



Canada Customs
and Revenue Agency

Agence des douanes
et du revenu du Canada

REGISTERED MAIL

MAY - 7 2003

Your file Votre référence

Mr. Simon Oosterhuis, President
Je Maintiendrai Home Society,
1099 Sitka Square
Vancouver, B.C.
V6H 3P8

Our file Notre référence
BN 13069 7436 RR0001
REG 0491001

Subject: Notice of Intent to Revoke
Je Maintiendrai Home Society

Dear Sir:

Further to the audit conducted by a representative of the Canada Customs and Revenue Agency (hereinafter, the "CCRA"), we invited you in our letter dated June 6, 2002, (attached) to submit representations as to why the Minister of National Revenue should not revoke the registration of Je Maintiendrai Home Society (hereinafter, "Organization") in accordance with subsection 168(1) of the *Income Tax Act* (hereinafter, the "Act").

I am writing to you in response to your letter dated September 24, 2002, (attached) in which you suggest that the Organization is unable to comply with the requirements of the *Act*. It is my conclusion that the representations in your letter do not provide sufficient reasons why the Organization's status as a registered charity should not be revoked. The specific areas listed below are of concern:

1. The Organization's Objects
2. Non-Related Business Activities

1. The Organization's Objects

In order to continue to qualify for charitable registration, an organization must be constituted exclusively for charitable purposes, it must carry on activities of an exclusively charitable nature and it must devote its resources exclusively to charitable activities. The *Act* reinforces this requirement in paragraph 149.1(2)(b), by authorizing the Minister to revoke the registration of a charity if it fails to make required expenditures on its charitable activities and by way of gifts to qualified donees.

.../2

The term "charitable" is not defined in the *Income Tax Act* and it is therefore necessary to refer to the principles of common law to determine whether a particular purpose or activity is charitable.

The courts have established that in order for a purpose to be regarded as charitable, it must not be so vaguely or broadly stated as to permit the organization in question to engage in non-charitable activities. In other words, if it cannot be determined that the purposes for which an organization has been established are clearly and exclusively charitable, neither can it be concluded that the organization is a charity in spite of the extent to which it carries on activities similar in nature to those of recognized charities.

Housing for the Aged or Disabled

The Organization's original objects were established in its 1972 constitution, and we have several concerns about them.

Object (a) specifically states that the Organization will construct, own and manage low rental housing accommodation for low-income groups or pensioners. The reference to "pensioners" was not appropriate because pensioners are not necessarily aged or infirm, and also because it is too broad a category. Although on June 28, 1977, the Organization provided written assurance that "pensioners" refers strictly to senior citizens, the use of terms like "senior citizens or retired persons" could permit the Organization to provide benefits to persons not necessarily "aged". **The Organization's objects have not been restated to provide for relief of the conditions associated with old age, such as isolation, frailty, confusion, restricted means, etc.**

Summary Policy Reference Number CSP - H01 (attached) states that, "the provision of rental housing for certain groups of persons has been recognized as charitable. Thus, an organization established exclusively to provide housing for the poor, the handicapped or the aged, where it is apparent that the intention of the organization is to provide some measure of relief associated with these conditions, can qualify for registration as a charity".

Summary Policy CSP - A05 (attached) also states: "The relief of the aged is considered charitable. Therefore, organizations that are established to relieve a need attributable to old age, including catering to persons both over and under 65 years of age, who require financial relief and/or relief associated with the condition of being aged, can qualify for registration as a charity".

To reflect charitable purposes, the Organization needed to provide amenities, medical services, housing or other services to relieve the infirmities, loneliness, social isolation and inactivity often experienced by the aged.

Policy Statement: Reference No. CPS - 002 (attached) states: "Relief will be inherent in the case of a nursing home or other domiciliary care facility but may not be evident in the case of apartment projects. Where residents are provided with rooms as opposed to independent units and receive some care in the nature of meals etc., CCRA would be more likely to recognize the organization as established for relieving some need attributable to old age. Conversely, in cases where the organization has simply provided independent residential units without meals or housekeeping assistance, these would be less likely to meet the requirements for registration".

