July 10, 2019

Day Pitney Pro Bono Team and Co-Counsel Win Favorable Decision in Property Tax Exemption Case

Day Pitney LLP, along with co-counsel Tova Lutz, Esq., obtained a favorable decision in a pro bono case of first impression on behalf of client Aish Hatorah New York, Inc.

The case involved the City of Passaic's denial of a property tax exemption for the "Aish House" or the "Passaic Women's House" for the 2015 through 2018 tax years. The Aish House was conceived to provide an atmosphere for unmarried adult Jewish women to nurture and develop their faith in Orthodox Judaism in a supervised structured environment.

The program is operated under the guidance and instruction of an Orthodox "rabbi-in-residence" who is charged with ensuring that the Aish House is maintained and that the program and its participants observe, and comply with all applicable laws of Orthodox Judaism.

The Aish House consisted of a residence section for the women residents who lived at Aish House and participated in the program and a separate section for the "rabbi-in-residence" and his family to live. The rabbi's wife was also intimately involved in Aish's programming. In denying the tax exemption for the property, the City claimed that it was not being used for religious purposes, there was no signage, and there were three synagogues within walking distance.

Essentially, the City claimed the Aish House was merely a residence for single Jewish women and a rabbi and his family. That alone, it claimed, did not make it subject to a tax exemption for a religious use. The City also argued that because the Aish House did not obtain land use approval to operate for religious purposes, the exemption should be denied. To Day Pitney's knowledge, this case was the first tax exemption case of its kind in New Jersey involving this type of religious residence.

After summary judgment motions were filed and argued, the Tax Court of New Jersey issued a 37-page decision granting the tax exemption to the Aish House for the years in question, finding that it qualified as a tax-exempt property under both the religious use exemption and the exemption for the moral and mental improvement of men, women and children.

The Tax Court also found that the failure to obtain land use approval was "inapposite the court's determination whether the subject property is exempt from taxation," and therefore did not enter into the Tax Court's exemption analysis.

Christopher Stracco and Sylvia-Rebecca Gutiérrez handled the case for Day Pitney, along with co-counsel Tova Lutz of the Lutz Law Group. This tax case is one of several that Stracco and his team have handled for religious organizations on a pro bono publico basis.

Key Contacts



Christopher John Stracco

Of Counsel

Parsippany, NJ | (973) 966-8220

cstracco@daypitney.com