

# Property Tax Exemption for Preserves, Parks, Trails, and Other Conserved Lands



Preserves, parks, trails, and other conserved lands in Pennsylvania are not automatically exempted from real estate taxes. If tax exemption is desired for a parcel, the charitable organization or local government must apply for exemption for that specific parcel. Exemption for one parcel does not guarantee exemption for others owned by the same entity.

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## INTRODUCTION

In Pennsylvania, being a conservation organization or other charity does not automatically exempt one from paying real estate taxes nor are local governments necessarily exempted. Park and open space lands held by charitable organizations and local governments are often granted exemption from property taxes, but these lands are not automatically exempt from taxation.

If exemption is desired for a parcel, the charitable organization or local government must apply for exemption for that specific parcel. Applicants must build a compelling case that the subject property deserves an exemption, both in terms of conformance with the law and from the personal perspectives of the Board of Assessment Appeals directors and staff. Exemption for one or many parcels does not guarantee exemption for others owned by the same entity.

Exemption from property taxes enables charities to focus their limited financial resources on carrying out their missions in the public interest rather than paying taxes for general purposes. However, as counties, local municipalities, and school districts look for new revenue to cover tight budgets, Boards of Assessment Appeals may be more inclined to challenge exemption applications as well as the status of already exempt properties held by charities and municipalities.

## BACKGROUND

### Recipients of Tax Revenue

Pennsylvania property owners pay annual real estate taxes to three independent classes of local government: the local municipality, the county, and the school district—the school district receiving by far the greatest share of the revenue. Pennsylvania state government and the federal government do not collect property taxes. Pennsylvania residents paid \$21.5 billion dollars in property taxes in 2020.<sup>1</sup>

### Rules Vary by County and Sometimes by City

The Pennsylvania Constitution sets forth the parameters for exemption from property taxation, and the General Assembly has enacted statutes and regulations to implement the constitutional provisions.<sup>2</sup> In addition, each class of county is subject to a special assessment law, which takes precedence when its provisions conflict with the general law. Almost all cities have elected to use county assessment figures. However, special provisions apply to a few third class cities that maintain their own assessment systems.

The supervisory body that handles applications for exemption from real estate taxes is made up of the county commissioners or is appointed by the county commissioners in counties of the third through eighth classes as well as the second class A. This body generally is called the Board of Assessment Appeals. Home rule counties and some third class cities have supervisory bodies that are established in various ways and with differing names. In Philadelphia the supervisory body is called the Board of Revision of Taxes. In this guide, all these bodies are generally referred to as the “Board of Assessment Appeals” or simply the “Board.”

In addition to handling exemption applications, the Board supervises the assessment process, sets the assessed value of property, applies millage rates, and hears appeals.

## EXEMPTION APPLICATION PROCESS

### Deadlines; No Retroactivity

Filing deadlines for tax exemption vary by type of county or city. If the deadline for a particular year is missed, the charitable organization or local government will be obligated to pay the taxes for that year. In many if not most jurisdictions, *tax exemptions cannot be made retroactively*; this has been the cause of consternation for a number of charities and local governments.

### Application Process Varies

The exemption application process—both the informal and formal elements—varies by county. Depending on the practices of the particular Board, a tax exemption may be granted based solely on the written application or the applicant may be required to present the application to staff or the Board. Applicants should consult with the staff of the Board to determine the specific expectations and requirements of that Board. Whatever the process, the applicant will want to prepare and deliver a strong case for the exemption from the start.

The [letter to the Centre County Board of Assessment Appeals](#) prepared by ClearWater Conservancy is a useful example of the points that a conservation organization may want to make in an exemption application.

### Decisions Can Be Subjective

Decisions concerning the granting of property tax exemptions can be fairly subjective, and government officials sometimes feel pressured to maximize tax revenue. Depending on the county (or city), an applicant will have to expend varying degrees of effort to make the case that a tax exemption is justified for a parcel it owns. In some counties the Board may require considerable persuasion to grant the exemption. In others an exemption may be granted with minimal effort on the part of the applicant. The degree of ease or difficulty may vary within a county as the individuals comprising the Boards and their staff change with time.