In the case of apartment projects, the provision of wheelchair ramps, medical facilities, a fellowship room, monitoring services etc., would normally indicate a charitable intent, as would statements to the effect that the Organization hopes to help the aged remain independent without the burdens of caring for a house or its grounds.

The audit results revealed that out of 126 units in the Organization's housing project, only 13 are rented to the aged, and only 5 to disabled tenants. None of the units were modified for the needs of the elderly or the disabled.

A review of the tenant application forms showed that in accepting new tenants, the Organization does not give any preference to the aged. Since the "obvious and controlling purpose" of the Organization is to administer a rental program, prepare the necessary financial reports, and screen the applicants, and not to dispense meals or medical and other services, it is likely not carrying out a charitable activity to relieve needs attributable to old age.

Your letter of September 24, 2002, did not provide any undertaking that the Organization:

- Has or will attempt to relieve needs attributable to old age,
- Will set aside more than 20 units for "seniors"
- Will provide wheelchair ramps, medical facilities, a fellowship room, monitoring services, etc.

Policy Statement: Reference No. CPS - 002 (attached) (paragraphs 13 and 14), disqualifies the Organization's activities:

"The obvious and controlling purpose of an organization must be determined in all circumstances. If an organization merely administers a rental program, prepares the necessary financial reports and screens the applicants, but does not dispense medical services or provide meals for the residents, it is likely not carrying on a charitable activity."

"An organization must provide sufficient information about how it intends to operate to ensure that housing will be provided solely for relief of the aged. Where the tenants of a housing project are mixed and include those in need of charitable relief and those not in need, for example, arrangements with Central Housing and Mortgage Corporation programs, registration as a charity will be denied on the grounds that the organization's operations are not exclusively charitable".

Relief of Poverty

The relief of poverty is also a charitable purpose, and the courts have never hesitated to give charitable recognition to a program that helps low-income people by providing them with housing suited to their means.

It is expected that these programs will provide low-cost housing at below market rates only to legitimate charitable beneficiaries – in this case the poor. However, to satisfy provincial requirements for subsidized housing, and on a practical level to avoid the ghettoization of the poor, such applicants wish to have some form of mixed-income housing. Such housing typically provides rental units to poor people at below-market rates, as well as market-rate rental units to middle-income tenants.

The law is clear in that charities can only be constituted for exclusively charitable purposes and must have exclusively charitable activities. Situations with mixed-income housing can be acceptable if housing provided, at market rates, to tenants that are not legitimate recipients of charitable assistance, is ancillary and incidental in nature. In particular, such housing units constitute only a minor part of the total number of units available for rent. Substantially all of the units should be available for charitable beneficiaries at lower than market rates.

Our existing guidelines call for 90% of the Organization's rental units to be placed at the disposal of low-income tenants.

Beneficiaries must pass a screening mechanism to determine their eligibility. The organization may administer the screening mechanism, or it may choose to select from the waiting lists established by other agencies of those in need of housing.

The screening mechanism must be administered at least annually, and policies must be established to handle cases where tenants' incomes rise to the point that they are no longer eligible beneficiaries. This ensures that the proportion of low-income beneficiaries does not drop to the point where we can no longer consider the organization as operating exclusively for the relief of poverty.

Tenants who are not eligible beneficiaries must pay market rents.

All housing charities may have up to 10% of their units occupied by tenants paying market rent. This is considered an incidental and ancillary activity, and allows for such situations as once-eligible tenants continuing to occupy their units until they can find alternative accommodation.

A registered charity should introduce written guidelines to establish the criteria it uses to determine who will receive assistance from it and have each applicant complete a written request for such reduced rent. Decisions as to eligibility should be verified and approved by at least two directors with a written record maintained of each transaction. In addition, the charity should ensure that the recipients provide receipts or other acknowledgment to document the charitable purpose of low-cost housing.

The review of activities revealed that the Organization did not follow the required procedures. Examination of the Organization's records indicated that tenancy applications were accepted without any supporting documentation. Application forms were not used to establish criteria for low cost housing eligibility or to establish the poverty requirement.

