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Greater Jamaica Development Corp. v. New York City Tax Com'n

Supreme Court, Appellate Division, Second Department, New York - November 27, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 07972

Greater Jamaica Development Corporation (GJDC) was organized in 1967 as a charitable, not-for-profit corporation with a mission to promote the development of the business-commercial-retail district of Jamaica, Queens. In 1998, GJDC formed the Jamaica First Parking, LLC (hereinafter JFP), with GJDC as its sole member, in order to acquire, develop, and operate public parking facilities in the Jamaica community on a nonprofit basis. Thereafter, JFP came to own and operate five such public parking facilities. These five parking facilities allegedly offered significantly lower rates than similar for-profit facilities so as to attract visitors, consumers, retailers, and other businesses to the area.

In a private letter ruling issued in 2001, the IRS concluded that the operation of public parking facilities by JFP would not adversely affect GJDC's federal tax exempt status, in large part because such activity was "substantially related" to GJDC's charitable tax-exempt purposes and would "lessen the burdens of government" as defined by certain tax regulations. In 2007, New York City Department of Finance (DOF) granted an exemption from real property taxes pursuant to Real Property Tax Law § 420-a on the public parking facilities owned and operated by JFP.

In February 2011, the DOF revoked the real property tax exemption, beginning with the 2011/2012 tax year, on the ground that, inter alia, the operation of parking facilities, in and of itself, was not a charitable activity as contemplated by RPTL 420-a. Subsequently, GJDC and JFP commenced a proceeding against the DOF and the New York City Tax Commission.

The appeals court found that the revocation of the tax exemption did not have a rational basis and was, therefore, arbitrary and capricious.