

DOCKET NO. HHB-CV-17-6040041-S
CIL COMMUNITY RESOURCES, INC.
VS.
CITY OF HARTFORD ET AL.

SUPERIOR COURT
JUDICIAL DISTRICT
OF NEW BRITAIN
NOVEMBER 7, 2017

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NEW BRITAIN

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MEMORANDUM OF
DECISION

The plaintiff, CIL Community Resources, Inc. (CIL-CR), brings this action contesting the action of the assessor for the city of Hartford, Connecticut (city) denying a tax exemption to the plaintiff for its property, located at 75 Charter Oak Avenue in Hartford, for the city's Grand List of October 1, 2016.

On October 15, 2013, the plaintiff had submitted a Tax Exempt Organization Application for the subject property, which the city initially accepted as exempt from taxation pursuant to General Statutes § 12-81 (7)¹ as property being used for charitable purposes. The plaintiff later filed a 2017 renewal application for its charitable exemption previously granted in 2013. The

¹ General Statutes § 12-81 (7)-provides in relevant part: "(A) Subject to the provisions of sections 12-87 and 12-88, the real property of, or held in trust for, a corporation organized exclusively for scientific, educational, literary, historical or charitable purposes or for two or more such purposes and used exclusively for carrying out one or more of such purposes or for the purpose of preserving open space land, as defined in section 12-107b, for any of the uses specified in said section, that is owned by any such corporation, and the personal property of, or held in trust for, any such corporation, provided (i) any officer, member or employee thereof does not receive or at any future time shall not receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiary of its strictly charitable purposes, and (ii) in 1965, and quadrennially thereafter, a statement shall be filed on or before the first day of November with the assessor or board of assessors of any town, consolidated town and city or consolidated town and borough, in which any of its property claimed to be exempt is situated. Such statement shall be filed on a form provided by such assessor or board of assessors. The real property shall be eligible for the exemption regardless of whether it is used by another corporation organized exclusively for . . . charitable purposes"

assessor, however, assessed the subject property on the Grand List of October 1, 2016, an \$5,481,100 because the assessor had concluded that the plaintiff had leased a portion of the subject property to other nonprofit charitable organizations, and therefore, the property did not qualify for an exemption.

The parties have stipulated that CIL-CR "is organized 'exclusively for charitable and educational² purposes . . . and the activities to be conducted or the purposes to be promoted or carried out by [CIL-CR] shall be . . . to develop, own, manage, and administer non-residential real estate and other programs and resources exclusively in support of and for the benefit of any nonprofit 501(c)(3) organization" (Footnote added.) Joint Stipulation of Facts 1, 4, No. 1117. As alleged in paragraph 5 of its amended complaint, CIL-CR is the sole owner of the office building located at 75 Charter Oak Avenue, Hartford, and is responsible for the payment of its property taxes. PL's Am. Compl. 2, 5, No. 1118.

² The parties have not argued that the leasing of the subject property for educational purposes is an issue in this case, and no evidence supports such a claim.

The subject property at 75 Charter Oak Avenue consists of a commercial office building in which the plaintiff leases 53,707 square feet of space (68.10 percent of the total space) to other "validly existing, legally formed non-profit organizations (the 'Non-Profit Tenants') The rents charged for the Non-Profit Space do not generate profits. . . . CIL-CR is not self-supporting and receives material and financial support from CIL.³ In the past six years, CIL-CR has required financial support from CIL for certain capital improvements and operating deficits. CIL-CR is not charged by CIL for the management, budgeting, planning, executive oversight functions, staffing other necessary services and major investments in equipment or property provided by CIL to it and required for it to carry out its mission." (Footnote added.) Joint Stipulation of Facts 2-3, if 8-10, No. 1117.

As noted by CIL-CR in its brief dated August 2, 2019, "(t)he clear intent of the last sentence in § 12-81 (7) is to accommodate situations where one charitable nonprofit entity, with expertise in acquiring, developing and managing commercial office space, hold title to real estate for the benefit of another nonprofit entity." Pl.'s Mem. of Law in Opp'n to Defs.' Mot. for Summ. J. 10, No. 1119. The plaintiff reported in its 2017 Tax Exempt Application that the subject office building located at 75 Charter Oak Avenue leases 65 percent of its office space through multiple leases to nonprofit tenants, but also leases 35 percent of its office space to for-profit tenants for a yearly gross rental income of \$1,006,671. See Ex. A attached to Pl.'s Am.