The audit indicated that the tenants of the Organization's housing project are to be mixed between those in need of charitable relief and those not in need (which is an arrangement encouraged by various CMHC programs). The review of the tenant lists and applications revealed that 90% of the rental units are not restricted to low-income tenants, and that tenants who are not eligible beneficiaries also pay lower than market rents.

There are a number of Canadian cases that require low-cost housing to be restricted to needy tenants who meet the poverty requirement. In Golden Mast Incorporated v. The Corporation of the City of St. Thomas 29 R.P.R. 68, the Ontario Court considered a charity whose objects were to construct, purchase or improve low-rental housing projects and to provide accommodation for low-income families. The Court found that the corporation had not established that its actual operation was one that provided relief to the poor to the degree necessary to permit it to succeed in its application to be exempt from municipal taxes. The Court noted that:

...while the tenants may have to submit to a test for income, there is no test as to their assets. A tenant with low income but substantial assets could qualify to occupy a "subsidized unit". In addition, there is no limit on the amount of income, either at the high or low end of the scale, to qualify for occupancy.

London v. Byron Optimists Sports Complex Inc. 23 M.P.L.R. 10 (C.A.) and Re Planned Parenthood of Toronto (1972) 27 O.R. (2d) emphasize the need for evidence of economic deprivation. It is our understanding that the Court recognized that the term "poor" was a relative term and required an element of economic deprivation.

Re Cottam [1955] 1 W.L.R. 1299 provides an example of relief to the poor in the housing context. Dankwerts J. held that a trust to provide flats to be let to persons over sixty-five at "economic rents" covering only costs was for the relief of poverty, because there was sufficient evidence to show that **only persons of limited means** were intended.

In Over Seventies Housing Association v. Westminster London Borough Council (1974), the housing association claimed rating relief as a charitable organization for the relief of poverty. It failed because, among other reasons, its tenants were **not of limited means**.

The Organization informed us in its letter dated September 24, 2002, that it had made commitments with other authorities (notably the City of Vancouver and CMHC) at its inception, to provide mixed housing, split between persons with high and low incomes. Out of 126 units only 20 can be set aside for the aged and only 15 for the disabled (28%) according to these commitments. Even these targets are not being met at present. It should be noted that the requirements of other levels of government are not compatible with the CCRA guideline reserving 90% of the units for the needy.

The Organization has expressed its intent not to jeopardize its agreements with the City, with CMHC, or the majority of its rental income, and it does not undertake to comply with the CCRA guideline that 90% of the rental units be restricted to low-income tenants.

Pursuant to paragraph 168(1)(b) of the Act, the Minister may give notice to a registered charity that she proposes to revoke its registration because it ceases to comply with the requirements of the *Act* related to its registration as such, and on the grounds that the Organization's operations are not exclusively charitable, as is required by paragraphs 149.1(1)(a) and (b) of the *Act*.

2. Non-Related Business Activities

A charitable organization may not carry on a business other than a "related business". A "related business" is either: (a) a charitable activity in and of itself (i.e. one that directly accomplishes the charitable purpose(s) set out in the charity's governing documents); or (b) a business as defined in subsection 149.1(1) of the *Act* (i.e. one which is unrelated to the charity's objects if substantially all persons employed by the charity in the carrying on of that business are not remunerated for that employment).

Our audit of the fiscal period ended June 30, 1999, revealed that the Organization is carrying on a rental business, which is prohibited by law unless it is a related business. The results of the audit revealed that out of 126 units in the Organization's housing project only 13 are rented to the aged, and only 5 to disabled tenants. The other tenants are middle-income households and a private day-care. The Organization has written to CCRA that it is unable to meet our existing guidelines, which call for 90% of the units to be at the disposal of low-income tenants.

The audit also revealed that all the persons employed by the charity in the carrying on of the business are remunerated.

Your letter of September 24, 2002, argues that the purpose of renting to tenants who are not charitable beneficiaries is to maintain the "financial viability" of the housing project overall. In this context, the policies on related business would apply, and that in particular, the business activity should not become a co-equal or over-riding concern of the Organization.

