

CITATION: Langs Community v. Municipal Property Assessment Corp. & City of Cambridge,
2024 ONSC 1864
COURT FILE NO.: CV-18-64022
DATE:20240328

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:)	
)	
Langs Community Development Corporation)	
)	Scott McAnsh and Joe Jebreen, for the
)	Applicant
Applicant)	
)	
– and –)	
)	Jeffrey E. Feiner and Ryan W.O.Chan, for
Municipal Property Assessment Corporation)	the Respondents
and The Corporation of the City of)	
Cambridge)	
Respondents		
)	
)	
)	HEARD: October 12, 2023

ANTONIANI J.

Reasons for Decision

Application under s. 46 of the *Assessment Act*, R.S.O. 1990, C. A.31.

OVERVIEW

- [1] The Applicant, Langs Community Development Corporation (“LCDC”) seeks a declaration that the property it owns, at 1145 Concession Road, Cambridge, Ontario (the “Property”), is exempt from municipal property tax under the provision of s. 3(1)(12) iii of the *Assessment Act*, (the “Act”) and has been so exempt since the 2018 taxation year;
- [2] Langs Farm Village Association (“Langs”) operates a community hub at 1145 Concession Road, in Cambridge, Ontario. Langs was incorporated in 1987 and became a registered charity in 1991.
- [3] In 2007, Langs incorporated a separate legal entity, LCDC, to purchase the Property. Later, the community hub was built on the Property.

- [4] LCDC was incorporated as a non profit, non share capital corporation, and became a registered charity in 2017.
- [5] Section 3(1)(12)iii of the *Assessment Act* states:
- 3 (1) All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation:
- Charitable institutions
12. Land owned, used and occupied by,
- iii. any charitable, non-profit philanthropic corporation organized for the relief of the poor if the corporation is supported in part by public funds.
- [6] The Respondent opposes the application on the basis that LCDC does not meet the statutory requirements to qualify for the exemption. Specifically, that LCDC is not organized for the relief of the poor, and that it is not supported in part by public funds.
- [7] LCDC argues that the exemption applies for the following reasons:
- a) LCDC owns, and occupies the Property;
 - b) LCDC uses the Property to fulfill its objectives and purposes;
 - c) LCDC is supported in part by public funds; and
 - d) LCDC was organized for the relief of the poor and provides relief to the poor.
- [8] In the alternative, LCDC argues that it shares an identity in patrimony with Langs, and that Langs is organized for the relief of the poor and is supported largely by public funds, and Langs would be tax exempt if it owned the property directly. Therefore, by virtue of the shared identity, LCDC is entitled to tax exempt status.
- [9] The Respondent disagrees that there is a shared identity in patrimony between Langs and LCDC, and argues that in any event, neither LCDC nor Langs are “organized for the relief of the poor”.

ISSUES

The parties agree on the following facts:

- [10] The Board of dDirectors of Langs caused LCDC to be incorporated for the purpose of purchasing the Property.
- [11] LCDC is a charitable non profit philanthropic corporation.
- [12] It is agreed that LCDC owns, uses and occupies the Property.

- [13] It is agreed that Langs is supported in large part by public funds (but not that LCDC is supported in part by public funds).
- [14] It is agreed that only the following three questions need to be addressed, and that the answers will determine all of the issues on this application. I have listed the questions in the order in which I intend to address them:
1. Does LCDC share an identity in patrimony with Langs?
 2. Is LCDC “supported in part by public funds” as that phrase appears in subparagraph 3(1)12(iii) of the *Act*?
 3. Is LCDC (or Langs, if they share an identity in patrimony) “organized for the relief of the poor” as that phrase appears in subparagraph 3(1) 12 (iii) of the *Act*?

DECISION

- [15] For the reasons that follow, I find that LCDC shares an identity in patrimony with Langs.
- [16] I find that LCDC is supported in part by public funds; and
- [17] I find that LCDC and Langs are corporations organized for the relief of the poor.

ANALYSIS

- [18] The onus is on the Applicant, LCDC, to show that it falls within the exempting provision. The purpose of the *Assessment Act* is to raise revenues through the taxation of property to enable municipal governments to meet their expenses. The *Act* recognizes that certain organizations should be exempt from taxation in order to allow them to spend more of their limited resources on activities that are of a great benefit to either discrete groups of disadvantaged persons or to society as a whole: *Ottawa Salus Corporation v. Municipal Property Assessment Corp.*, 69 O.R. (3d) 417 (C.A.).

