee's Br. at 1.) Spring Harbor's luxurious amenities can be

enjoyed by *only* the highest socioeconomic sliver of the community. (V1-427-29, V3-219, V3-228-33; Elder Dep. 120-21.) *See Columbus, Ga. Bd. of Tax Assessors v. Med. Ctr. Hosp. Auth.*, 338 Ga. App. 302, 307 n.1 (2016) ("*Columbus Bd. I*") (stating that deeming "an institution dedicated to serving wealthy individuals . . . a public project" may be "at some remove from the wellspring of its constitutional legitimacy"); *see also FTC v. Phoebe Putney Health Sys., Inc.*, 133 S. Ct. 1003 (2013) (addressing anticompetition); *Dep't of Human Res. v. Ne. Ga. Primary Care, Inc.*, 228 Ga. App. 130, 134 (1997) (tax exemption exists only in return for fulfilling the "obligation" to serve the indigent).

The Authority claims that Spring Harbor net income subsidizes indigent care (Appellee's Br. at 2, 17), but the record shows no actual evidence to support this statement. Even in years when Spring Harbor has earned net income which could be used to support indigent care, that has not occurred. The Authority's briefing confirms it. (V3-359-62.) The Authority's financials show no Spring Harbor funds transferred to support any indigent care. (V2-240-62; V2-475-508; V2-510-35; V3-283-308.) The Authority produced no new documents on remand showing otherwise. Record evidence even says such transfers are prohibited while the bonds are outstanding. (V2-379.)

The only record item the Authority cites is Roland Thacker's second

affidavit.[6] (Appellee's Br. at 2, 4-5, 8, 17-19.) A close reading, however, reveals Mr. Thacker never says any Spring Harbor revenues have been used to support indigent care. He only says Spring Harbor is an operating segment of the Authority and then separately states that the Authority supports indigent care. (V3-410-13.) There is no link between the two. The record shows no evidence Spring Harbor funds have ever subsidized Columbus/Muscogee County indigent care. *See, e.g.*, *Meredith v. Thompson*, 312 Ga. App. 697, 701 (2011) (explaining that a defendant is not required to prove a negative but may rely on the absence of proof by the plaintiff). In contrast, the record reveals that what is received for Spring Harbor stays with Spring Harbor. (V2-240-62; V2-379; V2-475-508; V2-510-35; V3-283-308.)

B. Spring Harbor Does Not Meet the Requirements for a "Home for the Aged."

Spring Harbor does not qualify as a tax-exempt "home for the aged." The Authority did not file a cross-appeal on this claim after the superior court's October 23, 2020 entry of summary judgment following remand. (*See* Corrected Index of Appeal at 1 (referencing Oct. 23, 2020 order and Nov. 19, 2020 notice of

[6] Many of the Authority's record cites appear to be the wrong volume number, based on the volume numbers listed in the record index. Most appear to be listed one volume too high. As an example, the record index shows Mr. Thacker's second affidavit in volume 3, but the Authority cites to it as volume 4. (*See* Corrected Index of Appeal at 4.)

appeal, but no cross-appeal after those dates).) Even if that filing were unnecessary, Spring Harbor fails to meet the requirements for tax exemption.

Procedurally, these are the facts: The Authority asserted in its complaint that the "home for the aged" exemption "is a second and wholly separate ground for a complete exemption" from property taxes for the Spring Harbor improvements. (V1-49.) The superior court denied summary judgment to the Authority on that ground in its initial summary judgment decision. (V4-539-41.) After Columbus appealed the superior court's initial summary judgment order on the "public property" issue, the Authority filed a cross-appeal on the "home for the aged" issue, again stating it was "an entirely separate ground" for exemption. (V5-5-6.) The parties split the record preparation costs for that first appeal. (V5-23-24.) This Court affirmed the superior court on the "public property" issue and, given that holding, did not reach the "home for the aged" argument. *See Columbus Bd. I*, 338 Ga. App. at 308. Columbus sought certiorari from the Supreme Court on the "public property" issue, but the Authority did not do likewise on the "home for the aged issue." *See Columbus Bd. II*, 302 Ga. at 358. Because the Supreme Court did not grant certiorari on the "home for the aged issue," it did not review it. *Id*. at 358 n.1. In vacating its prior decision and remanding the case to the superior court, this Court observed that the Authority could raise its "home for the aged argument" on remand because neither it nor the Supreme Court ruled on it. *See Columbus, Ga.*

Bd. of Tax Assessors v. Med. Ctr. Hosp. Auth., 345 Ga. App. 544, 545 (2018) ("*Columbus Bd. III*"). The Authority did so in the remand briefing, and the proposed order it drafted included a section granting summary judgment to the Authority on the "home for the aged" issue. (V5-52-78; V5-108-30; V5-329-62.) The superior court adopted the "public property" portion of the Authority's proposed order almost entirely verbatim, but it excised the "home for the aged" section from the proposed order's conclusions of law. (V1-4-23; *see* V5-329-62.) Columbus appealed this new summary judgment decision on the "public property" exemption. (V1-1-3.) The Authority did not file a Notice of Cross-Appeal following this new decision. Columbus paid all record preparation costs for this new appeal.[7] (V5-445-46.)

Substantively, Spring Harbor does not meet the requirements for tax exemption as a "home for the aged." This Court has set forth five requirements:

> (1) that the home for the aged be a nonprofit corporation; (2) that the corporate entity have no stockholders; (3) that no income or profits be distributed to or for the benefit of any private person; (4) that the nonprofit corporation have IRS tax exemption; and (5) that the nonprofit corporation be subject to Georgia law regulating nonprofit and charitable corporations.

