

Serenity Lane Not Exempt from Lane County Property Taxes

On August 19, 2010 the Lane County Assessor's Office gave notice to Serenity Lane, Inc. and Serenity Lane Health Services that it was removing their property tax exemption status for the 2010-11 tax year. Serenity Lane, Inc. has operated a substance abuse treatment facility in Lane County since 1973. Serenity Lane Health Services is the owner of the properties which Serenity Lane, Inc. occupies and leases. Serenity Lane, Inc.'s Eugene campus consists of several buildings and tax lots. The property at issue consists of a hospital, several office buildings, a remodeled home with counseling rooms and office space, a young men's group home, and other residential facilities. Serenity Lane provides services to Oregon residents consisting of medically supervised withdrawal, residential treatment, extended stay programs, intensive outpatient treatment, recovery support, and DUII services.

Serenity Lane and Serenity Lane Health Services are non-profit corporations organized in the state of Oregon as charitable corporations. Both are exempt under the Federal Income Tax Code Section 501(c)(3). Both are supported largely by fees collected from treatment services. Serenity Lane reports its charitable donation through free and reduced fee services, and as part of its "Charity Care" policy adopted in 2009, its Board is to approve in the annual budget a target amount of charity care to be provided. From the inception of Serenity Lane in 1973 until June 30, 2010, the subject properties were exempt under ORS 307.130.

Serenity claims its business model is one of "fiscal stewardship," and says it invests any excess revenue back into the program to ensure consistent, quality services. Serenity also states that it is not funded by government sources and that the services offered help to relieve a government burden. It relieves this burden by offering its services at a lower-than-average market rates. According to the Oregon Legislature's Governor's Council on Alcohol and Drug Abuse Programs, "lack of access for substance abuse treatment services continues to be a major hindrance for improving the health of Oregonians." Serenity claims to set its prices as low as possible so that most Oregonians can be served. Low-as-possible pricing includes charges such as \$1,295 per day for the medical detox program, \$11,900 for the 28 day residential program, \$4,860 for the ten week outpatient program, and \$6,496 per 30 days for long-term residential addiction treatment. Medications are charged separately unless they are a part of the cost of the daily program for patients in the campus hospital.

Serenity Lane's charity falls into the categories of donations, volunteer time, Oregon Health Plan subsidies, and community service. Serenity claims their charity is in the form of lower-than-average market rates charged for their treatment services, charity care scholarships, the OHP subsidies, and community service. To qualify as a charitable organization in Oregon, an organization must: "(1) have charity as its primary, if not sole, object; (2) be performing in a manner that furthers its charitable object; and (3) its performance must involve a gift or giving." *SW Oregon Pub. Def. Services v. Dept. of Rev.* 817 P2d 1292 (1991). All three conditions must be met to qualify as a charitable institution within the meaning of ORS 307.130.

In this case, the court found that Serenity Lane satisfied the first two prongs of the test. The court was not convinced, however, that Serenity satisfied the third prong. The court did not agree that Serenity's charity care scholarships, OHP subsidies, lower-than-average market rates charged for treatment services, and community service efforts satisfied the requirement for "a gift or giving." Although there is no bright line rule, the court found in a previous case that "giving is absent when the scholarships or reduced fee in relation to the fee charged is less than eight percent." *Hazelden Springbrook v. Yamhill County Assessor*, Or. Tax Magistrate Div. (2004).

The holding in this case has huge implications. Having a workable method to determine an organization's tax exempt status may provide local governments with a new source of revenue. Many organizations that have enjoyed property tax exemption may be called into question as many local governments are struggling financially and are using any and all methods available to generate revenue. As I observed this trial, it was very apparent that the representatives from Serenity Lane who testified had no fear that their tax exemption would not be upheld. The attitude that was conveyed by witness testimony clearly indicated that they felt the Lane County Assessor's office was simply on a fishing expedition and would not prevail. Given the financial impact the decision will ultimately have on the organization, I am sure they will appeal the ruling, but I have not been able to find evidence that an appeal has been filed.

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