The Organization's over-riding concern and prime business activity is to manage a rental business for mostly middle-income residential tenants and a private daycare commercial tenant.

Its course of conduct evidences no provision of wheelchair ramps, medical facilities, fellowship rooms, monitoring services etc. or other modifications for the purpose of relieving needs attributable to old age, or disability. Applicants for housing are not screened and selected to meet the need or poverty requirement. Lower than market rents are not restricted to tenants who are eligible to receive assistance.

The Organization's intention to maintain its income mainly by renting its units to middle income tenants who do not meet age, disability or poverty requirements suggests an adventure or concern in the nature of business.

IT – 371: Rental property - Meaning of principal business (attached)

The factors suggested in *IT 371 Rental property - Meaning of principal business*, (copy attached), help to determine an organization's principal business.

The audit results indicate that running an apartment building is the Organization's principal business:

- Income from regular tenants, parking, and laundry room is 96% of its total sources of revenue.
- All of its expenditures are related to maintenance of an apartment building without any expenses on disability, health, care giving or counselling for tenants.

- The value of the apartment units constitutes 87% of total assets.

In its letter dated September 24, 2002, the Organization explained that it is committed to its earlier agreements with other authorities (notably the City of Vancouver and CMHC), to provide "mixed housing" which must be split between persons with high and low incomes. According to these commitments, the Organization can allocate only 20 units for the aged and only 15 for the disabled (28%) out of a total of 126 residential units. The Organization has failed to make even 28% of its units available to the aged or the disabled, whereas the CCRA guideline reserves 90% of units for the needy. Tenants who are not eligible beneficiaries also pay lower than market rates.

The Organization has stated that its agreements with the City and CMHC, do not allow it to comply with the CCRA guideline to reserve 90% of the units for the needy, nor is it willing to lose its rental revenue from middle-income tenants.

Paragraph 149.1(2)(a) of the *Act*, stipulates that the Minister may, by registered mail, give notice to the Organization that she proposes to revoke its registration where it carries on a business that is not a related business of that charity.

Conclusion

I conclude that the Organization does not meet the requirements of a charitable organization under subsection 149.1(1) of the *Act*.

Therefore, I wish to advise that for each of the reasons outlined above and pursuant to the authority granted to the Minister in subsection 168(1) of the *Act* and delegated to me, I propose to revoke the registration of Je Maintiendrai Home Society. By virtue of subsection 168(2) of the *Act*, the revocation will be effective on the date of publication in the Canada Gazette of the following notice:

Notice is hereby given, pursuant to paragraphs 168(1)(b), 168(1)(c), 168(1)(d) and 168(1)(e) of the *Income Tax Act*, that I propose to revoke the registration of the organization listed below and that the revocation of registration is effective on the date of publication of this notice.

Business Number
13069 7436 RR0001

Name
Je Maintiendrai Home Society

Should you wish to appeal this notice of intention to revoke the charity registration in accordance with subsections 172(3) and 180(1) of the *Act*, you are advised to file a Notice of Appeal with the Federal Court of Appeal within 30 days from the mailing of this letter. The address of the Federal Court of Appeal is:

Supreme Court Building
Wellington Street
Ottawa, Ontario
K1A 0H9

Please note that the Federal Court Rules impose particular obligations upon an appellant to be met within restricted time frames. In particular, the appellant is responsible for filing the documents that will form the case material for the Court's review. You can obtain information about these Rules from the Court.

Consequences of a revocation

As of the date of revocation of the registration of the Organization, which is the date upon which the above-noted notice is published in the Canada Gazette, the Organization will no longer be exempt from Part I Tax as a registered charity and **will no longer be permitted to issue official donation receipts**.

Additionally, the Organization may be subject to tax exigible pursuant to Part V, section 188 of the *Act*. For your reference, I have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation (Appendix).

By virtue of subsection 188(1) of the *Act*, the Organization will be required to pay a tax within one year after the effective date of revocation. This revocation tax is calculated on prescribed form T2046 "Tax Return Where Registration of a Charity is Revoked". The return must be filed and the tax must be paid on or before the day that is one year after the effective date of revocation.

