

February 9, 2016

The Honorable Michael Rodrigues
Chairman, Joint Committee on Revenue
State House, Room 213-B
Boston, MA 02133

The Honorable Jay Kaufman
Chairman, Joint Committee on Revenue
State House, Room 34
Boston, MA 02133

Dear Chairmen Rodrigues and Kaufman,

On behalf of the undersigned associations and organizations – which represent the spectrum of the Commonwealth’s non-profit sector as well as the real estate professionals, owners and investors who partner with such non-profits to drive development – we appreciate this opportunity to share our collective concerns about and opposition to Section 27 of HB3908, *An Act to Modernize Municipal Finance and Government*.

Our member institutions include hospitals, health systems, colleges, universities, secondary schools, health & human services agencies, research institutions, cultural, environmental and housing interests, as well as all aspects of the commercial and residential real estate industry. Collectively, we employ hundreds of thousands of people in every corner of the Commonwealth.

Section 27 of House Bill No. 3908 would provide municipalities the right of first refusal whenever a charitable organization **seeks to either sell or convert the use of tax-exempt property**. After negotiating and signing a purchase and sale agreement with a buyer, or after making an internal decision to change the use of its property to residential, commercial, or industrial use in furtherance of its mission, the non-profit would be required to notify the local municipality in writing of its intent to sell or to change the use of its land and submit a copy of its negotiated agreement. The filing of such notice of intent to sell or convert then triggers a series of events and deadlines that could delay the transaction for well over 120 days.

Some of our collective concerns regarding Section 27 can be summarized as follows:

- It would treat private, nonprofit organizations unlike any other business sector of the Massachusetts economy by unilaterally changing its property rights;
- It adversely impacts a nonprofit’s ability to appropriately dispose of property assets in a fair and timely fashion;
- It would result in an immediate diminution of the value of any property owned by a nonprofit organization because of the uncertainty, delays, and added costs it would introduce for any buyer interested in a potential real estate transaction;
- It would have an immediate chilling effect on economic development projects at a time when we see so many innovative companies seeking to partner with the Commonwealth’s supercluster of nonprofit medical and academic research facilities;
- It would allow a municipality to take property owned by a nonprofit solely as a result of the organization’s desire to change a use, with compensation determined only by appraisals that are often unreliable for determining the value of a special purpose institutional facility;
- It is unworkable for nonprofits who invest in and develop affordable housing for sale to homeowners, as the act of signing an agreement to sell a renovated home to a homeowner will trigger the obligation to offer the home to the municipality;

- It does not contemplate potential complications when a portion of a building, or a facility that is an integral part of a campus, is proposed to be used for other purposes;
- It will interfere with the orderly disposition of surplus properties, such as churches or other exempt facilities that are no longer in use by the organization;
- It is unduly vague as to what change or conversion of “use” would trigger a municipality’s right of first refusal, thus interjecting the vagaries and uncertainty of local politics into the internal management of the nonprofit.
- It ignores the fact that existing state and federal law already provide for the review and regulation of conversions of non-profit to for-profit. Additionally, the Attorney General’s Office has the authority to review the transactions and other activities undertaken by nonprofits;
- It creates real uncertainty as to whether a nonprofit would be able to secure the financing necessary to complete a real estate transaction. Although Section 27 states that it does not apply to a mortgage or foreclosure sale, a bank acquiring the property would be subject to the provisions when it goes to sell the foreclosed property, significantly lengthening the time period a bank must hold and pay for the care of the foreclosed property.

In many respects, Section 27 can be characterized as a solution in search of a problem. It is not often that nonprofit organization seeks to sell property or convert its use, regardless of whether the property in question remains tax exempt after the transaction. In the unusual instance in which a nonprofit does pursue such transactions, it is typically done to use the revenue in furtherance of its charitable mission.

The Commonwealth is rightly known for its innovation economy, and new and expanding companies from around the globe are looking for ways to partner with our research hospitals, universities and other nonprofits. That is why Baxalta, GE and scores of other businesses want to move to or expand their operations in the Commonwealth. We should be pursuing policies and initiatives that encourage such collaborative efforts and potential partnerships, rather than introducing uncertainty and delays that suggest to such companies that they should look elsewhere for a climate that supports their innovative efforts.

Thank you for your time and attention to this matter. We would be glad to work with you, your staff and the members of the Revenue Committee to answer any questions or provide any additional information you may require.

Sincerely,



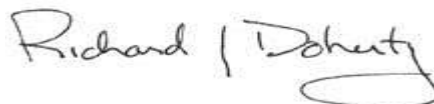
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