

PT 04-7
Tax Type: Property Tax
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	Docket No. 99-PT-0061
v.)	
)	Tax Years 1998, 2001
PROJECT NOW, INC. f/k/a)	
NEIGHBORHOOD OUTREACH WORK, INC.))	
Applicant)	

RECOMMENDATION FOR DISPOSITION

Appearances: George Logan, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Cindy Mohr, *pro se*, for Project Now, Inc.

Synopsis:

Project Now, Inc., f/k/a Neighborhood Outreach Work, Inc. (“applicant”) filed applications for property tax exemptions for 20 parcels of property that are located in Henry, Mercer, and Rock Island Counties for the year 1998. The Department of Revenue (“Department”) denied the exemptions, and the applicant timely protested the denial. While this case was pending in these administrative proceedings, the applicant filed an application for an exemption for the year 2001 for one of the parcels. The Department denied that request and the applicant’s protest of that denial was consolidated with this case. The applicant alleges that the property qualifies for an exemption on the basis that

it is used exclusively for charitable purposes. The parties stipulated that the applicant is a charitable organization that owns the property in question. The only issue presented at the hearing is whether the property is used for charitable purposes. At the conclusion of the hearing, the Department conceded that the applicant is entitled to an exemption for some of the parcels. Many of the remaining parcels are used for “supportive” housing, which the Department claims is not a charitable use. Also, the applicant leases a portion of two of the parcels to two different entities: Blackhawk Community College and a medical organization. The Department contends that the applicant leases the property with a view to profit, which would preclude the exemption. For the following reasons, it is recommended that the property used as supportive housing should be granted the exemption, but the property that is leased should be denied the exemption.

FINDINGS OF FACT:

1. The applicant’s mission is “to assist community residents and families with low incomes to achieve economic independence and assist disabled and senior citizens obtain a safe, secure and decent life.” (Applicant’s Ex. #9, p. 2)

2. For 1998, the applicant filed applications for property tax exemption for the following parcels:

	<u>PIN</u>	<u>Square Footage</u>
1.	20-33-255-008-0040	2,012
2.	13-13-23-400-036	8,032
3.	11-11-15-200-087	8,254
4.	2429-1 SR	726
5.	3355	945
6.	2804 MO	782
7.	RI 3761	2,296
8.	RI 2082	4,458
9.	MO 861	5,768
10.	RI 5923	936

11.	5998	3,176
12.	RI 5878	988
13.	RI 4615	1,568
14.	5912 MO	3,600
15.	7568 RI	960
16.	RI 6514	6,832
17.	09-368-22-00 (6583-A)	5,152
18.	5913 MO	1,926
19.	RI 1995	25,600
20.	RI 7415	1,152

3. The applicant has also requested an exemption for parcel 8 for 2001.

4. The Department has conceded that parcels 1, 13, and 17 are entirely exempt.

Parcel 17 is used for the applicant's administrative offices. Parcels 1 and 13 are used for "transitional" housing. (Tr. p. 70)

5. The Department has conceded that the following parcels are partially exempt: 6, 9, 14, 16, and 19. (Tr. pp. 70-72)

6. Parcel 6 has 420 square feet being used for a weatherization program, which the Department admits is an exempt use. The remaining portion of the parcel is used for supportive housing. (Tr. pp. 23-24; 70)

7. Parcel 9 has a building with two floors. The second floor has four supportive housing units, which cover approximately 2,884 square feet of the building. The first floor is occupied by four different organizations. One-third of the downstairs, which is approximately 961 square feet, is leased to Blackhawk College. The Department has conceded that the remaining two-thirds of the downstairs, 1,923 square feet, is used for exempt purposes. (Tr. pp. 15, 28-32, 70-71)

8. Parcel 14 has a building with two floors. The second floor has supportive housing units, which occupy approximately 1,800 square feet of the building. There are two offices on the first floor. The applicant leases one of the offices, approximately 900

square feet, to an organization that uses it as a medical office. The other 900 square foot office is used as a thrift store, which the Department concedes is an exempt use. (Tr. pp. 15, 25-28)

9. Parcel 16 has a building with supportive housing units upstairs and a thrift shop downstairs. Approximately 3,416 square feet are used for the thrift store. The Department has conceded that the portion used by the thrift store is exempt. (Tr. pp. 15, 58, 70-72)