## Outside Guidance

Applicants for tax exemption—particularly those entities seeking their first exemption in a long time—are well served by consulting with an attorney who is familiar with both the law of property tax exemption and the particular county’s system for considering applications.

## Appealing an Adverse Decision

If the Board denies the exemption application, the charitable organization or local government may choose to file an appeal to the county court of common pleas seeking judicial review of the decision.

## EXEMPTION FOR CHARITABLE PROPERTY

### Nonprofit and Charitable Is No Guarantee

Being recognized by the Internal Revenue Service as a 501(c)(3) organization exempt from federal taxes or being registered as a charitable organization with the Pennsylvania Bureau of Charitable Organizations does not automatically entitle the organization to exemption from property tax.

### Must Apply for Each Parcel

An organization must apply to the Board of Assessment Appeals for property tax exemption for *each* individual parcel the organization acquires.

Although having a previous exemption may set a helpful precedent, it does not ensure that other parcels will be granted exemption. However, an organization may find that after spending considerable time and effort to secure exemption on its first parcel in a county, that county’s Board is more inclined to grant subsequent exemptions.

## Renewal May Be Necessary

Once obtained, the continued exemption of a parcel is not guaranteed. In Philadelphia, for example, charitable organizations must *annually* file an application for tax exemption; the exemption does not continue automatically from year to year. In other jurisdictions, the taxing authorities may require organizations to routinely prove that they are “purely public charities” entitled to property tax exemptions.<sup>3</sup>

## Must Be a Purely Public Charity

The Pennsylvania Constitution exempts institutions of “purely public charity” from paying real estate taxes.<sup>4</sup> The Pennsylvania General Assembly implemented this Constitutional provision by enacting assessment laws that extend the property tax exemption to institutions of purely public charity.<sup>5</sup>

In 1985, the Pennsylvania Supreme Court issued a five-part test (the HUP<sup>6</sup> test) to determine whether an entity qualified for tax exemption as an institution of purely public charity:

1. The institution must advance a charitable purpose;
2. The institution must donate or render gratuitously a substantial portion of its services;
3. The institution must benefit a substantial and indefinite class of persons who are legitimate subjects of charity;<sup>7</sup>
4. The institution must relieve the government of some of its burden;<sup>8</sup> and
5. The institution must operate entirely free from private profit motive.<sup>9</sup>

## Property Must be Used for Charity’s Purposes

The Pennsylvania Constitution provides that even if an organization is deemed a purely public charity, only the portion of real property that is “actually and regularly used for the purposes of the institution” may be exempt

from taxation.<sup>10</sup> Thus, the use of the property must advance the charitable mission and purpose of the organization. If a portion of the property fails meet this test, that part may not qualify for an exemption.

## Income-Generating Property

The HUP test requires an institution to operate “entirely free from private profit motive.” But:

The difference between “profit motive” and “private profit motive” is not merely semantic. All companies, whether for-profit or nonprofit, must try to generate more in revenues than they pay out in expenses if they want to avoid going out of business. That, on its face, is “profit motive.” The test for a nonprofit, and for an institution of purely public charity [IPPC], is not whether it is trying to generate operating surpluses, but rather whether it is trying to enrich private individuals or for-profit entities, i.e., “private profit motive.” If a nonprofit or an IPPC is fortunate or skilled enough to generate profits it must either invest them back in the organization or pay them out in community benefits.<sup>11</sup>

The Pennsylvania Code provides guidance in assessing if the organization is operating from a private profit motive. For instance:

The fact that an organization’s charitable activities generate surplus funds will be deemed by the [Pennsylvania] Department [of Revenue] to constitute evidence of a private profit motive, unless the surplus funds are reinvested to aid legitimate subjects of charity. Surplus funds reapplied to the maintenance and operation of a facility or to retire outstanding debt is not evidence of a private profit motive.<sup>12</sup>

When conservation property owned by an organization generates income (e.g., farmer’s rent payments), this revenue does not necessarily make the land ineligible for the real estate tax exemption. In its exemption application, the organization would want to explain the mission-related

reason for the leasing (e.g., the leasing is designed to advance sustainable agriculture and do so at a lower cost than is possible using organization personnel) and document the relatively nominal nature of any income received.