The amount of revocation tax payable will be equal to the total fair market value of the Organization's assets on valuation day plus the amount of received donations and gifts from other charities received by the charity after that day. Valuation day is 120 days before the date of mailing of this Notice of Intent to Revoke. The amount of tax payable will then be reduced by the value of any assets or funds that the organization transferred to qualified donees, disbursed on its own charitable activities, used to repay its debts and/or used to cover reasonable expenses in the period from the valuation day to one year from the date on which the revocation is effective. A copy of form T2046 has been included for your information.

I also wish to advise you that organizations that lose their registered charity status may be subject to the requirements of section 150 of the *Act* for filing returns of income. Accordingly, a return of income that is in prescribed form and that contains prescribed information shall be filed with the Minister, without notice or demand for the return, for each taxation year of a taxpayer.

However, the Organization might be eligible for non-profit organization status which is defined in paragraph 149(1)(l) of the *Act*. Subsection 149(12) states the filing requirements for a non-profit organization. Determination of an organization's status as a non-profit organization is the responsibility of our Tax Services Offices. I would stress that such recognition does not convey authority to issue official donation receipts for income tax purposes.

If you need further information with regard to non-profit status, please contact your local Tax Services Office directly.

Yours sincerely,



Maureen Kidd
Director General
Charities Directorate

Attachments

c.c. Mr. Kenneth H. Volkenant, Representative



REGISTERED MAIL

President
Je Maintiendrai Home Society,
1099 Sitka Square
Vancouver, B.C.
V6H 3P8

BN 13069 7436 RR0001
REG 0491001

June 6, 2002

Dear Sir/Madam:

Re: Charity Audit

This is further to an audit of the books and records of Je Maintiendrai Home Society, (the "Organization"), that was conducted by a representative of the Canada Customs and Revenue Agency, ("CCRA") for the fiscal period ended June 30, 1999.

Given the importance of certain non-compliance issues discovered during the audit, the auditor referred his concerns for our review. Due to current workload demands in the Charities Directorate, we were unable to formally communicate to you sooner the results of this audit. We apologize for this delay.

The results of the audit indicate the Organization has contravened certain provisions of the *Income Tax Act* (the "Act") or its Regulations. For a registered charity to retain its registration, it must comply with the provisions of the *Act*. If a particular registered charity does not comply with these provisions, the Minister may revoke that charity's registration in the manner described in subsection 168(2) of the *Act*. The balance of this letter describes the CCRA's concerns.

1. The Organization's Objects

In order to continue to qualify for charitable registration, an organization must be constituted exclusively for charitable purposes, it must carry on activities of an exclusively charitable nature and it must devote its resources exclusively to charitable activities. The term 'charitable" is not defined in the *Income Tax Act* and it is therefore necessary to refer to the principles of common law to determine whether a particular purpose or activity is charitable.

The common law courts have recognized the "relief of the aged" as a valid charitable purpose under this classification in the sense of relieving conditions associated with the elderly (i.e. isolation, frailty, confusion, restricted means, etc.)

The Courts have established that in order for a purpose to be regarded as charitable, it must not be so vaguely or broadly stated as to permit the organization in question to engage in non-charitable activities. In other words, if it cannot be determined that the purposes for which an organization has been established are clearly and exclusively charitable neither can it be concluded that the organization is a charity in spite of the extent to which it carries on activities similar in nature to those of recognized charities.

The Organization's original objects were established in its 1972 constitution and we have the following concerns about them:

Object (a) specifically states that the Organization will construct, own and manage low rental housing accommodation for low-income groups or pensioners. The reference to "pensioners" is not appropriate because pensioners are not necessarily aged or infirm, and is not acceptable because it is also too large. Consequently, the Organization provided written assurance dated June 28, 1977, that the word "pensioners" refers strictly to senior citizens.

