

**VOLUNTEERS OF AMERICA
OF GREATER NEW
ORLEANS, INC.**

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NO. 2001-CA-1053

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COURT OF APPEAL

VERSUS

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FOURTH CIRCUIT

**CITY OF NEW ORLEANS
DEPARTMENT OF FINANCE
AND ERROLL WILLIAMS**

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STATE OF LOUISIANA

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**APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2000-702, DIVISION "A-5"
Honorable Carolyn Gill-Jefferson, Judge**

**Charles R. Jones
Judge**

(Court composed of Judge Charles R. Jones, Judge Patricia Rivet Murray
and Judge Max N. Tobias, Jr.)

Michael T. Tusa, Jr.
Kelly M. Rabalais
LeBLANC TUSA & BUTLER LLC
2121 Airline Drive, Suite 405
Metairie, LA 70001

**COUNSEL FOR VOLUNTEERS OF AMERICA
GREATER NEW ORLEANS, INC.**

Salvador Anzelmo
A. Mark Flake
365 Canal Street
One Canal Place, Suite 2800
New Orleans, LA 70130

COUNSEL FOR ERROLL G. WILLIAMS

REVERSED

This suspensive appeal, filed by the Volunteers of America of Greater New Orleans, Inc. (hereinafter the “VOA”), involves a dispute between the VOA and Assessor Errol Williams of New Orleans. The issue is whether the VOA’s property on Abundance Street in New Orleans which houses its prison halfway house, is entitled to an *ad valorem* tax exemption for operating the center for religious and/or charitable purposes. Presented with cross motions for summary judgment by the VOA and the City of New Orleans, the district court denied the VOA’s motion as to the Abundance Street property and granted the City of New Orleans’ motion as to that same property.

The VOA’s Comprehensive Sanction Center is located at 2000 Abundance Street in the City of New Orleans. Within the VOA’s Articles of Incorporation, which have been in effect for over one hundred years, the stated purpose of the non-profit organization is to:

...operate a religious, missionary, and welfare society, humanitarian in its method and having for its objects and purposes the reaching and uplifting of people, extending aid, both spiritual and material, to all persons who may come within the sphere of its influence.

The VOA, Inc., the parent organization, has tax-exempt status under 26 U.S.C. §501(c) (3) and has been recognized as a church by the Internal Revenue Service (hereinafter the “IRS”). The VOA founders split from the Salvation Army approximately one hundred years ago; therefore, the VOA is similar in structure to the Salvation Army. The Salvation Army is also recognized as a church by the IRS.

Moreover, the VOA’s Articles of Incorporation clarify that the organization cannot be operated for pecuniary gain or profit of the individual members, directors or officers. The VOA of Greater New Orleans was chartered after agreeing to abide by the parent organization’s principles and commitment to help those in need. The local affiliate is listed on the parent VOA’s group tax exemption with the IRS each year and has always been exempt from state and federal income taxes. Donations to the local VOA are, as a result, tax deductible. Because of this tax exempt status, the VOA locally has traditionally been exempt from *ad valorem* taxes and unemployment compensation.

In December 1999, the VOA of Greater New Orleans was advised that property taxes were being imposed by Assessor Williams on properties owned by the VOA despite the fact that the VOA had filled out applications for exemptions. The VOA objected, but paid the taxes timely under protest

and then filed this suit.

Both parties filed Motions for Summary Judgment, which were orally argued on March 23, 2001. The district court ruled from the bench, granting the City's motion and denying the VOA's motion. A judgment was signed on March 29, 2001. The VOA suspensively appealed and posted the security required by law.

The Louisiana Constitution, article VII, § 21 (B)(1), provides that:

. . . the following property and no other shall be exempt from ad valorem taxation:

Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, . . . or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member thereof and which is declared to be exempt from federal or state income tax.

In *Hotel Dieu v. Williams*, 403 So.2d 1255 (La. App. 4th Cir. 1981), this court was presented with the same issue as it related to Hotel Dieu Hospital, a nonprofit hospital run by the Daughters of Charity of St. Vincent de Paul. At issue was whether the Seton Professional Building and parking lot adjacent to and owned by the Hotel Dieu Hospital (albeit through an alter-ego entity), was exempt from taxation of its property. This Court ultimately concluded that it was exempt, but in doing so, interpreted the

above provision as follows:

We conclude that the language of art. 7 § 21 (B)(1) will not support any other grammatical construction than that it exempts *all* “[p]roperty owned by a nonprofit corporation” which corporation (*not* which corporation’s *property*) is “organized and operated exclusively” for specified benevolent purposes (including health purposes).

Id. at 1256 (emphasis in original).

This Court analyzed subsection (B)(1), in part, by referring to subsection (B)(2), which provides that: “None of the property listed in paragraph (B) shall be exempt if owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association.” We explained that, “It is only the last paragraph of § 21(B) which reduces the universality of that exemption, and that last paragraph denies the exemption only to property ‘owned, operated, leased, or used for commercial purposes *unrelated to the exempt purposes* of the corporation . . .’ *Id.* (emphasis in original). Finally, “We conclude that the providing of medical office (and pharmacy and laboratory) spaces and parking space, in the immediate vicinity of a nonprofit hospital, by the hospital either directly or through a related nonprofit corporation created for that purpose, is not a ‘commercial purpose’ unrelated to the exempt purposes of a hospital.” *Id.*

Thus, the principle enunciated by this Court is that all property owned

by the nonprofit, tax-exempt organization is similarly exempt from property taxation as long as the purpose for which the property is utilized is related to the organization's overall purpose.

Here, it is not disputed that the prison halfway house, operated by the VOA, is related to the VOA's overall purposes of providing humanitarian and charitable services to people in need. Apparently the organization's founders felt so strongly about this mission that they split off from the Salvation Army in the last century over this very issue: providing services to incarcerated individuals. Therefore, under this Court's prior jurisprudence in *Hotel Dieu v. Williams*, the taxation issue is settled in the VOA's favor and the district court's denial of the VOA's Motion for Summary Judgment was error.

Assessor Williams argues that the Federal Bureau of Prisons confirmed that there is no religious or charitable purpose behind the operation of the prison facility located at Abundance Street. However, that assertion is disputed by the VOA. As this Court instructed previously, Article VII "exempts *all* '[p]roperty owned by a nonprofit corporation' which corporation (*not* which corporation's *property*) is 'organized and operated exclusively' for specified benevolent purposes." Thus, it is not the benevolent purpose of the *property* that is at issue, but rather the purpose of

the organization (here, the VOA of Greater New Orleans) which must be charitable, religious, etc., to make it tax exempt under the IRS regulations. And, the additional inquiry is whether the purpose for which the property is used constitutes one that is *related to the organization's goals and purposes*.

Decree

For the reasons stated herein, it is clear that the purpose of the prison halfway house is one that the VOA not only espouses in its Articles of Incorporation, but which its overall mission has included for over one hundred years. Therefore, we reverse the district court's denial of summary judgment as to the VOA, as well as the granting of the summary judgment motion filed by Assessor Williams on behalf of the City of New Orleans.

REVERSE

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