## Recommendations for Pursuing Tax Exemption

### Set the stage

First, set the stage for successful applications:

- Individual people make up Boards of Assessment Appeals. Even before you have an application pending, develop good relationships with Board members and staff. Help them understand who you are and the good charitable work you do.
- Likewise, develop good relationships with the officials of the taxing bodies that won’t be receiving tax revenue if your application is successful. Help them understand how your work benefits their community.
- Scrupulously follow the specific requirements of the tax assessment office in the county where the property is located. The application and instructions for each county are available online. In some counties there are separate webpages for the application and the instructions. One application must be filled out for each parcel. The filing fee (typically ranging from \$50 to \$200 is per parcel) must accompany the application. Mail applications certified mail/return receipt to document timely filing.
- Don’t miss the application deadline to file for tax exemption (or the deadline to appeal an exemption denial to a court)! It can be an expensive mistake. Postmarks are NOT accepted as meeting the filing deadline. If you do miss the deadline, consider filing a *nunc pro tunc* appeal which allows the Board to consider your application despite you not having followed the technical appeal or application requirements.

- Know how frequently your particular jurisdiction requires charitable organizations to file for exemption. (For example, as noted above, Philadelphia and Allegheny Counties revisit exemption status annually and triennially respectively.)
- Since taxes must be paid for the year in which the property is acquired, other issues aside, consider timing settlements to be near year-end (but not so near as to risk going into the following year) to minimize the organization's tax liabilities.
- Submit an exemption request as soon as possible after settlement but not before you think you can make a strong case for exemption. For example, a delay may be worthwhile to give the organization time to post parking signs and announce on the internet that the site is open to the public.
- Engage an attorney experienced in presenting cases before the Board in your area. (Contact your local bar association to determine who has this specialty and reach out to other charitable organizations in your area to get recommendations.) Work with the attorney to prepare a strong case.
- Determine who within your organization can best provide articulate, calm testimony to the Board.

### Content of the application

Don't expect the people of the Board of Assessment Appeals to understand the charitable value delivered by a property without being provided a clear and detailed explanation of it. Identify public benefits delivered by the property that both square with the law and resonate with the values and priorities of Board members and staff. Demonstrate how the organization meets the HUP test and show how the property is actually and regularly used for charitable purposes:

- If the public has or will have access to the land for recreation or education, state this and demonstrate it: Provide brochures showing the property and web announcements about opportunities for public access on the property; be prepared to explain how and to

whom the information is disseminated. Document public use of the property.

- Explain how the property meets a need identified by government, for example, the land's inclusion on an open space and recreation plan.
- Describe government support for the acquisition of the parcel, for example, a grant from the state, county, or local government.
- Describe how the property relieves government of burdens and demands for services; for example, the need to establish a new public park or obtain land for outdoor educational programs by the school district.
- Describe the costs savings to and costs avoided by government as a result of the protected open space, for example, the costs of water treatment, stormwater management, and road maintenance. Some organizations explain how avoiding development on a parcel avoids the need and associated costs of building and maintaining schools and expanding municipal services.
- Describe the benefits the property provides to people at no charge; for example, providing cleaner air and water, reducing noise, and preserving scenic views.
- Describe improvements made to the property for the public benefit; describe maintenance of the property.
- To the extent that any of these benefits provide particular benefit to people of low income, highlight this.

### The Rules Are Subject to Change

In 1997 the Pennsylvania General Assembly unanimously passed the Institutions of Purely Public Charity Act (also known as "Act 55").<sup>13</sup> This law incorporated the 5-part HUP test but broadened it and added a rebuttable presumption that if an organization possesses a current sales tax exemption (granted by the Pennsylvania Department of Revenue), the Boards of Assessment Appeals should presume that the organization is an institution of purely public charity for property tax purposes.



The Pennsylvania Supreme Court took issue with Act 55 in *Mesivtah Eitz Chaim of Bobov, Inc. v. Pike County Board of Assessment Appeals*.<sup>14</sup> That case opined that only the Court had the right to define the Constitution's minimum requirements for tax exemption. Although the court did not overrule Act 55 or find it unconstitutional, the decision in effect made Act 55 largely irrelevant by reinstituting the five, court-determined HUP factors as the threshold test—a more stringent standard for exemption than Act 55.

