

COMMUNITY FIRE DEVELOPMENT, INC.	§	STATE OF ALABAMA
300 Greenwood Road		DEPARTMENT OF REVENUE
Adger, Alabama 35006,	§	ADMINISTRATIVE LAW DIVISION
Taxpayer,	§	DOCKET NO. S. 95-170
v.	§	
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

FINAL ORDER

Community Fire Development, Inc. ("Taxpayer") applied with the Department for a sales and use tax certificate of exemption. The Department denied the exemption, and the Taxpayer appealed to the Administrative Law Division. A hearing was conducted on June 12, 1995. Edwina Greenwood represented the Taxpayer. Assistant Counsel Antoinette Jones represented the Department.

The issue in this case is whether the Taxpayer is exempt from sales and use tax as a volunteer fire department pursuant to Code of Ala. 1975, §40-9-13.

The Taxpayer was incorporated in September 1994 for the sole purpose of raising money, building a fire station, and thereafter becoming a part of the Concord Fire District. The Concord Fire District is recognized by the Department as an exempt volunteer fire department pursuant to Code of Ala. 1975, §40-9-13.

The Concord Fire District has agreed to annex the Taxpayer, but only after the Taxpayer has completed construction of a fire station and can provide fire protection to the area. The Taxpayer is thus caught in a "Catch-22". That is, the Taxpayer needs the tax exemption certificate to purchase materials tax-free to build a fire station, but it cannot get the exemption because it has not

yet built the fire station.

The Department agreed at the administrative hearing that if the Taxpayer purchased the materials to build the fire station as agent for the exempt Concord Fire District, then the purchase of the materials would be tax exempt. The Department wrote the Taxpayer a letter dated June 16, 1995 setting out the procedures that the Taxpayer must follow to purchase the materials tax-free using Concord's exemption status. Unfortunately, the Taxpayer has notified the Administrative Law Division that the procedures are too burdensome to comply with.

Volunteer fire departments are exempt from tax under §40-9-13. "Volunteer fire department" is defined at Code of Ala. 1975, §9-3-17. The Taxpayer clearly does not fit the definition of a volunteer fire department under that provision.

The Taxpayer is engaged in a worthwhile, civic-minded effort to bring fire protection to the area in question. The Taxpayer's representative, Edwina Greenwood, and many others have spent much time and effort to raise money for that purpose. Unfortunately, without first being annexed by the Concord Fire District, or otherwise qualifying as an exempt volunteer fire department, the Taxpayer cannot now be exempted from sales and use tax §40-9-13.

I can find no other statutory provision under which the Taxpayer can be exempted from tax. The Department's denial of the exemption certificate is accordingly affirmed.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered June 27, 1995.

BILL THOMPSON
Chief Administrative Law Judge