



March 23, 2017

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION  
MEMORANDUM**

**TO:** Chief Executive Officers, Member Hospitals and Health Systems  
Chief Financial Officers  
In-House Counsel  
Government Relations Personnel  
Public Relations Directors

**FROM:** A.J. Wilhelmi, President and CEO  
Mark Deaton, General Counsel  
Sandy Kraiss, Vice President, Health Policy and Finance

**SUBJECT: Illinois Supreme Court Vacates Appellate Court Decision in *Carle* Case**

The Illinois Supreme Court ruled today in the case of [The Carle Foundation v. Cunningham Township](#) – one of the two cases challenging the constitutionality of Section 15-86, the 2012 legislation addressing hospital property tax exemption.

The Supreme Court **vacated** the Fourth District Appellate Court’s decision – which had declared Section 15-86 unconstitutional. The Supreme Court concluded that the appellate court did not have proper jurisdiction to take the appeal. The Supreme Court’s ruling nullifies the appellate court ruling – as if it never occurred. This is great news.

Because the Supreme Court vacated the appellate court decision, it did not address the question of the constitutionality of Section 15-86. However, that means that the favorable decision in the other constitutional challenge – [Oswald v. Hamer](#) – is now the “law of the land” in Illinois.

In December, the First District Appellate Court (Cook County) ruled in *Oswald* that Section 15-86 is constitutional. One *caveat*: The plaintiff in *Oswald* asked the First District to reconsider its December ruling, and the appellate court is considering that request. However, there is no indication that the court will change its decision.

Although IHA had hoped that the Supreme Court would address the constitutionality of Section 15-86, we understand and respect the decision of the Court to vacate the Fourth District Appellate Court decision in the *Carle* case on non-constitutional grounds. And we are very pleased that the First District Appellate District Court decision in the *Oswald* case, which upholds the constitutionality of Section 15-86, is now the controlling case in Illinois.

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Section 15-86 was a bipartisan and reasonable approach to hospital property tax exemption that accomplished a number of important goals:

- It provides hospitals and taxing bodies with clarity that had been lacking for many years.
- It ensures that communities receive the “benefit of the bargain” for hospital tax exemption.
- It promotes the delivery of health care to low-income and underserved individuals.
- In a time of increased financial stress on hospitals, it helps ensure that hospitals have the resources to serve their communities.

What happens now?

Assuming the *Oswald* decision remains unchanged, the plaintiff has the right to file a petition for leave to appeal to the Illinois Supreme Court seeking review the constitutionality of Section 15-86.

IHA will reach out to the Department of Revenue to discuss next steps in light of today’s decision. Recall that DOR has been holding exemption applications awaiting the outcome in *Carle*.

IHA and AHA each filed amicus briefs in support of the statute. See [here](#) and [here](#).

Finally, IHA has issued the following statement to the news media concerning today’s Illinois Supreme Court decision:

*Although the Illinois Health and Hospital Association (IHA) hoped that the Supreme Court would address the constitutionality of Section 15-86, we understand and respect the decision of the Court to vacate the Fourth District Appellate Court decision in the Carle case on non-constitutional grounds.*

*We are very pleased that the First District Appellate District Court decision in the Oswald case, which upholds the constitutionality of Section 15-86, is now the law of the land.*

*Section 15-86 was a bipartisan and reasonable approach to hospital property tax exemption that accomplished a number of important goals:*

- *It provides hospitals and taxing bodies with clarity that had been lacking for many years.*
- *It ensures that communities receive the “benefit of the bargain” for hospital tax exemption.*
- *It promotes the delivery of health care to low-income and underserved individuals.*
- *In a time of increased financial stress on hospitals, it helps ensure that hospitals have the resources to serve their communities.*