

Ex. 6." (Docket Entry #108, pp. 2-3.)

Rainbow and Gilead are affiliates recognized by the Internal Revenue Service as tax-exempt charitable organizations, as evidenced by § 501 (c)(3) status letters. Gilead also holds a State of Connecticut sales tax exemption due to its recognized charitable purposes and programs. See Docket Entry #108, p. 3.

"Rainbow owns real property at 461 Main Street, which it purchased in April, 2006. Stip. Ex. 10. Rainbow leases the property and structure at 461 Main Street to Gilead, which conducts a 'Supervised Apartment Program,' a transitional, community based support program for men ages 18 or older, who suffer from severe mental illness, with or without co-occurring disorders, who need a supportive; supervised environment, and who are not appropriate for occupancy in a traditional group home. Stip. Ex. 5. Gilead's Supervised Apartment Program at 461 Main Street is known as 'Valor Home.' Valor Home has a five-client program capacity, meaning that at any given time, no more than five men occupy and receive services at 461 Main Street. Stip. Ex. 5.

"By contract, Gilead receives approximately 75 percent of its funding from the State Department of Mental Health and Addiction Services ('DMHAS'), and also receives charitable support from the public in the form of donations. A192. Valor Home residents pay a monthly occupancy rental fee, which is set by Gilead at well below area market rental rates. Income from these payments constitute about five percent of Valor Home's annual operating budget, which is approximately \$684,833.00. A192."

(Docket Entry #108, pp. 3-4.)

It is well recognized that a summary judgement "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." Practice Book § 17-49. Since both parties have filed motions for summary judgment, both parties represent that there are no material facts in issue for the court to consider.

In an action such as this appeal, the burden of proof is upon the plaintiffs to show that they were aggrieved by the action of the assessor and the board of assessment appeals denying their claim for a real estate property tax exemption for the Grand List of October 1, 2017. See *Redding Life Care, LLC. v. Redding*, 308 Conn. 87, 105-106, 61 A.3d 461 (2013).

In order to qualify for a real estate tax exemption for 461 Main Street in Cromwell, the plaintiffs were required to present to the town's assessor evidence to support their application for a tax exemption; which complies with the conditions set forth General Statutes § 12-81 (7)¹ and in § 12-88.²

In *St. Joseph's Living Center, Inc. v. Windham*, 290 Conn. 695, 709, 966 A.2d 188 (2009) (hereinafter *St. Joseph's*), the Supreme Court, relying on the holding in *Isaiah 61:1, Inc. v. Bridgeport*, 270 Conn. 69, 851 A.2d 277 (2004), summarized § 12-81 (7) as it applies to this case as follows:

¹General Statutes § 12-81 (7) recites, in relevant part, as follows: "Property used for scientific, educational, literary, historical, charitable or open space land preservation purposes. Exception. (A) Subject to the provisions of [§§] 12-87 and 12-88, the real property of, or held in trust for, a corporation organized exclusively for ... charitable purposes ... and used exclusively for carrying out one or more of such purposes The real property shall be eligible for the exemption"

² General Statutes § 12-88 recites, in relevant part, as follows: "Real Property belonging to, or held in trust for, any organization mentioned in subdivision (7) ... of [§] 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"

In order for real property used for charitable purposes to qualify for a municipal property tax exemption, it must:

- (a) be owned or held in trust by a charitable corporation organized exclusively for charitable purposes;
- (b) be used exclusively for carrying out its charitable purposes;
- (c) not be leased, rented or otherwise used for purposes inconsistent with its goal of furthering its charitable purposes;
- (d) not be used for governmental subsidized housing and
- (e) not be used for low or moderate income housing.

Therefore, it is necessary to examine whether Rainbow and Gilead meet these requirements.

In *St. Joseph's*, 290 Conn. 713, the court set out three factors to consider in determining whether Rainbow and Gilead had charitable purposes in their respective operations: 1) whether Rainbow and Gilead were organized exclusively for charitable purposes; 2) whether or not Rainbow and Gilead were self-supporting in their operations; 3) whether Rainbow and Gilead's activities served public purposes by relieving burdens on the state that would otherwise have to use public funds to provide such services.

The subject property, at 461 Main Street in Cromwell, is used by Gilead to service a five-client program capacity known as Gilead's "Supervised Apartment Program." The program, according to Gilead's Certificate of Incorporation and Bylaws, is to "provide a broad range of high quality health care and recovery support services to individuals with the goal of supporting the individual's independent living in the community." (Docket Entry #110, 4.)

As noted by the court in *St. Joseph's*, 290 Conn. 723, in order "to constitute a charitable organization, the entity must be structured in such a way that it is intended to function with the aid of at least some private charitable support and must, in fact, seek out and receive such support."

The supplemental affidavit of Dan Osborne dated January 25, 2019, ¶ 6, as chief executive officer of Gilead, provides this information: "6. Based on a personal review of Rainbow's and Gilead's consolidated profit and lost statements and tax-exempt organization filings for the years 2017 and 2018; Gilead received \$436,459 and \$247,602 respectively, in donations from private individuals and organizations. These donations have constituted between two and four percent of Gilead's total revenue for those years." (Ex. A to Reply, Docket Entry #111.) Osborne further notes, **at** 8, that "[p]rivate donations . . . are a measurable and necessary part of Rainbow's and Gilead's budget, expenditures, ownership, and provision of mental health services at 461 Main Street, Cromwell."