ISSUE 1: Does LCDC share an identity of patrimony with Langs?

- [19] I have found that Langs and LCDC share an identity in patrimony. Therefore, issue 2 is disposed of since it is agreed that Langs is largely supported by public funds.
- [20] The only issue left to address is whether Langs, or LCDC, are “organized for the relief of the poor”. However, I have examined each of the issues in relation to LCDC as the result would have been the same on the basis of LCDC’s primary argument, which is that they meet the exemption criteria independent of their relationship to Langs.

An Identity in Patrimony

- [21] In two 1994 decisions, the Supreme Court of Canada set out the principles to be considered in determining whether a relationship in patrimony exists: *Conseil de la Santé et des Services Sociaux de la Région de Montréal Métropolitain and Buanderie Centrale de Montréal Inc. v. City of Montréal and Communauté Urbaine de Montréal*, [1994] 3 SCR 29 (“*Counseil de la Santé (Montréal)*”) and *Partagec Inc. v. Communauté urbaine de Québec and City of Québec and Bureau de revision de l’évaluation foncière du Québec*, [1994] 3 S.C.R. 57 (“*Partagec*”).
- [22] Each of these cases involved non profit corporations that were established by tax exempt hospitals for the sole purpose of providing laundry services to hospitals. The hospitals had previously provided their own laundry services internally. The stated reason for the incorporation of a separate entity to provide the laundry services was for cost savings and for tax purposes.
- [23] In agreeing that the laundry corporations were entitled to exemption, the court identified “an almost complete identity between the appellants and the establishments for whose benefit they operated”: *Counseil de la Santé (Montréal)*, at p. 51. and the court stated, at p. 48, that:
- a corporation may be regarded as the alter ego of another corporation when there is such a close relationship between them that what apparently concerns one actually pertains to the activities of the other. Undoubtedly a large number of factors can be identified to determine the existence of such a relationship: in my opinion, however, the one that is most explicit and most likely to cover all aspects of the concept is control.
- [24] The court noted that even where there is absence of one corporation controlling the other, a court may still conclude that a relationship in patrimony exists when all of the evidence is viewed, and when substance is prioritized over form in the interpretation of the exempting statute.
- [25] In the Ontario decision, *St. George and St. Rueiss Copic Orthodox Church v. Municipal Property Assessment Corp.*, 2016 ONSC 1723, 130 O.R. (3d) 105 (“*St. George*”), Dunphy J. also considered the application of s. 3(1)(12)iii of the *Assessment Act*. He found a relationship in patrimony between a tax-exempt church and the school that it incorporated and controlled.
- [26] In considering the tax-exempt church’s decision to open a school, and to do so via a separate corporate entity, the court noted that “[i]t was thought advisable to incorporate a second non-profit, non-share capital corporation to operate the school for insurance and liability reasons”, and that “there is no reason why the formerly tax exempt activities should be found to be altered by the change in legal structure since they form part of a common patrimony”. Dunphy J. found that the school was otherwise totally controlled by the church, and that they formed part of a common patrimony.

[27] The Respondent relies on the *Hospital for Sick Children v. MPAC*, 2012 ONSC 1351, 97 M.P.L.R. (4th) 130, where the court found that the hospital and the Applicant Foundation did not share an identity in patrimony. The application judge noted the Foundation and hospital were separate corporate organizations, and the Foundation operated as an independent corporation. The Foundation's goals were to raise funds for the support of the hospital, and the evidence did not show that the Foundation was fully controlled by the hospital.

[28] In that case, the court concluded the following at paragraph 30:

In this case, I cannot conclude that the Foundation is a subordinate company with no independent functioning of its own. Although HSC and the Foundation undoubtedly have a close connection and interconnected governing structures, the Foundation remains its own independent corporation, with its own Board of Directors and source of funding.

[29] In the present case, LCDC relies almost exclusively on the rents paid and donations made by Langs to support itself. There is no evidence of LCDC doing any independent activity.