[7] "The general rule is that an appellee must file a cross-appeal to preserve enumerations of error concerning adverse rulings. However, a *ruling* that becomes material *to an enumeration of error urged by an appellant* may be considered by the appellate court without the necessity of a cross-appeal." *Ga. Soc'y of Plastic Surgeons, Inc. v. Anderson*, 257 Ga. 710, 711 (1987) (emphasis added); *accord In re Estate of Boss*, 293 Ga. App. 769, 770-71 (2008). (*See* Appellants' Br. at 4.)

Lamad Ministries, Inc. v. Dougherty Cnty. Bd. of Tax Assessors, 268 Ga. App. 798, 801-02 (2004). The Authority cannot meet at least three of these requirements.

First, the Authority is not a "nongovernmental" "religious, charitable, fraternal, or veteran organization[]." *Id*. at 802. "The clear and unambiguous purpose of the exemption was to encourage the building and operation of homes for the aged by offering ad valorem tax exemption to *nongovernmental* tax exempt nonprofit Georgia corporations . . . ." *Id*. (emphasis added). The Authority is not entitled to the "home for the aged" exemption because it is not a "nongovernmental" nonprofit corporation and is not "subject to Georgia law regulating nonprofit and charitable corporations."[8] *Id*. at 801-02; *see Lathan v. Hosp. Auth. of Charlton Cnty.*, 343 Ga. App. 123, 805 S.E.2d 450, 456-57 (2017).

Second, as addressed in Section I.A.2.d, Spring Harbor's income does not benefit the Authority alone. The Authority is not entitled to the "home for the aged" exemption because it cannot meet the requirement "that no income or profits be distributed to or for the benefit of any private person." *Lamad Ministries*, 268 Ga. App. at 801.

Third, Spring Harbor cannot satisfy the "financial security" qualification that applies to a "home for the aged." Exemption as a "home for the aged" is

[8] The Authority also lacks legal standing to seek this exemption for Columbus Regional. *See generally Allen v. Wright*, 468 U.S. 737, 750 (1984), *cited in Granite State Outdoor Adver., Inc. v. City of Roswell*, 283 Ga. 417, 418 (2008).

predicated on the facility falling within the federal 501(c)(3) qualifications for homes for the aged. *See* O.C.G.A. § 48-5-41(a)(12)(A); *Lamad Ministries*, 268 Ga. App. at 801, 803. To qualify as a "home for the aged," the Internal Revenue Service ("IRS") has explained that "relief of distress and community benefit" elements must be present. IRS Rev. Rul. 72-124, 1972-1 C.B. 145, 1972 IRB LEXIS 450, at *3-4.[9] Accordingly, a 501(c)(3) which operates a "home for the aged" must meet the three primary needs of aged persons: housing, health care, and *financial security*. *Id*. at *6 (emphasis added); *accord* IRS Rev. Rul. 79-18, 1979-1 C.B. 194 (reaffirming the "financial security" requirement and stating that residence must be "within the financial reach of a significant segment of the community's elderly persons"). To meet the "financial security" requirement "the organization must be committed to an established policy, whether written or in actual practice, of maintaining in residence any persons who become unable to pay their regular charges." 1972 IRB LEXIS 450, at *7.

[9] The Authority says the Court should ignore this "dated" IRS Revenue Ruling. (Appellee's Br. at 34.) Yet as Judge Tuttle instructed in *Knowlton v. Commissioner*, 791 F.2d 1506, 1509 (11th Cir. 1986), Revenue Rulings are "entitled to weight, because [they express] the studied view of the agency whose duty it is to carry out the statute." The ruling is not "dated—as even the bonds' Official Statement recognizes. (V2-135 (referencing "recent" concern about facilities like Spring Harbor not accepting low-income residents yet utilizing tax-exempt financing, stating that "current and future regulations and rulings of the IRS" could adversely affect Spring Harbor).)

Spring Harbor cannot meet that requirement. The most the Authority can say is that it tries to make sure residents are sufficiently wealthy upon admission so that future inability to pay never occurs. (V3-424.) This is different than *Board of Tax Assessors v. Baptist Village, Inc.*, 269 Ga. App. 848 (2004). In that case, this Court said Baptist Village had a policy of allowing residents to move to higher levels of care regardless of their ability to pay and had never asked residents to leave for any reason, including nonpayment. *See id*. at 852. Spring Harbor's policy as stated in its residence agreement is that, if a resident fails to pay, Spring Harbor has the right to terminate. (R. V3-184-85, V3-187.)

This Court stressed in *Lamad Ministries* that "anyone seeking exemption must carry the burden of proof to show entitlement, and the exemption statute is strictly construed against the person claiming the exemption." 268 Ga. App. at 801. The Authority seeks to ignore the applicable law. It is not entitled to property tax exemption as a "home for the aged."[10]

II. CONCLUSION

For the reasons set forth above, Columbus respectfully requests the Court reverse the superior court's order granting summary judgment to the Authority.

[10] A cross-appeal would have provided separate briefing on the "home for the aged" issue. Columbus refers the Court to its superior court remand briefing on this issue should the Court decide to consider this "cross-appeal in disguise" and need more detail. (V5-101-03; V5-153-57.)

III. CERTIFICATE OF COMPLIANCE

This submission does not exceed the word count limit imposed by Rule 24. Based on the calculation provided by the word count of the word-processing system used to prepare the brief, this brief contains 4,198 words, excluding the cover sheet, table of contents, table of citations, certificate of compliance, and certificate of service. *See* Ga. Ct. App. R. 24(f)(1) & 3.

Respectfully submitted, this 16th day of December 2022.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Reply Brief of Appellants* on opposing counsel by electronic mail and by depositing a copy of the same in the U.S. Mail, with adequate postage affixed, addressed as follows:

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