The third factor recited in *St. Joseph's*, 290 Conn. 730, involves the issue of relieving a burden on the state to provide services similar to those provided by Gilead that would otherwise be provided by the state. In response to this factor, the court notes that a major program provided by Gilead is to render services in the nature of mental health to five clients living at 461 Main Street in Cromwell. See Osborne Affidavit, ¶ 7. Section 12-81 (7) (B) (iii) specifically provides that providing housing in the treatment of persons with mental health disorders is a charitable purpose which assists the public benefit and supports the enhancement of the public interest.

As an example of the services rendered by Gilead, the "Supervised Apartment Programs provide an intensive level of supervision with 24 hour on-site support to assist with activities of

daily living, develop a maximum level of functioning, and introduce and encourage the use of natural supports. Staff provide intensive support, assessment, to ensure that clients maintain independence and stability in the community. Individualized treatment plans are developed with each client according to the client's needs and preferences promoting empowerment and recovery. Staff assist clients to consistently complete life skills, including shopping, paying bills, money management, cooking, laundry, home cleaning, medication education and supervising as well as emphasize and focus on vocational opportunities." Stipulation of Facts and Exhibits, Docket Entry #110, TAB 5, Gilead Community Services, Inc. Policy and Procedure Manual, Sections 2.3.4.1, p..1.

A review of the above agreed upon facts, supports the court's conclusion that Rainbow and Gilead are both organizations with charitable purposes and meet each of the three factors recited in *St. Joseph's*.

Having concluded that the plaintiffs are charitable organizations and are engaged in full time, exclusive pursuit of their charitable purposes, namely, assisting men with mental health issues, the court turns to the issue of whether the property at 461 Main Street in Cromwell is "leased, rented or otherwise used for a purpose other than the furtherance of its charitable purposes." *St. Joseph's*, 290 Conn. 709. In this regard, the defendant contends that the use of supervised housing by these adult individuals with mental illness is nothing more than leasing or renting in subsidized housing, funded in whole or in part by federal, state, or local governments.

On the contrary, the facts as stipulated to by the parties, show that Gilead does not lease, rent or otherwise use 461 Main Street for any other purpose except in furtherance of its charitable purpose in providing-- "housing" where merl with mental disabilities may receive a structured

program to address their issues. Housing is not the main goal here but part of Gilead's rehabilitation program.

In other words, the housing provided by Gilead- is not just a room at 461 Main Street in Cromwell, but a place where Gilead, through Valor Home, can provide "a broad range of high quality health care and recovery support services" to individuals with mental health disabilities. (Docket Entry#110, Tab 4.)

The defendant also claims that part of the services rendered to the residents by contract with DMHAS disqualifies Gilead for an exemption because Gilead's programs are subsidized by DMHAS.

There is nothing in the stipulated facts to support the defendant's argument that DMHAS is subsidizing Gilead rather than assisting Gilead in its goal to provide a program for the benefit of men with mental health disabilities. It is inconceivable to consider the placing of individuals with mental health disabilities in one of the five rooms at 461 Main Street as subsidization by DMHAS. As the plaintiffs argue, the contractual payments from DMHAS was to provide for various rehabilitative services in a residential setting which is permissible under § 12-81 (7) (B). See, e.g., *Isaiah 61:1, Inc. v. Bridgeport*, 270 Conn. 88. The court agrees with the plaintiffs' argument.

The defendant's remaining argument for its rejection of the plaintiffs' application for a tax exemption is that the plaintiffs' use of 461 Main Street in Cromwell is not for *temporary* use.

As set forth in § 12-81 (7) (B), "temporary housing belonging to, or held in trust for, any corporation organized exclusively for charitable purposes and exempt from taxation for federal income tax purposes, the primary use of which property is one or more of the following: ... (iii)

housing for ...persons with a mental health disorder ... [.] The operation of such housing, including the receipt of any rental payments, by such charitable organization shall be deemed to be an exclusively charitable purpose."

Gilead's goal is to furnish rehabilitative services to inhabitants with mental disabilities, which services are funded in part by the DMHAS³ and private donations. The additional goal of preparing clients to live independently in the community supports the concept that the charitable purpose of moving men with mental health disabilities into the program with the expectation of moving the clients out into the community, in furtherance of this charitable purpose, is a temporary, not a long term process. Although the operation of Gilead is to provide a program of treating clients with mental health issues, there is nothing in the stipulated facts to conclude that the treatment provided is anything but temporary.

There is no merit to the defendant's claim that the use of 461 Main Street is hot temporary, and therefore, does not qualify for a tax exemption under § 12-81 (7) (B).

Since the parties have agreed that there are no material facts in issue, and giving due consideration to the stipulated facts and exhibits, the court finds that the plaintiffs, as a matter of law, have fulfilled all of the requirements set forth in § 12-81 (7) (B) and § 12-88 which are:

1) The property at 461 Main Street is owned by the plaintiffs who are organized exclusively for charitable purposes;

2) The subject property located at 461 Main Street is used exclusively for carrying out such charitable purposes;

³ As noted in *Isaiah 61:1, Inc. v. Bridgeport*, 270 Conn 88, payments to Gilead by DMHAS were similar in nature to payments made to Isaiah by the Department of Corrections for rehabilitative services.

3) The plaintiffs have not leased, rented or otherwise used the subject property inconsistent to the furtherance of their charitable purposes;

4) The housing of the subject property of the plaintiffs has not been subsidized by any governmental agency and

5) The subject property does not constitute low or moderate income housing.

Accordingly, judgment may enter in favor of the plaintiffs granting their motion for summary judgment. The defendant's motion for summary judgment is denied. No costs are awarded to any party.



Arnold W. Aronson
Judge Trial Referee