The relationship between Langs and LCDC:

[30] The only objects in the letters patent of LCDC are a mandate to support the activities of Langs.

[31] The Board of Directors of Langs caused LCDC to be incorporated, for the express purpose of purchasing the land and constructing the building. Langs initially owned the building, but donated it to LCDC in 2018. LCDC currently owns the land and building, and it leases the entire building to Langs at below market rents. Langs then subleases portions of the building to community partners, also at below market rents.

[32] The record shows that LCDC is nearly completely financially dependant on Langs, and has been so dependent since it was incorporated. In 2007, the year LCDC was incorporated, the financial statements show that LCDC's revenues were 100% from Langs. LCDC showed zero revenue for two years after incorporation/the purchase of the property. In those two years, Langs loaned LCDC \$10,000 each year to cover operating expenses.

[33] The 2007 financial statements of Langs include the following description of LCDC under "related party transactions":

Langs Farm Village Association (the Association) controls Langs Community Development Corporation (the Corporation). The Corporation is a not for profit corporation without share capital established for the purposes of acquiring land and building a multi-purpose facility that can be leased or sold by the Association. [emphasis added.]

[34] As emphasized in the excerpt above, Langs asserts that it has the right to lease or sell the land and building that are owned by LCDC.

- [35] The financial dependency on Langs is ongoing. LCDC's 2021 financial statements show approximately \$267,000 in rental income, all of which is from Langs. That rental income is insufficient to cover LCDC's operating expenses. The balance of revenue is donated by Langs.
- [36] As of March 31, 2021, LCDC owed over \$641,000 to Langs. That amount was unsecured, non interest bearing, and had no specific terms of repayment.
- [37] I note that there is never any expense shown in any of the financial statements of LCDC for staff, management, or personnel of any kind. LCDC has existed since 2007 and there is no evidence as to the day-to-day operation or management of it.
- [38] I conclude from the financial relations between the two corporations, notwithstanding that they have separate Boards of Directors, the two corporations treat the funds and assets of one another as interchangeable. I find that LCDC is treated as the alter ego of Langs.

How are Langs/LCDC treated by government/third parties?

- [39] In granting \$3,000,000 to Langs/LCDC for the construction of the community hub, the City of Cambridge accepted one signature to represent both Langs and LCDC in a lengthy contract outlining the rights and obligations of the parties. Despite Langs being the only signatory to that contract, the City registered an encumbrance on the land owned by LCDC. The contract binds Langs to consequences if the property is sold by LCDC, and also obligated LCDC to numerous terms. As discussed in detail below, the donation and lease agreement with the City of Cambridge treats Langs and LCDC as one and the same entity.
- [40] Langs and LCDC also appear to be treated as one entity in a 2021 agreement between the City of Waterloo and Langs to lease space in the hub for a subsidized dental clinic. Langs is described in that agreement as "the registered owner of the premises at 1145 Concession Road". LCDC is the factual registered owner of the land, but the City of Waterloo's agreement is only with Langs. The agreement binds Langs to obligations that could only be undertaken by LCDC.

Board of Directors

- [41] The Board of Langs caused LCDC to be incorporated in 2007, for organizational and liability reasons. Evidence was provided via the detailed affidavit of Debra Hollahan, the CEO of Langs, and a member of the Board of Directors of LCDC. Debra Hollahan states that as of the 2023 swearing of her affidavit, Langs / LCDC had two board members in common, and that the majority of the LCDC board are either former Langs board members, or former Langs clients.

Conclusion Re Patrimony

- [42] I find that LCDC is a subordinate company with no independent functioning of its own, and no separate activities or objects. I find that it was incorporated by Langs for a specific purpose, and that it serves no independent purpose. I apply the reasoning of *St. George* to

the case before me. The only reason LCDC exists is that Langs made the decision to shield itself from risk. LCDC's only purpose is to own the property and to support Langs. I find that LCDC is, in fact, as the financial statements of each corporation state, "controlled by Langs", and that there is a shared identity in patrimony.

- [43] Having found that there is a shared identity in patrimony, it is not necessary to determine whether or not LCDC is itself supported in part by public funds. However, I have considered the issue to demonstrate that the outcome would be the same even if the parties did not share an identity in patrimony.