## Payments in Lieu of Property Taxes

The Institutions of Purely Public Charity Act authorizes *voluntary* in lieu of tax agreements between charitable institutions and political subdivisions.<sup>15</sup> The associated payments are sometimes referred to as PILOTS or *payments in lieu of taxes*.

An organization engaging in large-scale land acquisition in a community may seek tax exemption and then, after receiving an exemption, make payments in lieu of property taxes in order to help the community manage the loss of tax revenue or avoid controversy about land being taken off the tax roll. However, great caution should be taken in exercising such a choice, since doing so can drain substantial resources from the organization's charitable conservation work and motivate other municipalities where the organization works to seek similar treatment.

Charitable organizations, even those that generate substantial revenues from their ventures (e.g., hospitals and YMCAs) or whose charitable impact seems small, generally are not shy about seeking property tax exemptions in support of their charitable work. Conservation organizations, which deliver tremendous benefits to the public and make little demand on government services, certainly have a strong case to make for both tax exemption and rejection of any suggestion that they make payments in lieu of taxes.

## EXEMPTION FOR MUNICIPAL PROPERTY

### Municipalities Are Not Guaranteed Exemption

The Pennsylvania Constitution and state tax-related statutes provide that property owned by a local political subdivision or municipal authority is not subject to taxation if the property is “**actually and regularly used for public purposes**.”<sup>16, 17</sup> Likewise, the state's Open Space Law, Act 442, states that any open space interest acquired pursuant to Act 442 is held for public purposes and shall be exempt from taxation.<sup>18</sup> But, just as with charitable organizations, municipalities do not *automatically* receive tax exemption for their properties. Municipalities must apply for exemption for each individual property they hold.

Unlike with charitable organizations, the *burden is on the taxing body* to prove that governmental property is subject to taxation. A Board of Assessment Appeals must prove that a property is not used for public purposes rather than a municipality having to prove that it is. The *Norwegian Twp.* case described in the next section places local governments in a strong position for obtaining tax exemptions.

Although a municipality faces a shorter hurdle than charitable organizations in obtaining tax exemptions, the guidance provided to organizations in the previous section largely applies to municipalities as well.

### Used for Public Purposes Is the Standard

In *Norwegian Twp. v. Schuylkill Cty. Bd. of Assessment Appeals*, 1764 C.D. 2012 (June 19, 2013), the Pennsylvania Commonwealth Court clarified the standards a municipality must meet to show that land it owns qualifies as tax-exempt.<sup>19</sup> The township in that case acquired land to build a playground and ultimately applied to the Schuylkill County Board of Assessment Appeals for tax exemption. The Board determined that the property was taxable, and the township appealed this decision to the Schuylkill County Court of Common Pleas.

At the trial court hearing, the township presented testimony showing that it planned to build a playground on the parcel when funds became available, and that it had, in fact, applied for grant money several times (unsuccessfully). The site was unimproved, but the municipality mowed the grass at the site, picked up debris, and generally maintained the property in the same way as it did other township parks. The land was ungated and largely open for public access, and this had been announced at township meetings.

The trial court held for the township, and the Board of Assessment Appeals appealed to the Commonwealth Court. That appellate court affirmed the trial court, holding that the land was tax-exempt. Importantly, the Commonwealth Court opinion clarified previous conflicting decisions and held that, although ordinarily the property owner has the burden of establishing a tax exemption, where the matter involves government-owned property, the burden of proof is on the taxing entity.

In addition, the appellate court found that the Board failed to meet its burden of proof that the property was *not* used for public purposes. The township had established that the property was available to the public for recreational activities and that it had generally maintained the land and made good-faith efforts to develop the property for a park or playground. Importantly, the opinion noted that the township's failure to install public improvements:

does not negate the public purpose use or maintenance of the Property. Further, the applicable burden of proof which the Board must meet governs the outcome of this case, which is not merely whether park benches have been placed on the Property. **The Property is tax-immune/exempt unless it is not used for a governmental purpose.**

**Moreover, the constitutional standard is that the property be used for public purposes, not by the public....** [Emphasis added.]

