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| CENTER FOR COMMUNITY CHANGE | : | |
| 1000 WISCONSIN AVENUE, N.W., | : | |
| WASHINGTON, D.C. 20007 | : | |
| | : | |
| Petitioner, | : | |
| v. | : | DOCKET NO. 3695-85 |
| | : | |
| THE DISTRICT OF COLUMBIA | : | |
| | : | |
| Respondent. | : | |
| _____ | : | |

ORDER

This matter came before the court upon Petitioner's motion for summary judgment. After the court reviewed the motion, supporting affidavits and memorandum of points and authorities, Respondent's opposition and supporting affidavits, and Petitioner's reply, oral argument was heard July 7, 1986.

Petitioner seeks exemption from District of Columbia real property taxes under D.C. Code §47-1002(8)(1981), which exempts

[b]uildings belonging to and operated by institutions which are not organized or operated for private gain, which are used for purposes of public charity principally in the District of Columbia.

The material facts are not in dispute. Therefore, upon consideration of the record, the Court makes the following:

FINDINGS OF FACT

1. Petitioner, Center for Community Change ("Center"), is a nonprofit corporation organized under the laws of the District of Columbia.

2. The Center's primary purpose and objective, as stated in its Articles of Incorporation, is to improve "the condition of the poor, the underprivileged, and the alienated." It does so by monitoring and studying government programs

signed to alleviate poverty and promote community development, issuing publications and other educational materials, and rendering technical, programmatic and financial assistance to nonprofit organizations serving the economic and social interests of poor and minority citizens at the community level in some forty (40) states of the United States.

3. The Center renders substantial charitable services, primarily via technical assistance, to organizations serving the poor and near-poor in the District of Columbia.

4. On November 1, 1983, the Center purchased real property located at 1000 Wisconsin Avenue, N.W. in the District of Columbia, known as lots 832 in square 1188, in parcel that is part of lot 74, square 18 ("Property").

5. The Center carries out the bulk of its charitable activities at the Property, which houses approximately thirty-four (34) of its thirty-eight (38) employees and accounts for over eighty percent (80%) of the Center's operating expenditures, which are used solely to engage in and support charitable activities.

6. Respondent has determined that the Center, at all times pertinent to this action, was and is exempt from personal property tax under D.C. Code §47-1508(1981), income and franchise tax under D.C. Code §47-1802.1(1981), and sales and use tax under D.C. Code §47-2005(3)(C)(1981), all on the basis of its charitable nature and, in the case of sales and use tax, Respondent's accurate determination that its activities in the District result in substantial benefits to citizens of the District.

7. Since December 9, 1968, the Center has been determined by the Internal Revenue Service to be exempt from federal income tax as a charitable and educational organization under §501(c)(3) of the Internal Revenue Code of 1954, as amended ("Code"), and since October 29, 1971 a "publicly supported" organization under Code §§170(b)(1)(A)(vi) and 509(a)(1).

8. On or about February 1 984 the Center filed with Respondent's Department of Finance and Revenue ("Department") a timely application for the Property's exemption as of July 1, 1984 under D.C. Code §47-1002(8)(1981).

9. Neither in its application form, its regulations, nor by subsequent communications with the Center did the Department request any information as to benefits to District residents. Nevertheless, the Center submitted evidence confirming that it renders substantial benefits to District residents.

10. By letter dated May 1, 1985, the Department denied the Center's application, giving no reasons other than the "opinion...that the property is not used for purposes of public charity principally in the District of Columbia."

11. The Center's Petition in this action, appealing Respondent's denial was timely filed on November 1, 1985.

12. The taxes in controversy are real property assessments paid by the Center of \$11,779.18 for tax year 1985 and \$5,997.90 for tax year 1986, totalling \$17,777.08.*

CONCLUSIONS OF LAW

A. This court has jurisdiction under D.C. Code §§11-1201 and 47-1009(1981).

B. Petitioner, Center for Community Change, is an institution that is not owned or operated for private gain, within the meaning of D.C. Code §47-1002(8).

* The Center has paid the following real property taxes for which it seeks partial refund herein: \$14,128.80 (all assessments for tax year 1985) and \$7,194.32 (the first half's assessment for tax year 1986). The second half of tax year 1986's assessment was not paid due to the pendency of this action. Of the Property's 11,856 square feet, 1,972 (16.63%) was and is rented to non-charitable tenants, so the figures in Finding 12 hereof represent 83.37% of the Center's actual payments.

The Center's activities at the Property all are charitable and, after excluding employee travel to other areas, are carried out principally in the District. Therefore the Center uses the Property for purposes of public charity principally in the District of Columbia and meets the requirements for exemption under §47-1002(8).

Because no regulations have been adopted elucidating the substantive requirements of §47-1002(8), the court relies upon that statute's plain meaning, as illuminated by the use of identical or similar wording in other relevant D.C. tax exemption statutes. District of Columbia v. Orleans, 132 US.App.D.C.39, 141 (1968). Applying this principle, this court's March 21, 1984 order in World Plan Executive Counsel v. District of Columbia, Tax Docket Nos 3100-82 and 3199-83, found that Respondent's granting an organization exemption under similarly worded statutes governing exemption from Income and Franchise and Personal Property taxes creates, at the least, a prima facie showing of entitlement to exemption from Real Property tax under §47-1002(8).

Respondent has failed to rebut that showing in the Center's case.

D. Respondent's effort to require that the Center confer benefits upon District residents, presumably greater than the substantial level of such benefits the Center demonstrated for Sales and Use Tax exemption under §47-2005(3)(C), was arbitrary, capricious, an abuse of discretion and otherwise unlawful. The words of §47-1002(8) impose no such requirement, nor does its legislative history.

Wherefore, it is this 10th day of September, 1986

ORDERED

that the Petitioner's Motion for Summary Judgment be, and hereby is, granted;

that the Petitioner is granted exemption from District of Columbia real property tax for the Property (described elsewhere in this order), effective retroactively to July 1, 1984, pursuant to D.C. Code §47-1002(8)(1981);

that Respondent refund to Petitioner \$17,777.08, constituting 83.37% of all real property taxes paid on the Property for the period from July 1, 1984 to the present, with interest at six percent (6%) from the dates of payment (September 7, 1984 -- \$5,889.59; March 15, 1985-- \$5,889.59; and September 9, 1985 -- \$5,997.90) until the date(s) of refund.



JUDGE IRALINE G. BARNES

Copies to:

Thomas A. Asher, Esq.
Thomas R. Asher, P.C.
1819 H Street, N.W., #620
Washington, D.C. 20005

Nicholas A. Majett, Esq.
1133 North Capitol Street, N.E.
Washington, D.C. 20002

Allen J. Fishbein, Esq.
Center for Community Change
1000 Wisconsin Avenue, N.W.
Washington, D.C. 20007

Melvin Jones
Finance Officer, D. C.

R. Starfield
10-6-86