ISSUE 2: Is LCDC "supported in part by public funds" as that phrase appears in subparagraph 3(1)12(iii) of the *Assessment Act*?

- [44] It is agreed that LCDC does not receive ongoing support from public funds and that Langs receives the majority of its revenues from public funds.
- [45] LCDC argues that it received funds from the City of Cambridge on two occasions: once in 2007 when Langs received \$200,000 for the purchase of the Property by LCDC, and again, in 2012 when it was party to an agreement with the City of Cambridge to provide a \$3,000,000 grant for the building of the community hub. LCDC argues that either of the two grants is sufficient to meet the requirement that it is supported in part by public funds.
- [46] The Respondent argues that the \$200,000 and all of the \$3,000,000 grant from the City of Cambridge was actually paid to Langs, and that none of it was paid directly to LCDC. It is agreed that the direct receipt of public funding is necessary to meet the requirements of s. 3(1)(12)iii of the *Assessment Act*.
- [47] In *Stouffville Assessment Commissioner v. Mennonite Home Association*, [1973] S.C.R. 189., the majority of the court found that a grant in aid of the construction of the building that housed the organization was one of two ways in which the organization was "supported in part by public funds". The single act of funding was held to meet the requirement under the *Assessment Act*, that in order to be exempt, the organization must be supported in part by public funds.

Was LCDC a direct recipient of either grant from the City of Cambridge?

- [48] The City of Cambridge provided \$200,000 toward the purchase of the land in 2007. The money was received by Langs and not directly by LCDC. Langs transferred the money to LCDC and it undertook to repay the money to the City if the building project did not proceed as originally proposed. Although it is clear that the funds were used entirely for the benefit of LCDC, I find on the evidence before me (which did not include documentation of any grant agreement) that this transaction furthers the shared identity of the corporations. However, it does not meet the requirement that LCDC itself received public funds.
- [49] An examination of the financing of the construction of the community hub leads me to conclude that LCDC and Langs were treated as one entity not only internally, but in their

dealings with the City of Cambridge. As such, I have found that the \$3,000,000 grant from the City of Cambridge was in fact paid to LCDC, as well as to Langs, as the payments were made to the two organizations, and each corporation was bound to the terms of the agreement. Whichever of the two corporations actually received the payments is not determinative. The record does not include specifics of to whom and in what amounts each payment was made, but it was inferred that the payments were, in fact, made to Langs. I find that confirmation of that information would not alter my conclusion.

- [50] On July 19, 2012, the Corporation of the City of Cambridge entered into an agreement to provide \$3,000,000 in funding toward the design and construction of the building at 1145 Concession Road, in Cambridge, Ontario (the “Agreement”).
- [51] The Agreement is peculiar in that there are three named parties to the Agreement on the face page, but only two signatories. The named parties to the Agreement are 1) the Corporation of the City of Cambridge; 2) Langs; and 3) LCDC.
- [52] Both Langs and LCDC are referred to throughout the agreement, together, as “Langs”, although the full name Langs Farm Village Association appears sporadically in the document as well.
- [53] On the signature page of the Agreement, the Chairman and Executive Director of Langs Farm Village Association are the only signatures that appear for both of the Langs parties, which are described under the signatures as “Langs Farm Village Association”. To be clear, there is no space for any signatory on behalf of LCDC, and there is no signature on its behalf, on the Agreement.
- [54] Notwithstanding that LCDC is not a signatory to the Agreement, I find that the related Langs parties were treated as a single entity and that each corporation agreed to be bound by it. This can be seen in many instances throughout the agreement. I provide some examples here:
 - a) Both Langs Farm Village Association and LCDC are described in the title of the Agreement together as “Langs”
 - b) The introductory paragraphs describe Langs as the owner of the land and buildings at 1145 Concession Road. This reference is necessarily to LCDC.
 - c) Throughout the agreement, the name “Langs” is used variously to describe obligations of Langs Farm Village Association, or Langs Community Development Corporation, without distinguishing them in any way. There are numerous examples in the document where the reference is to “Langs” but the accompanying obligation can only be in reference to the corporation holding title to the property, which is LCDC.
 - d) In sections 8 and 9 of the Agreement, Langs agrees to continuously own the building and does not transfer it without the written consent of the City. The penalty

for transfer without permission is that the City may ask for repayment of all of part of the \$3,000,000.