## Future Public Use

Where land is acquired for *future* public use, it may be helpful for tax exemption purposes for municipalities to assure that the property is permanently dedicated to the purposes of providing recreational opportunities or other open space benefits for the public by making a [declaration of public trust](#), inserting a deed restriction into the deed, or by granting a [conservation easement](#) on the property that prohibits future development inconsistent with providing open space benefits in perpetuity. It may also be helpful to be able to show the property on an open space, greenways, or other official plan to illustrate the value of open space to the community and how the property fits into the local government's plans.

## NO TAXES ON EASEMENT HOLDER

Holding a conservation easement does not create a real estate tax obligation for the easement holder. The owner whose land is subject to the conservation easement still bears the property tax obligation.<sup>20</sup>

## EXAMPLES OF EXEMPTION APPLICATIONS

### Natural Lands

Natural Lands, a large regional land trust based in Delaware County, owns 42 nature preserves, all of which have received tax-exempt status.

After Natural Lands acquires a parcel, its controller files an application for tax exemption by the annual deadline set by the Board of Assessment Appeals of the county in which the property is located. Natural Lands counsels other land trusts to be well aware of this deadline; on one occasion the deadline changed in a particular county from August 31 to August 1 without Natural Lands having been informed, resulting in its application being deemed late and being denied. (Consequently, Natural Lands had to pay property taxes on those parcels for that year. The

next year, the applications were timely submitted, and the parcels were determined to be tax-exempt.)

Natural Lands buttresses its case for exemption by providing materials that go beyond what is strictly necessary for the application: a detailed preserve write-up, a preserve brochure, maps, photographs of the property, press releases, news clippings, and a statement as to why the project satisfies each component of the 5-part HUP test. For example, immediately below is the statement that accompanied Natural Lands's Green Hills Preserve exemption application: (Natural Lands was then known as Natural Lands Trust or NLT.)

### ***Compliance with Exemption Criteria***

**1. *Advances a Charitable Purpose*** – *Access to the Green Hills Preserve and other NLT preserves is provided free of charge for passive recreational use to all members of the public regardless of race, color, religion, age, sex, national origin or ancestry, or physical or mental ability. Trails are open to all visitors for walking, jogging, bird watching, photography, nature study, fishing, and other low-impact activities.*

**2. *Operates Entirely Free from Private Profit Motive*** – *Incorporated in 1961 in the Commonwealth of Pennsylvania, Natural Lands Trust is a non-profit, tax-exempt corporation under Section 501(c)(3) of the United States Internal Revenue Code. NLT applies or reserves all revenue in excess of expenses, including contributions, in furtherance of its charitable purpose; compensation – including benefits – of any director, officer, or employee of NLT is not based primarily upon the financial performance of the institution; and NLT's Articles of Incorporation expressly prohibit the use of any surplus funds for private inurement to any person in the event of a sale or dissolution of the corporation.*

**3. *Donates or Renders Gratuitously a Substantial Portion of its Services to the Needy*** – *Natural Lands Trust's preserves are open to the public free of charge. In addition, the Preserves serve as sites for environmental education programs for students and teachers, as sites to protect Berks County's natural resources and as sites for forest*

*management and scientific and watershed research that benefit residents throughout Berks County.*

**4. *Benefits a Substantial and Indefinite Class of Persons who are Legitimate Subjects of Charity*** – *Natural Lands Trust's preserves are open to the public free of charge year-round during daylight hours. We cannot estimate the number of visitors to our preserves since no fee is charged nor do we have a full-time manager stationed at each preserve. Personal observation by our staff, traces left behind by visitors (clearly well used trails, etc.) in the woodlands, and discussions with preserve neighbors indicate significant regular use by the public. Additionally, hiking clubs, ornithological and herpetological groups make scheduled visits to the preserves to view their biological and ecological diversity.*

**5. *Relieves the Government of Some of its Burden*** – *By offering trail networks and open space areas to all county (and beyond) residents 365 days a year, Natural Lands Trust's preserves provide an experience with the natural environment that is increasingly harder to find in rapidly developing areas. Teachers and students benefit by using the preserves for nature walks and environmental education studies.*

After filing its application, a Natural Lands representative (typically the vice president of conservation or preserve stewardship or the project manager) attends the hearing (if any) to reinforce its case for the exemption; the representative describes the property, outlines how it will be used for the benefit of the public, and stresses the environmental benefits as well as the public recreational benefits such as trails and educational use. Typically, no additional materials are presented at that time.

