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Gulf Coast Housing Partnership, Inc. v. Bureau of Treasury of City of New Orleans

**Court of Appeal of Louisiana, Fourth Circuit - November 27, 2013 - So.3d - 2013-0556
(La.App. 4 Cir. 11/27/13)**

Gulf Coast Housing Partnership, Inc. (GCHP), is a Delaware nonprofit corporation licensed to business in Louisiana. It owns and is the sole member and manager of the three Louisiana limited liability companies (LLCs). Each of these three limited liability companies owns immovable property in Orleans Parish that they assert will be used for housing of the poor.

The Orleans Parish assessor assessed the LLCs' immovable property for ad valorem property taxes for calendar year 2010. GCHP paid the 2010 property taxes for the LLCs as assessed under protest and commenced this suit against the assessor, the City of New Orleans, and the Louisiana Tax Commission for a refund of the taxes paid.

The core issue was whether La. Const. art. VII, § 21(B)(1)(a)(i) allows Louisiana immovable property to be exempt from ad valorem property tax when the property is titled and/or owned directly by a limited liability company that is not directly a 26 U.S.C.A. § 501(c)(3) tax-exempt entity and thus income tax-exempt by United States and Louisiana law when the sole member (owner) of the limited liability company is a 26 U.S.C.A. § 501(c)(3) tax-exempt nonprofit corporation, and because the activities of the tax-exempt corporation are not commercial in nature but compliant with law for income tax-exempt purposes.

The court concluded that only if the immovable property was undeveloped and held by the tax-exempt corporation in its own name as an investment would the immovable be exempt from ad valorem tax. Here, the LLCs acquired the immovable properties for commercial purposes, albeit charitable in nature, to-wit: for "affordable and supportive rental housing for low-income individuals with disabilities and for low-income workers."

In addition, the court found no evidence that GCHP or the LLCs had entered into any agreement with any municipal or parish industrial development board to bring them within the purview of La. R.S. 51:1151, et seq., and thus potentially exempt from ad valorem taxation of their immovable property.