10. Parcel 19 has a building that has 11 units, four of which are transitional housing units. The remaining seven units are supportive housing units. Approximately 8,500 square feet of the property is used for transitional housing. The Department concedes that this portion is exempt. (Tr. pp. 35, 67-69)

11. Transitional housing is a program that is designed to provide both housing and supportive services to people who are homeless. The transitional housing program provides support and training necessary to facilitate each participant's attainment of self-sufficiency. (Tr. pp. 35-36; Applicant's Ex. #5)

12. The transitional housing tenants are required to participate in a variety of programs, such as life-skills education, parenting-skills education, counseling and vocational training. In addition to providing a respite and basic necessities such as food, personal items, and transportation assistance, transitional housing provides tenants with intensive case management to address factors that have contributed to their homelessness. (Tr. pp. 35-36; Applicant's Ex. #5)

13. The tenants in the transitional housing units do not pay rent. The rent is subsidized through state, federal, and local grants. The tenants have to pay program fees,

which are approximately 10% of their income. If a person does not have any income, the fees are waived. (Tr. pp. 36, 41, 45; Applicant's Ex. #9)

14. Supportive housing differs from transitional housing in that the tenants in supportive housing may refuse the supportive services that are offered. In transitional housing, the tenants agree to accept all the supportive services that are offered. (Tr. pp. 13-14)

15. The types of services that are offered include the following: case management, advocacy information, crisis intervention, linkage to medical care, linkage to mainstream community resources, childcare, vocational/educational training, counseling, and budgeting assistance. (Applicant's Ex. #6)

16. The applicant provides exactly the same services to the tenants in transitional housing as it does to the tenants in supportive housing. (Tr. p. 38)

17. The goal of supportive services is to make the tenants successful citizens. The supportive services are intended to "maximize the tenants' level of independence, foster nurturing communities, and provide a complement to management's objectives of developing and maintaining stable properties." (Applicant's Ex. #6, #7)

18. In supportive housing, the applicant provides the tenants with intensive case management; the case manager will meet with the tenants on a weekly basis or more frequently. The case manager will assist the tenants with addressing issues that are putting them at risk for losing their housing. (Tr. p. 38; Applicant's Ex. #6)

19. In supportive housing, the tenants pay their own rent. The rent for supportive housing is below the market rate. The applicant will not charge the tenant more than

30% of their income. The applicant checks the tenant's income status once a year. (Tr. pp. 14, 37-38, 44-45, 65)

20. The tenants must pay a security deposit in the amount of one month's rent. The applicant will not waive the security deposit, but will assist the tenant with obtaining it. The security deposit can be paid in installments if necessary. The security deposit is either returned to the tenant or applied to other housing. (Tr. pp. 36-37, 54-56, 64)

21. If a tenant in supportive housing is unable to make a monthly rent payment, the applicant will immediately send an employee to the tenant to find out what can be done to help obtain the rent. The applicant will assist the tenant by connecting them with other services or potential sources of income in order to pay the rent. (Tr. pp. 13, 47; Applicant's Ex. #6)

22. The applicant communicates regularly with the tenants in supportive housing and diligently works with them to maintain their housing. (Tr. p. 47)

23. Eviction is not the immediate response to a tenant's failure to pay rent. The applicant will first connect the tenant to other services that can help the tenant with getting money. The applicant will also work out payment plans and allow the tenant to pay the rent on an installment basis. (Tr. pp. 10, 53)

24. When eviction is inevitable, the Supportive Services Case Manager works with the individual or family to secure alternative housing. Once alternative housing is secured, the applicant will continue to provide supportive services if the participant chooses to continue participation. (Applicant's #6)

25. When the applicant evicts a tenant, the reason will concern either damage to the property, a safety issue for the other tenants, or inability to maintain rent payments after exhausting all potential resources. (Tr. pp. 10, 18)

26. The applicant evicted approximately 4 or 5 tenants during 1998 from a total of approximately 100 units. Approximately 3 or 4 of the evictions were for failure to pay rent. This same rate of eviction occurred for subsequent years. (Tr. pp. 59-61; Applicant's Ex. #11)

CONCLUSIONS OF LAW:

The provision of the Property Tax Code (35 ILCS 200/1-1 *et seq.*) that allows exemptions for charitable purposes provides in relevant part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity. * * *. (35 ILCS 200/15-65(a)).

Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 139, 156-57 (1968). If the primary use of the property is charitable, then the property is "exclusively used" for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill.App.3d 658, 661 (1st Dist. 1982). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill.App.3d 794, 796 (3rd Dist. 1987).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171

Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

With respect to the property that is leased to Blackhawk Community College and the medical organization, the Department contends that this property is leased with a view to profit, which would preclude the property from receiving the exemption. The applicant did not present any evidence to contradict the Department's contention. The evidence indicates that the applicant receives rent in the amount of \$300 from Blackhawk Community College (Applicant's Ex. #11), but the applicant's representative did not know how much rent the applicant receives for leasing the medical office. (Tr. pp. 27-28) The applicant did not provide any other financial information concerning these leases. The evidence presented does not indicate that generating income is not the primary purpose of this property. The applicant has the burden of proving that it is entitled to the exemption, and the applicant failed to show that the property is not being used with a view to profit.

For the supportive housing property, the Department argues that it is not used for charitable purposes because the applicant does not have a provision for waiving the security deposits and has a policy of evicting tenants for their inability to pay. In response, the applicant argues that it diligently works with its tenants to connect them with resources to help them obtain the money they need for the security deposit and rent. The applicant asserts that it only evicts tenants after its extensive efforts have failed.

In deciding whether the applicant actually and exclusively uses the property for charitable purposes, courts consider the following factors:

1. Whether the benefits derived are for an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare or in some way reducing the burdens of government;
2. Whether the organization has no capital, capital stock or shareholders and earns no profits or dividends but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter;
3. Whether the organization dispenses charity to all who need and apply for it, does not provide gain or profit in a private sense to any person connected with it, and does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses; and
4. Whether the exclusive (primary) use of its property is for charitable purposes.

Methodist Old Peoples Home v. Korzen, 39 Ill.2d 139, 156-57 (1968). These factors are not requirements but are guidelines that are considered in assessing an organization's charitable status. DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill.App.3d 461, 468 (2nd Dist. 1995).

According to the guidelines, the applicant's supportive housing program constitutes a charitable use of the property. A housing program that helps low-income families attain and maintain self-sufficiency and become successful citizens is clearly a program that reduces the burdens of government. A housing program that fosters nurturing communities and assists low-income families with developing the skills necessary to maximize their level of independence improves their personal well-being and benefits the public in general.

The applicant's policy to evict tenants who do not pay their rent and its failure to have a policy to waive the security deposit do not prevent its charity from being dispensed to all who need and apply for it. The applicant assiduously works towards

keeping the tenants in the housing and provides a variety of resources in order for them to obtain the rent or deposit if they are unable to pay it on their own. All of the work done by the applicant and all of the services provided by the applicant are free of charge to the tenants. The case managers maintain weekly contact with the tenants in order to ensure that they make their payments. If a tenant does not avail himself of this assistance, then it cannot be said that he was denied charity. If a tenant refuses to accept the benefits that the applicant offers, then he is refusing the applicant's charitable services.

The applicant does not place obstacles in the way of those tenants who need and want its services. Even if the rent and deposit were considered to be similar to fees, an organization will not lose its charitable status by charging fees as long as the organization accommodates those who are unable to pay. Small v. Pangle, 60 Ill.2d 510, 518 (1975). The applicant does this by providing extensive assistance to those who need help obtaining the money. The applicant's policy of evicting tenants who damage the property or who raise safety concerns for the other tenants is also not an obstacle to charitable services because any tenant who violates the applicant's rules is misusing the applicant's resources. Failing to use the applicant's resources in a constructive manner means that the tenant is not availing himself of the applicant's charitable services. The primary use of the supportive housing is to provide shelter and related services to low-income families, which relieves a substantial governmental burden and is offered to all those who need and apply for it. The supportive housing property should, therefore, be exempt.

Recommendation:

For the foregoing reasons, it is recommended that the property that is leased to Blackhawk College (961 square feet) and the medical organization (900 square feet) be denied the exemption. The remaining property should be exempt from property taxes.

Linda Olivero
Administrative Law Judge

Enter: March 3, 2004