- e) The City of Cambridge registered a notice on title to the land and building owned by LCDC to secure its interests in the Agreement.
- f) Schedule F to the agreement refers to how funds are to be paid. Schedule F refers both specifically to Langs Farm Village Association in the first paragraph, and to Langs in the second, rendering the distinction meaningless.

[55] I find that the City of Cambridge treated the related Lang corporations as one entity and that the funds were advanced to the benefit of LCDC, as well as to Langs. I find that both corporations were intended to be bound by the terms, including the risk of repayment of the funds in the event of a breach of the terms. Indeed, the lien placed on the land owned by LCDC was the only security for this risk.

[56] In these unusual circumstances, I find that this document is evidence that LCDC, together with Langs, received \$3,000,000 from the City of Cambridge in support of the construction of the community hub/community centre, and LCDC is the current owner of the building, which was constructed in part with those funds. LCDC has met its onus to show that it was supported in part by public funds.

ISSUE 1: Is the Applicant a “corporation organized for the relief of the poor” as that phrase appears in subparagraph 3(1) 12 (iii) of the Assessment Act?;

The Law

[57] If the two corporations share an identity in patrimony, as I have found, one of them must be organized for the relief of the poor. In order to qualify for exemption on its own, LCDC must show that it is organized for the relief of the poor on its own. The position of the Respondent is that neither corporation meets this requirement, and as such, neither is eligible for tax exempt status.

[58] The Respondent argues that the community hub serves the entire population of residents in the geographical vicinity and that the Applicant has not shown that it is organized for the relief of the poor, even in the event of a shared identity in patrimony.

[59] In addressing this issue, the parties made representation regarding the meaning of the word “poor”. In *London (City) v. Bryon Optimist Sports Complex Inc.*, 23 M.P.L.R. 10 (C.A.), the court held that the persons need not be destitute, but that there must be an element of economic deprivation or need, the relief from which is a “part of the purpose” of the institution claiming the exemption.

[60] In determining whether a charity was “organized for the relief of the poor”, the Court of Appeal in *Religious Hospitallers of St. Joseph Housing Corp. v. Regional Assessment Commissioner* (1998), 42 O.R. (3d) 532 (C.A.) stated that it was necessary to consider the corporate objects. The court went on to interpret the wording in the *Assessment Act* as

follows: “I read the words ‘organized for the relief of the poor’ to mean that it would be the corporation itself, by some form of endeavor of the corporation, which would *provide* the relief involved.” [Emphasis in original.]

- [61] In *Religious Hospitallors*, the court found that the housing corporation who rented to poor tenants was not itself organized for the relief of the poor as it did not relieve the poverty of its tenants through any endeavour, since the rents were either paid directly by the tenants, or subsidized by government, and the corporation itself did nothing to relieve the tenants’ poverty.
- [62] In the recent Divisional Court decision in *Stamford Kiwanis Non-Profit Homes Inc. v. Municipal Property Assessment Corporation and the Corporation of the City of Niagara Falls* (affirming the decision of Bordin J. of the Superior Court of Justice, dated November 29, 2022, with reasons reported at 2022 ONSC 6392), the court found that a corporation was not organized for the relief of the poor when it did not engage in activity other than provide housing which was paid for by tenants or via government subsidies.
- [63] I find that, on the facts before me, the primary purpose of LCDC is to uphold the purposes of Langs. The facility is leased by LCDC to Langs at below market rates, and in fact, at rates which do not cover operating costs. The agreement between the two corporations is intended to take only the minimally required resources from Langs to cover the actual expenses of operating the facility. LCDC itself is involved in Lang’s efforts, when LCDC enables Langs to relieve poverty. As described below, the evidence shows that Langs is involved both directly via its own programs, and indirectly via the works of its community partners, in many direct endeavours to relieve poverty, all of which lead to the conclusion that it is organized for the relief of the poor.