Natural Lands has generally faced minimal challenge in securing tax exemption. Exceptions include the following:

- Although properties that generate revenue from agricultural leases have not been a problem, one parcel containing a house that generates substantial rental revenue was initially denied exemption. Upon appeal, Natural Lands ultimately secured exemption for the



open space portion of the parcel, paying taxes only on the house and its building envelope.

- When Natural Lands applied for exemption for its new Green Hills Preserve in Berks County in 2012, a representative from the school board showed up in opposition, and Natural Lands' exemption was denied. The Board's notice did not disclose the reason for the denial, but Natural Lands believes it was due to the fact that there were no trails, signs, or parking lot to support public access. Natural Lands [reapplied for exemption in 2014](#) after it installed a parking lot, signs, and trails, and full exemption then was granted.

Natural Lands points out that each county requires different information, so organizations must be careful to follow the instructions. For example, the [application that Natural Lands filed](#) with Northampton County for the Archibald Johnston Preserve required submission of an appraisal, a salary list, and a statement regarding conflict of interest, among other materials.

## Schuylkill River Greenways

From approximately 1993 to 1999, Schuylkill River Greenways (SRG) paid real estate taxes on the abandoned railroad parcels in Schuylkill County that it acquired from the Penn Central Real Estate Corp. SRG apparently did not demonstrate to the Board's satisfaction that the unimproved parcels were "actually and regularly used" as part of the rail-trail system. The fact that adjacent railroad parcels had been improved and were being used for the public trail—and that this was the plan for these newly acquired parcels—was not sufficient for the Schuylkill Board.

In contrast, similar parcels that SRG owned *in Berks County* were determined to be exempt by that county Board.

The Schuylkill tax problem was eventually worked around. Schuylkill County agreed to assume ownership of the abandoned railroad parcels and lease back the property to SRG. The County then was able to obtain tax exemption from the Board. A trail management and development agreement was executed under which the County paid SRG an annual fee and provided SRG a grant to pay the back taxes on the property.



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WeConservePA offers this guide thanks to support from the Colcom Foundation, the William Penn Foundation, and the Community Conservation Partnerships Program, Environmental Stewardship Fund, under the administration of the Pennsylvania Department of Conservation and Natural Resources, Bureau of Recreation and Conservation.

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v. 2022.10.07

<sup>1</sup> ["Property Tax Burden by County."](#) Independent Fiscal Office, September 2022.

<sup>2</sup> Pennsylvania Constitution, Article VIII, § 2(a); General County Assessment Law, Act 155 of 1933 (72 P.S. § 5020-204(a)(9)); Consolidated County Assessment Law, 53 Pa. C.S. § 8812(a)(11).

<sup>3</sup> Charities in Allegheny County have been asked to do this every three years. See [http://www.post-gazette.com/local/re-gion/2015/02/15/In-Allegheny-County-small-non-profit-groups-](http://www.post-gazette.com/local/re-gion/2015/02/15/In-Allegheny-County-small-non-profit-groups-losing-property-tax-exemptions-in-first-wave-of-review/stories/20150215009)

[losing-property-tax-exemptions-in-first-wave-of-review/stories/20150215009](#). The article reports that 190 properties with an aggregate \$59 million in value came back onto the tax rolls via this review process. Most were owned by small nonprofits, including recreation centers, churches, and at least ten volunteer fire departments.

<sup>4</sup> Pennsylvania Constitution, Article VIII, § 2(a).

<sup>5</sup> See General County Assessment Law, Act 155 of 1933 (72 P.S. § 5020-204(a)(9)); Consolidated County Assessment Law, 53 Pa. C.S. § 8812(a)(11).

<sup>6</sup> “HUP” refers to an abbreviation of the case name: *Hospital Utilization Project v. Commonwealth*, 507 Pa. 1 (1985).