³ CIL-CR is a subsidiary of the Corporation of Independent Living, Inc., which the court assumes is "CIL" as referenced in this action. See Pl.'s Am. Compl. dated June 26, 2019, 1, if 4, No. 1118. There have been many references to CIL and CIL-CR that seem to cross paths without clarification as to the role CIL plays in their relationship other than providing financial support, management, budgeting, planning, executive oversight functions, staffing, and major investments of equipment and property. See Joint Stipulation of Facts 2-3, if 10, No. 1117 (referring to CIL).

Compl. 2-3, No. 1118 (Ex. A).

The requirements for an organization to qualify for a property tax exemption are as follows: "the property must (1) belong to or be held in trust for a corporation organized exclusively for charitable purposes; (2) be used exclusively for carrying out such charitable purposes; (3) not be leased, rented or otherwise used for a purpose other than the furtherance of its charitable purposes; (4) not be housing subsidized by the government; and (5) not constitute low or moderate income housing." (Internal quotation marks omitted.) *St. Joseph's Living Center, Inc. v. Windham*, 290 Conn. 695, 709, 966 A.2d 188 (2009) (*St. Joseph 'S'. Living Center*). The city concedes that CIL-CR meets all of these aforementioned qualifications for a property tax exemption except for requirement number three.

The city's basic objection to the claimed exemption is recited in its memorandum of law in support of its motion for summary judgment dated June 26, 2019. The city argues that "[t]here is no dispute that the [p]laintiff is leasing a portion of its property to other entities. Even if those entities are also charitable organizations, the fact that the [p]laintiff is receiving a pecuniary measure goes beyond allowing the mere 'use' of the property. The relationship between the [p]laintiff and those other entities it leases its property to is more than a gratuitous shared space arrangement." Defs.' Mem. of Law in Supp. of Defs.' Mot. for Summ. J. 5, No. 1114.

CIL-CR responds to the city's objection by referring to § 12-81 (7) (A), which provides in relevant part: "The real property shall be eligible for the exemption regardless of whether it is used by another corporation organized exclusively for . . . charitable purposes" CIL-CR also relies on the statutory language found in General Statutes § 12-88, which provides in relevant part: "Real Property belonging to, or held in trust for, any organization mentioned in subdivision

(7) . . . of section 12-81, which real property is so held for one or more of the purposes stated in the applicable subdivision, and from which real property no rents, profits or income are derived, shall be exempt from taxation"

Whether the subject property is leased for a charitable purpose requires an examination of three factors: (1) whether the corporation is organized to carry out an exclusively charitable purpose; (2) whether the corporation claiming the tax exemption is self-supporting; and (3) whether the activities of the corporation serve to relieve a burden on the state. See *St. Joseph's Living Center*, supra, 290 Conn. 713. In the present case, regarding the first factor, the city concedes that CIL-CR is indeed organized to carry out an exclusively charitable purpose. See , Joint Stipulation of Facts 1, 4, No. 1117. Regarding the second factor, the parties agree that CIL-CR is not self-supporting. See Joint Stipulation of Facts 1, 10, No. 1117. Regarding the third factor, however, the parties are not in agreement on the issue of whether CIL-CR's activities serve to relieve a burden on the state.

In discussing the disputed third factor further, the court notes that CIL-CR claims that its purpose was to lease office space only to nonprofit organizations. As noted in Exhibit A attached to the plaintiff s amended complaint, which is a copy of the 2017 Tax Exempt Application, 65 percent of the office space is leased to nonprofit tenants, while 35 percent is leased to for-profit tenants. See Ex. A. Exhibit A also reports that CIL-CR had a gross income for the fiscal year ending on June 30, 2017, of \$2,213,580 with gross expenses of \$1,900,462, resulting in a net operating income of \$313,118. The first page of the 2017 Tax Exempt Application further reports that on the disposition of profits that the organization might make, no profit is made on the property. See Ex. A. No explanation has been given as to the disposition of the net income

derived from the leasing of space to tenants.