The Objects of the Corporations:

- [64] As of 2017 the objects of LCDC are:
1. To promote the effectiveness of Langs Farm Village Association’s charitable programs by providing and maintaining facilities for this purpose; and
 2. To undertake activities ancillary and incidental to the attainment of the above charitable purposes. [Emphasis added.]
- [65] The current objects of Langs Farm Village Association are:
- Objects:.....to provide a community centre and outreach/satellite services to benefit the vulnerable and low income populations of Langs Farm Village area, Preston community, the City of Cambridge and the Township of North Dumfries.... [Emphasis added.]
- [66] The following are excerpts of the portions of the affidavit of Debra Hollahan which address the issue of whether LCDC/Langs are organized for the relief of poverty:

- “poverty is a social determinant of health. On widely accepted measures, the Langs clients have health care needs that are 52% more complex than the average Ontario patient”.
- “The neighbourhood is a densely populated, low income, community with higher family and child poverty rates. In addition, education levels are below the city average with a higher proportion of families and individuals living in subsidized housing.”
- “The majority of the people seen at Langs have multiple health and social service needs related to both psychosocial and physical issues. The most prevalent health issues within the medical practice are: cardiac disease, diabetes, mental illness, primary health, and addictions often exacerbated by poverty. A significant number of individuals accessing care have either acute or chronic mental health issues complicating their ability to follow through and manage their own care.”

- [67] During examination on her affidavit, Debra Hollahan, stated: “I estimate that at least two-thirds of clients that benefit from Langs’ services have incomes below \$40,000. The income for these clients is generally from government programs, with the vast majority being from the Ontario Disability Support Program. This estimate is based on my personal interactions with clients and from my conversations with the case managers and previous CEO at Langs.”
- [68] In addition, Debra Hollahan describes Langs as a community hub, and provides a number of government publications which confirm that community hubs are central access points for a range of health and social services. The materials include a 1997 report of the Association of Ontario Health Centres, which states that “Community Health Centres have a long history and a proud tradition of working effectively with all sectors of society and particularly with people who are physically, socially and economically disadvantaged that is people who carry the greatest burden of illness in our society and experience the greatest barriers to accessing care”. The report states that the clients of Community Health Centres include low income and isolated older people, low income parents, street youth, and homeless people, among others. Read in its entirety, the report provides strong evidence in support of a position that a Community Health Centre’s mandate is the relief of poverty.
- [69] Debra Hollahan’s affidavit includes a partner by partner description of Lang’s community partners, emphasizing the fact that most of them target low income area residents. This, thereby lends support to the position that even the 4900 square feet which are rented to those community partners is space used in furtherance of the objects of Langs.
- [70] Langs collected statistical information in relation to patients of the Health Centre which forms part of the Community Hub. Debra Hollahan explained that nearly 40% of the clients did not respond. Of the Health Centre clients that did respond, the survey showed that 58% are below the accepted Market Basket Measure of poverty, and 44% have incomes below \$25,000 per year. Debra Hollahan opined that the lower income users were less likely to respond to a survey than those with higher income. At the time the materials were collected,

there were 3638 active clients at the Health Centre and 11,762 clients attending all programs at the community hub.

- [71] The Ontario Seniors Dental Care Program is operated by Langs in the hub. Patients who are single must have an income below \$22,200, and couples must have an income below \$37,100 to access the program. As of the time the information was gathered for this Application, that program had a waitlist.
- [72] The Respondent argues that Debra Hollahan’s evidence is largely anecdotal as data was not collected or maintained in respect of many of the programs, and there is no data from the majority of the community hub users.
- [73] In *Family Service Assn. of Metropolitan Toronto v. Ontario (Regional Assessment Commissioner, Region No. 9)*, 23 O.R. (3d) 382 (S.C.), Justice Wilson stated that “[a]lthough the applicant bears the onus of proving the exemption in taxation cases, we must be mindful of not imposing a disproportionate burden to maintain meticulous and costly statistics. Such a burden could defeat the purpose of conferring a benefit upon the qualifying charitable organizations.”
- [74] The Respondent urges me to find that the Applicant is a community center which provides health, recreational, and informational services to the entire community within its catchment area, and in some instances, the broader Cambridge region – not just the poor. As such, the Respondent argues the Applicant does not qualify for the exemption. In support of this argument, the Respondent refers me to census data which shows that a majority of residents of the catchment area are not poor.
- [75] I find that the Census data in the materials is not helpful on this issue. The fact that the majority of the Cambridge Area community is not below the poverty line is not the issue to be determined. The Census data also shows that a significant percentage of area residents have trouble paying bills and have an income that is below the poverty line. The question is not “are the residents of the catchment area mostly poor?”, but rather “is LCDC/Langs organized for the relief of those residents who are poor?”
- [76] In my view, the answer to this question lies in identifying which residents of the catchment area the hub actually serves. If it serves the poor, is the applicant organized to provide their relief?
- [77] Certainly, if Langs operates pursuant to its objects, it is organized to “....benefit the vulnerable and low income populations.....”, and would therefore, reasonably be said to be “organized for relief of poverty”.
- [78] As such, LCDC, whose sole object it is to promote the effectiveness of Langs, would therefore, reasonably be said to be “organized for relief of poverty”, if its activities are in keeping with that object.

