

**[J-12-2002]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**WESTERN DISTRICT**

|                               |   |  |
|-------------------------------|---|--|
| COMMUNITY OPTIONS, INC.,      | : | Nos. 70-75 WAP 2001                      |
|                               | : |  |
| Appellant                     | : | Appeal from the Order of the             |
|                               | : | Commonwealth Court entered November      |
|                               | : | 21, 2000, at Nos. 1684-88 & 1708 C.D.    |
| v.                            | : | 1999, affirming in part and reversing in |
|                               | : | part the Order of the Court of Common    |
|                               | : | Pleas of Allegheny County entered May    |
| BOARD OF PROPERTY ASSESSMENT, | : | 26, 1999, at Nos. GD97-7953, GD97-       |
| APPEALS AND REVIEW,           | : | 0027, AD98-0499 and Related Cases.       |
|                               | : |  |
| Appellee                      | : | 764 A.2d 645 (Pa. Cmwlth. 2000)          |
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|                               | : |  |
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|                               | : | ARGUED: March 5, 2002                    |

**DISSENTING OPINION**

**MR. JUSTICE SAYLOR**

**DECIDED: DECEMBER 31, 2002**

While I agree with the majority's formulation of the standard to be applied in evaluating whether an entity relieves the government of some of its burden, I would not reach the merits of whether Appellant satisfies this standard. Instead, my preference would be to remand to the common pleas court, which did not consider the appropriate range of factors because it was bound by Community Service Found., Inc. v. Bucks County Bd. of Assessment and Revision of Taxes, 672 A.2d 373 (Pa. Cmwlth. 1996), particularly as the determination of whether an entity qualifies as a purely public charity poses a mixed question of law and fact that is to be determined by the common pleas

court in the first instance. See Mars Area Sch. Dist. v. United Presbyterian Women's Ass'n of N. Am., 554 Pa. 324, 326, 721 A.2d 360, 361 (1998); Unionville-Chadds Ford Sch. Dist. v. Chester County Bd. of Assessment Appeals, 552 Pa. 212, 217, 714 A.2d 397, 399 (1998).

Mr. Justice Eakin joins this dissenting opinion.