Although not clearly articulated by the parties, the leasing of the subject building to nonprofit tenants and for-profit tenants raises the issue of whether the subject property is being used "exclusively for a charitable purpose." See *St. Joseph's Living Center*, supra, 290 Conn. 745 ("the exclusive use requirement of § 12-81 (7) must be strictly construed so as to require a charitable organization seeking the benefit of a property tax exemption to use its property in such a manner that its activities are entirely dedicated to serving its stated charitable purpose"). Under the facts, as presented by the parties, there is no distinct separation of the nonprofit tenants from the for.-profit tenants.

Thus, the question here is whether CIL-CR, as a charitable organization, by owning a commercial office building that has the sole purpose of leasing space in the building to nonprofit tenants, qualifies for a tax exemption as to that building.

A "charitable purpose" has been defined in *Camp Isabella Freedman of Connecticut, Inc. v. Canaan*, 147 Corin. 510, 514-15, 162 A.2d 700 (1960), with the following comment: "The definition of charitable uses and purposes has expanded with the advancement of civilization and the daily increasing needs of men. . . . It no longer is restricted to mere relief of the destitute or the giving of alms but comprehends activities, not in themselves self-supporting, which are intended to improve the physical, mental and moral condition of the recipients and make it less likely that they will become burdens on society and more likely that they will become useful citizens." (Citation omitted.) The court in *St. Joseph's Living Center*, supra, 290 Conn. 716, in defining "charity," noted that "[c]harity embraces anything that tends to promote the well-doing and the well-being of social man." (Internal quotation marks omitted.) A key element of this

definition is that the purpose of-"charity" is to relieve the burden on society in providing support to improve the physical, mental, and moral well-being of its citizens.

Therefore, the more specific question in the present case is in what way is the leasing of the subject property by one charitable organization to another charitable organization intended to relieve the burden of providing support to improve the physical, mental, and moral well-being of citizens living in the state of Connecticut? "It is . . . well established that in taxation cases . . . provisions granting a tax exemption are to be construed strictly against the party claiming the exemption, who bears the burden of proving entitlement to it." (Internal quotation marks omitted.) *St. Joseph's Living Center*, supra, 290 Conn. 707.

Given the fact that the Corporation of Independent Living, Inc. (CIL) provides CIL-CR with financial, management, budgeting, planning, executive oversight functions, staffing, and - other necessary services, including major investments in equipment or property, there seems to be little, if anything, that CIL-CR does other than to manage the office building to provide office space to other charities and to other for-profit tenants. In substance, it appears that the sole purpose of CIL-CR is to act as a leasing agent for CIL in the management of the subject office building.

Providing office space to nonprofit organizations does not fulfill the purpose of a charity. To reiterate, as noted in *St. Joseph's Living Center*, supra, 290 Conn. 715-16, charity is "no longer . . . restricted to mere relief of the destitute or the giving of alms but comprehends activities, not in themselves self-supporting, which are intended to improve the physical, mental and moral condition of the recipients and make it less likely that they will become burdens on society and more likely that they will become useful citizens. . . . Charity embraces anything that

tends to promote the well-doing and the well-being of social man." (Citation omitted; internal quotation marks omitted.) There has been no evidence demonstrating that the leasing of office space to nonprofits promotes such lofty goals.

Because the court finds that, in the present case, the sole purpose of CIL-CR is to lease commercial office space to charitable organizations and non-charitable organizations, this leasing does not serve an exclusive charitable purpose and, therefore, the city has sustained its burden to show that, as a matter of law, it is entitled to a judgment. See *Buell Industries, Inc. v. Greater New York Mutual Ins. Co.*, 259 Conn. 527, 549-50, 791 A.2d 489 (2002) ("summary judgment shall be rendered forthwith if the pleadings, affidavits and any other proof submitted show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law" [internal quotation marks omitted]); *Socha v. Bordeau*, 277 Conn. 579, 585, 893 A.2d 422 (2006) (same).

Accordingly, judgment may enter in favor of the defendants city of Hartford and Board of Assessment Appeals, without costs to either party.



Arnold W. Aronson

Judge Trial Referee