Does the evidence of the actual endeavours of Langs & LCDC support the conclusion that they operate pursuant to their objects?

[79] I find the activities of Langa clearly support the conclusion that it operates pursuant to its objects. As a charity, Langa offers its own programs. Many of these programs appear to be aimed at those in economic need, including:

- a) dental services for low income clients;
- b) counselling for low income clients;
- c) alternative education programming for people at risk of dropping out of school;
- d) food vouchers and a food pantry;
- e) community showers for people who do not have stable housing;
- f) computer access;
- g) health supports to the homeless;
- h) foot care;
- i) physiotherapy for those without third party insurance;
- j) Christmas gifts for low-income clients, and subsidized after school programs;
- k) an alternative education program for grades seven and eight students, who are identified as at risk of failing and dropping out of school, and need need education and mental health supports in a smaller community-based classroom;
- l) a compassionate fund to assist with prescription medication and refer patients to the Trillium Drug Program; and
- m) designated computer access and staff to support individuals with housing applications and evictions as well as employment counselling and resume writing.

[80] Langa began to administer the Ontario Seniors Dental Care Program (the “Dental Care Program”), a publicly funded dental care program for low-income seniors, in 2020. One of the criteria for eligibility in the Dental Care Program is that clients are a single senior aged 65 or older with an annual net income of \$22,200 or less, or senior couples (one or both people aged 65 or older), with a combined annual net income of \$37,100 or less.

[81] The afterschool program supports working parents living on a lower income, at a cost of \$10 per week. This program is funded by the Ministry of Heritage, Tourism, Culture and Sport specifically for low-income families. Comparable programs in the city range from \$60-\$100 per week.

[82] Langa Community Health Centre is a member of the Association of Ontario Health Centres (“CHCs”). In a 1997 publication, the Association discusses community health centres and stated:

CHCs traditionally have provided services to groups of people who do not easily and regularly access primary care. Typically people in these groups do not have a family physician and may receive care only when they present at hospital emergency rooms. The cost of this care is far greater than the cost of regular primary care. People with low incomes and older people are two of the priority groups served by CHCs.

- [83] The statistical data from the health centre indicates that about 58% of the users of the health centre within the hub are people living below the poverty line.

Community Partners occupying 4,900 square feet of the facility:

- [84] Of the 17 partner programs operating in the community hub, many of them are specifically targeted to lower income residents. The community partners include *inter alia*: Alzheimer Society, Canadian Mental Health Association, Community Support Connections – Meals on Wheels, Family and Children Services of Waterloo Region, and The M.S. Society.
- [85] All of the community partners except Langs Medical Pharmacy and Dr. Emary, a chiropractor, are charitable or not-for-profit. Debra Hollahan’s brief review of the services provided by the partners is further evidence that the majority operate to assist people living in poverty.
- [86] Further, Langs provides the following benefits to its tenants/community partners:
- a) rent at below market rates;
 - b) an all-inclusive rent which includes utilities, all operational costs such as phone, internet and access to shared spaces. Tenants can use meeting rooms once per month with no additional cost and the units are furnished with desks and chairs;
 - c) flexible meeting room spaces for workshops and events;
 - d) a community kitchen;
 - e) community development with a focus on opportunities for collaboration and ideas for cost savings;
 - f) full sized gymnasium and walking track; and
 - g) shared reception services on two floors.
- [87] Provision of these supportive services ensures that these organizations will remain as tenants and continue to offer their services.
- [88] I find that the Census and other data supports the proposition that there is a need in the community for services aimed at lower income residents, or put another way, services

intended to address the relief of poverty – and that the community hub addresses those needs.

