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Date: December 16, 2013 11:32:00 AM EST (CA)

To: 'Tim Ashe' <timashe@burlingtontelecom.net>

Subject: initial thoughts on draft property tax proposal

Tim – just a quick follow-up. We’re sorry we can’t be there in person and have begun an assessment of the impact on CHT and our residents by the draft property tax exemption legislation being considered by a Property Tax Exemption Study Committee. We understand the motivation of the committee, but we are concerned that the proposed legislation, as drafted, would have the effect of undoing the recently-awarded property tax exemption status of a handful of our properties that serve the truly needy.

In Champlain Housing Trust v. City of Burlington, the Court concluded that six properties owned and leased by the Champlain Housing Trust qualify for a property tax exemption under 32 V.S.A. § 3802(4), "[r]eal ... estate granted, sequestered or used for public, pious or charitable uses." The standard that we used is known as the Vermont Supreme Court’s Fly Fishing Test.

We are concerned that draft legislation proposes to dispose of the blanket property tax exemption for public, pious, or charitable use property. Our initial assessment is that CHT properties are unlikely to meet the new blanket charitable use exemption.

Because CHT’s property is unlikely to fall within a blanket property tax exemption, to be exempt a CHT property must fall into exemptions for both statewide education property taxes and municipal taxes.

Under the proposed legislation, CHT must meet this burden for each of its properties. Pursuant to Champlain Housing Trust v. City of Burlington, many of the determinations made in that case are relevant to the certification officer’s decision. In fact, the requirements of the certification process are near identical the qualification requirements that the Court applied to CHT properties under the Vermont Supreme Court’s Fly Fishing test.

For your convenience, here are the Court’s primary conclusions under the Fly Fishing test: 1) “each of the Champlain Properties is dedicated to serving the homeless or those disabled by the conditions mentioned above. Moreover, that dedication is unconditional;” 2) “[t]hey are exempt because they are used to help individuals who are homeless or who are afflicted with AIDS, mental illness or serious;” and 3) the properties are owned and operated on a not-for-profit basis, citing the fact that “it is undisputed that any of CHT’s excess revenues are devoted to furthering Champlain’s charitable purpose.” The Court concluded that this was not even a close case.

In sum, while we understand the committee’s interest in preventing improper exemptions, the proposed legislation places new significant burdens and risks on CHT and the vulnerable people we serve which directly relate to properties is recently

litigated to final judgment and prevailed in full on its exemption arguments. It seems fundamentally unfair and inefficient to subject CHT to these newly proposed procedures for the six Burlington properties, especially considering the substantive review criteria under the proposed legislation are substantially the same as those applied by the Court in Champlain Housing Trust v. City of Burlington.

We'd be happy to discuss further.

Best,
Chris

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