Where the benefits to be provided are directed towards those who are "senior citizens and retired persons" the use of such terms could permit the Organization to provide benefits to those persons who are not necessarily "aged". The Organization's objects should be stated in a way that involves the concept of relieving conditions associated with old age.

An organization constituted for the provision of amenities, services, housing or other services for helping relieve the infirmities, loneliness, social isolation, and inactivity often experienced by those who are aged would reflect charitable purposes.

Relief will be inherent in the case of a nursing home or other domiciliary care facility but may not be as evident in the case of apartment projects. Where residents are provided with rooms as opposed to independent units and receive some care in the in the nature of meals etc., CCRA would be more likely to recognize the organization as established for relieving some need attributable to old age.

Where the Organization has simply provided independent residential units without meals or housekeeping assistance, these would be less likely to meet the requirements for providing relief. In the case of apartment projects, the provision of wheelchair ramps, medical facilities, a fellowship room, monitoring services, etc., would normally be indications of a charitable intent, as would statements to the effect that the organization hopes to help the aged remain independent without the burdens of caring for a house or its grounds.

The audit results revealed that out of 126 units in the Organization's housing project only 13 are rented to aged, and only 5 to disabled tenants. None of the units were found to be modified for the needs of the elderly or the disabled. A review of the tenant application forms indicated that in accepting new tenants, the Organization does not give any preference to the aged. Since the "obvious and controlling purpose" of the Organization is merely to administer a rental program, prepare the necessary financial reports, and screen the applicants, and not to dispense meals or medical and other services, it is likely not carrying out a charitable activity to relieve needs attributable to old age.

The relief of poverty is also a charitable purpose, and the courts have never hesitated to give charitable recognition to a program that helps low-income people by providing them with housing suited to their means.

It is expected that these programs will provide low-cost housing at below-market rates only to legitimate charitable beneficiaries – in this case, the poor. However, to satisfy provincial requirements for subsidized housing, and to avoid the ghettoization of the poor, such organizations often wish to have some form of mixed-income housing. Such housing typically provides rental units to poor people at below-market rates, as well as market-rate rental units to middle-income tenants.

Situations of mixed-income housing can be acceptable if housing provided, at market rates, to tenants who are not legitimate recipients of charitable assistance, is ancillary and incidental in nature. In particular, such housing units should constitute only a minor part of the total number of units available for rent. Substantially all of the units should be available for charitable beneficiaries at lower than market rates, and our existing guidelines call for 90% of the organization's units to be placed at the disposal of low-income tenants.

Beneficiaries must pass a screening mechanism to determine their eligibility. The organization may administer the screening mechanism, or it may choose to select from the waiting lists established by other agencies of those in housing need.

The screening mechanism must be administered at least annually, and policies established to handle cases where tenants' incomes rise to the point that they are no longer eligible beneficiaries. This is to ensure that the proportion of low-income beneficiaries does not drop to the point where we can no longer consider the organization as operating exclusively for the relief of poverty.

Tenants who are not eligible beneficiaries must pay market rents.

All housing charities may have up to 10% of their units occupied by tenants paying market rent. This is considered an incidental and ancillary activity, and allows for such situations as once-eligible tenants continuing to occupy their unit until they can find alternative accommodation.

A registered charity should introduce written guidelines to establish the criteria it uses to determine who will receive assistance from it and have each applicant complete a written request for such funds. Decisions as to eligibility should be verified and approved by at least two directors with a written record maintained of each transaction. In addition, the charity should ensure that the recipients provide receipts to document the charitable use of its funds.

The review of expenditure revealed that the Organization did not follow the required procedures. Examination of the Organization's records indicated that tenancy applications were accepted without any supporting documentation. Application forms were not used to establish criteria or to establish the poverty requirement.

The audit indicated that the tenants of the Organization's housing project are to be mixed between those in need of charitable relief and those not in such need (which is an arrangement encouraged by various CMHC programs). The review of the tenant lists and applications revealed that 90% of the rental units are not restricted to low-income tenants, and that tenants who are not eligible beneficiaries also pay lower than market rents.

