GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER
OFFICE OF TAX AND REVENUE

Office of the General Counsel

January 23, 2024

Mr. Andrew Platou
Chief Executive Officer
Washington Humane Society
71 Oglethorpe Street, NW
Washington, DC 20011-2346

Re: Square 976, Lot 14
1022-1109 M Street, SE
Washington Humane Society

Dear Mr. Platou:

This is in reference to an application for exemption from District of Columbia real property tax received March 26, 2015, for the above-referenced property owned by the Washington Humane Society (Society). This application has been held at the Society's request to allow for submission of additional information concerning the proposed use of the property. Also at the Society's request, OTR is moving forward with the review of the application in order to make a decision on it based on the currently available information.

After an inspection of the property and a review of the application and supporting documents, we have determined that the property does not qualify for, and is not entitled to, an exemption from real property taxation pursuant to D.C. Official Code § 47-1002(8) or (18)(A). Subsection (8) exempts from real property tax "[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[.]" Subsection (18)(A) exempts from real property taxation "[g]rounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes of any institution or organization entitled to exemption under the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010."

The property is a vacant lot with an area of approximately 36,560 square feet, or over 8/10 of an acre. Inasmuch as subsection (8) exempts only "buildings", this provision of the exemption law is inapplicable to the property. Accordingly, exemption of the property is governed by subsection (18)(A), which provides for exemption of grounds.

The available information indicates that the property was acquired and is being held for future development of facilities for the Society's activities. However, an intention to put property to an

exempt use at some point in the future is not a sufficient basis for granting an exemption. Howard University v. District of Columbia, 155 F.2d 10, 11 (D.C. Cir. 1946).

As we understand, exemption is not being sought simply on the basis of the possible future development and use of the property, but rather on the basis of its current status. However, the available information does not establish that the property meets the applicable requirements for exemption.

As the statutory language of subsection (18)(A) demonstrates, grounds must be reasonably required and actually used for exempt purposes to qualify for exemption. The application acknowledges that, when acquired, the property was vacant and not in use. Information submitted by the Society states that limited portions of the property have been used from time to time for parking, storage of equipment, pet adoption events, and collection, sorting, storage and distribution of donated pet supplies. Such uses, however, are of an incidental character, and it has not been shown that the entire property is reasonably required or actually used for exempt purposes. Rather, the available information shows that much of the property has not been in use. Additionally, the available information does not establish that the activities conducted at the property could not be accommodated at the Society's other properties, which include another vacant lot (Square 976, Lot 15) abutting the property.[1]

Accordingly, the property cannot qualify for exemption under subsection (18)(A). See Gibbons v. District of Columbia, 116 U.S. 404, 406-07 (1886) (stating that grounds not reasonably needed or actually used for exempt purposes are not entitled to exemption); District of Columbia v. Trustees of Amherst College, 515 A.2d 1115, 1120 (D.C. 1986) (unused grounds not entitled to exemption).

Moreover, the application as filed was incomplete because it omitted certain necessary information or materials, including a certificate of occupancy, building permit, or applications for these documents. Such documents are necessary elements of a properly completed real property tax exemption application. 9 DCMR § 322.10(g). The regulations also provide that "[i]n order for real property to qualify for or maintain its exempt status … a certificate of occupancy…shall be on file with the Deputy Chief Financial Officer." 9 DCMR § 323.1. Section 323.3 states that "[t]he certificate of occupancy evidences the legal use of the real property for the exempt purpose." By email dated November 7, 2023, this office requested that a certificate be provided. However, our records do not reflect that a certificate has been received and so the application remains incomplete.

Real property is not eligible for exemption until a properly completed application is submitted. D.C. Official Code § 47-1009(b)(2)(A). Because the application is incomplete, the property does not qualify for, and is not entitled to, an exemption from real property taxation on this ground as well.

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[1] In 2019, the Society acquired lots 15, 808 and 809 in Square 976, which abut the subject property. No exemption applications were filed with respect to such abutting properties, and they are taxable. The Society also owns substantial facilities located at 15 and 71 Oglethorpe Street, NW (Square 3379, Lots 13 and 16), which are exempt from real property taxation.

Accordingly, the application must be, and hereby is, denied.

[REDACTED PARAGRAPH]

You may appeal the denial of the exemptions within six (6) months from the date of this letter to the Superior Court of the District of Columbia pursuant to D.C. Official Code § 47-1009(a)(1).

If you have questions regarding this matter, please contact Lisa T. Newman at (202) 442-7024.

Sincerely,

Bazil Facchina

Bazil Facchina
Assistant General Counsel
Office of Tax and Revenue