<sup>7</sup> The “legitimate subjects of charity” do not need to be poor. See *Unionville-Chadds Ford School District v. Chester County Board of Assessment Appeals and Longwood Gardens, Inc.*, 552 Pa. 212; 714 A.2d 397 (1998).

<sup>8</sup> The school district appellant in the *Longwood Gardens* case cited above claimed that because the government had no duty to provide the public with a facility like Longwood, the nonprofit does not provide relief from any governmental burden. The state supreme court disagreed, holding that:

[T]he fact that there is no constitutional or statutory duty to provide public gardens and educational and research facilities exactly like the ones at Longwood is not determinative. Whenever the government provides services and facilities to its citizens, it bears certain burdens. Such burdens exist regardless of whether the governmental endeavor is obligatory or discretionary in origin.... If services and facilities provided by government experience reduced demands due to the existence of independent institutions that meet the same needs, then it can fairly be said that the government’s burden has been eased....

The government has routinely assumed a responsibility for providing open space for public recreation and for conservation of natural landscapes and resources.... Longwood’s public park and cultural facilities fall clearly within the scope of burdens that are routinely shouldered by government. Hence, this element of the HUP test was properly found to be met.

<sup>9</sup> See “Income-Generating Property,” below.

<sup>10</sup> See Pennsylvania Constitution, Article VIII, § 2(v).

<sup>11</sup> Testimony of T. McGough, executive vice president and chief legal officer, University of Pittsburgh Medical Center, Allegheny County Public Meeting to Discuss Constitutional Amendment on Tax-Exempt Properties, Public Charities Testimony, 3/12/15.

<sup>12</sup> Pa. Code title 61, chapt. 32, § 32.1 Excerpt from definition of “Charitable organization.”

(<http://www.pacode.com/secure/data/061/chapter32/chap32toc.html>.) See also [Purely Public Charity Status](#)

[Exemption from Pennsylvania Sales Tax and Real Estate Tax](#), D. J. Zateeny (2014), (Section II(E)).

<sup>13</sup> Act 55 of 1997 (10 P.S. 371 *et seq.*).

<sup>14</sup> 13 A.3d 463 (2011). In *Mesivtah*, the County Board of Assessment Appeals revoked the property tax exemption of a Jewish summer camp in the Poconos, ruling that occasional use of the camp facilities by local residents did not “relieve the government of some of its burden.”

<sup>15</sup> The Court’s decision in *Mesivtah* did not negate this provision of Act 55.

<sup>16</sup> Pennsylvania Constitution, Article VIII, § 2(a)(iii) (“The General Assembly may by law exempt from taxation...that portion of public property which is actually and regularly used for public purposes.”); 72 P.S. § 5020-204(a)(7) (exempting “[a]ll other public property used for public purposes, with the ground thereto annexed and necessary for the occupancy and enjoyment of the same”); 53 Pa.C.S. §8812(a)(8) (exempting “public property used for public purposes with the ground annexed and necessary for the occupancy and use of the property”).

<sup>17</sup> Property owned by one political subdivision and leased to another may qualify as public property used for a public purpose. See *Wesleyville Borough v. Erie County Board of Assessment Appeals*, 676 A.2d 298, Pa.Cmwlth, 1996.

<sup>18</sup> “Section 9. Assessment.--**Any open space property interest acquired by the Commonwealth or a local government unit under this act is held for public purposes, and shall be exempt from taxation.** The assessment of private interests in land subject to open space property interests under this act shall reflect any change in market value of the property which may result from the acquisition of open space property interests by the Commonwealth or a local government unit.” 1967 P.L. 992, No. 442, as amended (emphasis added).

<sup>19</sup> *Norwegian Twp. v. Schuylkill Cty. Bd. of Assessment Appeals*, 1764 C.D. 2012 (June 19, 2013), [http://www.pacourts.us/assets/opinions/Commonwealth/out/1764CD12\\_8-12-13.pdf](http://www.pacourts.us/assets/opinions/Commonwealth/out/1764CD12_8-12-13.pdf).

<sup>20</sup> Pennsylvania’s [Clean and Green](#) provides for reduced property tax assessments for land capable of producing wood products, agricultural land, and open space land open to the public.