880.0485

(516) 445-5047

July 17, 1978

Mr. M.

Dear Mr.

We have reviewed your welfare exemption claim for exemption from property taxes filed for the 1978-79 fiscal year. We conclude your claim must be denied for the following reasons:

1. Property used, as is yours, to generate a fee through giving academic and other instruction is not a use embraced by the bounds of Section 214 of the Revenue and Taxation Code. Such use cannot be distinguished from any other property in the private sector used in a commercial non-charitable manner. Property used in commercial competition must bear its fair share of local taxes and thus does not qualify for exemptions from property taxes. (See Honeywell Information Systems, Inc. v. Sonoma County, 44 Cal. App. 3d 23; YMCA v. Los Angeles County, 35 Cal. 2d 760.)

2. Activities, as is yours, which are not sustained by substantial donations from the private sector, and which do not pass those donations on to the community as a gift, are not charitable activities within the meaning of Section 214 of the Revenue and Taxation Code (see Martin Luther Homes v. County of Los Angeles, 12 Cal. App. 3d 208). We calculate your reported donations to be only three tenths of one percent of your total income for the period 1972 through 1977. We reason such minor donations are not substantial with respect to income you receive from commercially generated fees. Furthermore, we find no indication that substantial gifts are being made to the community through scholarships, free classes or other.

Through a copy of this letter I am instructing Mr. Vance Price of our Assessment Standards Division to prepare findings denying your 1970 claim for the reasons described above.

Very truly yours,

Robert R. Keeling
Tax Counsel

RRK:fp