Under paragraph 168(1)(b) of the *Act*, the Minister may, by registered mail, give notice to the Organization that she proposes to revoke its registration because it ceases to comply with the requirements of the *Act* relating to its registration as such, and on the grounds that the Organization's operations are not **exclusively** charitable, as is required by paragraphs 149.1(1)(a) and (b) of the *Act*.

2. Non-Related Business Activities

Our review revealed that the Organization operates rental units to tenants who are not eligible beneficiaries and to a business such as a pre-school. We have serious concerns as to the operations of this business.

A "charitable organization" may not carry on a business other than a "related business". A "related business" is either: (a) a charitable activity in and of itself (*i.e. one that directly accomplishes the charitable purpose(s) set out in the charity's governing documents*); or (b) a business as defined in subsection 149.1(1) of the *Act* (*i.e. one which is unrelated to the charity's objects if substantially all persons employed by the charity in the carrying on of that business are not remunerated for that employment*).

In our opinion, the operation of the rental units for tenants who are businesses or not eligible beneficiaries is not linked to the exercise of the charitable purposes for which the Organization was registered nor the charitable purpose of relief of the aged. We conclude

that these business activities were not ancillary and incidental to the primary operations of the Society.

If substantially all persons employed by the Organization were not remunerated, the business could be considered to be a related business. The audit also revealed that all the people who are working for the Organization are remunerated.

It is the nature of the business activities and not the use of profits that is the test in determining whether a business not operated substantially by volunteers can be considered to be a related business of the Society. The business is pursued in a manner comparable to similar commercial activities of taxable businesses.

Based on our audit findings and review, we believe that the operations of the building rental constituted non-related business. Therefore, if the Organization does not discontinue the non-related business activities or divest itself from them, it will no longer qualify as a registered charity.

Paragraph 149.1(2)(a) of the Act stipulates that the Minister may revoke the registration of a charitable organization where it carries on a business that is not a related business of that charity. Since the Society carries on non-related business, the Minister may give notice to the Society that she proposes to revoke its registration.

3. Other Issues Held in Abeyance

The audit also revealed other issues of non-compliance of varying importance. However, our opinion that the Organization's registration be revoked renders discussion of these issues moot at this time. Therefore, we are placing these other issues of non-compliance in abeyance pending the resolution of the issues specifically addressed in this letter.

Conclusion

For all the reasons listed above there are grounds to revoke the Organization's status as a registered charity. The consequences of revocation include:

1. The loss of its tax exempt status as a registered charity, which means that the Organization would become a taxable entity under Part I of the *Act* unless, in the opinion of the Director of the applicable Tax Services office, it qualifies as a non-profit organization as described in paragraph 149(1)(l) of the *Act*;
2. The loss of the right to issue official donation receipts for income tax purposes which means that gifts made to the Organization would not be allowable as a tax credit to

individual donors as provided at subsection 118.1(3) of the *Act* or as a deduction allowable to corporate donors under paragraph 110.1(1)(a) of the *Act*; and

3. The possibility of a tax payable under Part V, subsection 188(1) of the *Act*.

For your reference, we have attached a copy of the relevant provisions of the *Act* concerning revocation of registration and the tax applicable to revoked charities as well as appeals against revocation.

If you do not agree with the facts outlined above, or if you wish to present any serious reasons why the Minister should not revoke the registration of the Organization in accordance with subsection 168(2) of the *Act*, we invite you to submit your representations within 30 days from the date of this letter. After this date, the Director General of the Charities Directorate will decide whether or not to proceed with the issuance of a notice of intention to revoke the registration of the Organization in the manner described in subsection 168(1) of the *Act*.

If you appoint a third party to represent you in this matter, please send us a written authorization naming that individual and explicitly authorizing that individual to discuss the Organization's file with us.

If you require further information, clarification, or assistance, please write to the undersigned at Canada Customs and Revenue Agency, Charities Directorate, Place de Ville, Tower A, 320 Queen St, 6th Floor, Ottawa, Ontario, K1A 0L5, telephone (613) 954-1193 or fax (613) 946-7646.

Sincerely,



N.M.J. Quraishi
Compliance Section
Charities Directorate

Attachments