[89] I find that the evidence of Debra Hollahan, combined with the data from the health centre and the information about programs offered in the hub, supports the proposition that, on a balance of probabilities, a substantial percentage of the clients of Langs are people who are fairly described as poor. I accept that the majority of the programming provided by Langs are either directly aimed at assisting the poor or are utilized by lower income clients who attend the hub for other services.

[90] I find that LCDC and Langs are organized for the relief of the poor.

Is the entire building occupied for similar activities or is a partial exemption in order?

[91] Although it was agreed at the outset that LCDC owns, uses and occupied the property, during submissions, the Respondent argued that, in fact, Langs itself only occupies a little over half of the space in the building.

[92] Of approximately 67,000 square feet of space, the occupancy is as follows:

a) 35,148 sq. ft. to Langs for its various programs.

b) 9,130 sq. ft. to the City of Cambridge for a recreation centre. I note that this portion is exempt from property tax as a municipal facility pursuant to s.110 of the *Municipal Act*. Therefore, this portion is not in issue.

c) 17,489 sq. ft. is shared between Langs, the City of Cambridge and other occupants, and consists of “entrances, electrical and furnace spaces, main foyer and washrooms, gymnasium and hallways”. I find that this shared space is also occupied by Langs.

d) Approximately 4,900 sq. ft. are subleased by Langs to various community partners already discussed.

[93] In *Anglican Church of Canada, Diocese of Toronto Camps v. Municipal Property Assessment Corp., Region No. 16*, 246 D.L.R. (4th) 170, at para. 11, in discussing s. 3(1)11 of the *Assessment Act*, the court held that “the test for determining whether an exemption should be granted is whether the primary purpose of the institution comes within the words defining the exemption in the *Assessment Act*.” [emphasis added].

[94] The court went on to elaborate on the use of the term “primary purpose” at para. 12, noting that it is “well established in the jurisprudence of this province. It requires an objective determination of the principal purpose for which the land is used and occupied. That purpose must be distinguished from others that are incidental to it”.

[95] I rely on the decisions in *Anglican Church of Canada, Ottawa Salus Corporation v. Municipal Property Assessment Corp.*, , and the companion decision, *Causeway*

Foundation v. Ontario Property Assessment Corp., Region No. 3, 235 D.L.R. (4th) 754 (C.A.) to find that LCDC occupied the property, including the smaller portions leased to its community partners, in furtherance of its charitable purpose, which is to support the charitable works of Langs.

- [96] In *Ottawa Salus*, the property itself was occupied by tenants of Salus, and not Salus itself. Justice Macpherson noted at para. 36:

“Occupation for purposes of the exemption does not require actual or exclusive occupation by the charitable institution.”

- [97] Of the portion of the building which is not occupied by the City of Cambridge, I find that Langs occupies that vast majority of the space, either exclusively or as common space with other tenants including the tax exempt City of Cambridge. I find that the relatively small portion of the building that is subleased to community partners, includes a majority of partners whose services are aimed at the relief of the poor. The community partners are, as such, a part of the greater community hub and doing work in furtherance of the objects of Langs and LCDC. The community partner leases are at low rates which are partially subsidized and include many features which would not accompany most commercial leases.

CONCLUSIONS

- [98] I find that LCDC shares an identity in patrimony with Langs.
- [99] I find that the Applicant, LCDC, meets the criteria for property tax exemption under the *Assessment Act*, since the 2018 taxation year, both independently because it meets all of the statutory requirements for exemption, and because it shares an identity in patrimony with Langs.

COSTS

- [100] The parties have advised me that they have already made an agreement as to costs. As such, I make no order.

Justice S. Antoniani

CITATION: Langs Community v. Municipal Property Assessment Corp. & City of Cambridge,
2024 ONSC 1864
COURT FILE NO.: CV-18-64022
DATE:20240328

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:

Langs Community Development Corporation

Applicant

- and -

Municipal Property Assessment Corporation and The
Corporation of the City of Cambridge

Respondents

REASONS FOR JUDGMENT

Justice Antoniani

Released: March 28, 2024