



**NORTON SOUND
HEALTH CORPORATION**

*Providing quality health services and promoting
wellness within our people and environment.*

July 18, 2024

RECEIVED

JUL 18 2024

CITY OF NOME
CLERKS DEPARTMENT

City of Nome
Office of the City Clerk
PO Box 281
Nome, AK 99762

Re: 2024 Property Tax Bills, Payment Under Protest

To Whom it May Concern:

Enclosed is Check No. 0463246 in the amount of \$96,531.00, as payment under protest pursuant to AS 29.45.500(a) for real property taxes on the properties listed below in the amounts listed on the Official 2024 Tax Bills attached:

1. Block 91, Lot 3 & 4, 001.221.05A
2. Block MS 1298, 192.1.085
3. Block 110, Lot 3A, 001.211.03B
4. Block 110, Lot 1-2, 001.211.03A

Norton Sound Health Corporation (NSHC) believes the City of Nome assessor's denial of a full tax exemption for the properties listed above is a clear error and is not based on fact or applicable law. The properties listed in this letter are exempt under AS 29.45.030(a)(3) and Alaska Constitution Art. IX, Sec. 4 as properties used exclusively for hospital and charitable purposes and the City is preempted from assessing property tax under federal law pursuant to NC 17.20.020(a)(1) and AS 29.45.030(a)(8).

NSHC has been committed to resolving these issues at the local level, we have submitted timely exemption requests, timely Board of Equalization Appeals, and all additional information requested by the City Clerk's Office and Board of Equalization committee members. We have exhausted all administrative remedies and believe the BOE's affirmation of the Assessor's determination is not supported by substantial evidence and is clear error, based on the following:

1. The NSHC is a tribally owned regional hospital and healthcare system which is operated pursuant to an Indian Self-Determination and Education Assistance Act (ISDEAA) agreement. NSHC operates health facilities and provides health care and charitable services to Alaska Natives and other beneficiaries pursuant to the Alaska Tribal Health Compact (ATHC), a multi-tribe self-governance compact with the Indian Health Service (IHS) under Title V of the ISDEAA, 25 U.S.C. § 5381, et seq. Each of the properties is used exclusively to perform the programs, functions, services and activities in furtherance of the ISDEAA and ATHC.
2. NSHC is an arm of its member tribes performing essential governmental services to its member tribes' beneficiaries, pursuant self-determination contracts under the ISDEAA for health services, and as such enjoys tribal sovereign immunity as set forth in *White v. Univ. of Cal.*, 765 F.3d at 1025 (9th Cir. 2014), *Ito v. Copper River Native Association*, 547 P.3d 1003 (Alaska 2004),

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and 25 U.S.C. 5381. Sovereign immunity is a jurisdictional bar to the City of Nome's assessment and collection of property tax on NSHC. There is no *in rem* exception to tribal sovereign immunity.

3. The city of Nome's tax on all real property owned by NSHC is preempted by federal law under the implied federal preemption doctrine rooted in the Supremacy Clause of the U.S. Constitution. U.S. Const., art. VI, cl. 2; AS 29.45.030(a)(8). Properties used to carry out federal programs and that are subject to comprehensive and pervasive federal oversight, like the NSHC properties at issue here, are exempt from state or local taxation. *Ketchikan Gateway Borough v. Ketchikan Indian Corp.*, 75 P.3d 1042 (Alaska 2003). Federal preemption is a jurisdictional bar to the City of Nome's property taxation scheme and the BOE's affirmation of the assessor's denial of exemption impermissibly interferes with federal programs.
4. The assessor and BOE erred by denying full property tax exemption to NSHC pursuant to AS 29.45.030(a)(3). AS 29.45.030(a)(3) exempts from property tax "property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes." All portions of properties owned by NSHC are exclusively used for nonprofit hospital and charitable purposes.
5. The properties are used directly and exclusively for the fulfillment of ISDEAA contracted functions, services and activities which the Alaska Supreme Court has determined meets charitable purposes criterion for exemption. *Fairbanks North Star Borough v. Henash*, 88 P.3d 124, 135 (2004).
6. All income generated from NSHC's operations is related and in furtherance of its exempt purposes and is not motivated by profit.
7. The Assessor's determination to deny property tax exemption for 100% of the listed properties, and the BOE's affirmation of said determination, is arbitrary and capricious, unsupported by substantial evidence, contrary to applicable law, and an abuse of discretion.

In support of NSHC's protest, we incorporate all facts, evidence, and arguments submitted in the written BOE appeals and hearings of the 2024 tax assessments, as well as the facts, evidence and arguments submitted in the matters of *Norton Sound Health Corporation v. City of Nome Board of Equalization*, Case Nos. 2NO-22-00095CI and 2NO-23-00156CI.

Direct all future correspondence for the above listed properties to Dan Pardee, (907) 443-3337 or via email dpardee@nshcorp.org

Regards,



Dan Pardee, CFO
Norton Sound Health Corporation

Encl: Check No. 0463246
Tax Bills (4)

Cc: Assessor