

Before the  
Federal Communications Commission  
Washington, D.C. 20554

LETTER  
October 11, 1990  
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Martin J. Gaynes, Esq. 8940-AG  
Wilkes, Artis, Hedrick & Lane  
1666 K Street, N.W.  
Washington, D.C. 20006

Dear Mr. Gaynes:

This is in reference to your request of August 31, 1989, filed on behalf of the general partners of Queen City III Limited Partnership (Queen City III), licensee of station WKBW-TV, Buffalo, New York, for the issuance of a tax certificate, pursuant to Section 1071 of the Internal Revenue Code of 1986 and *Minority Ownership in Broadcasting*, 92 FCC2d 849, 857 (1982).

As background, you note that the general partners for whom a tax certificate is sought were the initial stockholders of Queen City Broadcasting, Inc. (Queen City), a minority-controlled corporation formed in 1985 for the purpose of acquiring WKBW-TV. No minority individual owns as much as 50% of the corporation. On January 2, 1986, Capital Cities Communications, Inc. sold WKBW-TV to Queen City Broadcasting of New York, Inc., a wholly owned subsidiary of Queen City. On June 29, 1989, virtually all of the Queen City shareholders (98%) became general partners in Queen City III by trading their respective shares for cash and general partnership units. Further, as a result of bringing in a new limited partner, who purchased 45% of the equity interest in Queen City III, the equity interests of those stockholders who became general partners were diluted by 45%. Thus, you contend that those stockholders/general partners, including minorities, who provided start-up capital to Queen City should receive a tax certificate for the partial divestiture of their respective interests resulting from this dilution.

In *Minority Ownership in Broadcasting*, above, the Commission stated that "the use of tax certificates as creative financing tools" will provide minorities with significant access to financing, thus promoting the important policy of minority ownership. *Id.* at 857. Accordingly, the Commission extended the availability of tax certificates to initial investors providing start-up capital to minority-owned entities and to investors purchasing interests within the first year of licensing. To be eligible, however, the Commission provided that sale of equity interests must not reduce minority ownership and control in the entity below 51 percent. *Id.* The requirement that at least 51% minority control remain after the transaction prompting the certificates was not meant to preclude "consideration of cases whereby 'minority involvement would have been significant enough' to justify the issuance of a tax certificate in the first instance." *Id.* at n. 39. This latter provision was generally intended to recognize the eligibility of entities in which the minority party was the general partner and a substantial (at least 20%) but not controlling equity investor.

In *R. Clark Wadlow, Esq.*, 4 FCC Rcd 5262 (1989), the minority-controlled entity was controlled by a single person, who owned 80 percent of the voting stock of the entity. We denied his request for a tax certificate based on his providing start-up financing to the entity by his purchase of stock in the entity. We stated that, under the circumstances, no tax certificate should be issued to the controlling minority owner, since after selling his entire interest the entity would no longer be minority controlled and the objectives of the minority ownership policy would be frustrated.

Here, we find the situation and circumstances different. In particular, each investor equally paid full value for the initial interest and no single individual has as much as a controlling interest. More importantly, even though minority ownership has been diluted by 45 percent, the licensee remains under the control of minorities, who hold, in the aggregate, a 55 percent interest. The objective of the Commission's tax certificate policy is to increase the number of minority-owned stations; that is, stations in which the majority of the ownership interest is held by a minority or a group of minorities. Encouraging initial investments by minorities, as well as by others, in entities that are being formed to acquire broadcast media interests as minority-controlled applicants clearly furthers this objective. To hold otherwise would create a disincentive for minorities to come together and invest in an entity that they collectively will control. Accordingly, under the circumstances in this case, we believe that our policy set forth in *Minority Ownership in Broadcasting*, above, should be read to permit the issuance of tax certificates to the initial investors in Queen City.

In view of the foregoing, we find that the Commission's policy of fostering minority ownership will be served and that, therefore, a tax certificate should be issued. The enclosed tax certificate certifies that those identified investors, who acquired stock interests no later than the end of the first year after WKBW-TV's license was issued to Queen City Broadcasting of New York, Inc. are entitled to a tax certificate. This letter was adopted by the Commission on September 21, 1990.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy  
Secretary

**CERTIFICATE ISSUED BY THE FEDERAL  
COMMUNICATIONS COMMISSION PURSUANT TO  
SECTION 1071  
OF THE 1986 INTERNAL REVENUE CODE  
(26 U.S.C. SECTION 1071)**

On January 2, 1986, Capital Cities Communications, Inc. sold WKBW-TV, Buffalo, New York, to Queen City Broadcasting of New York, Inc., a wholly owned subsidiary of Queen City Broadcasting, Inc., an entity controlled by a group of minorities, none of whom held as much as a controlling interest. On June 29, 1989, virtually all of the shareholders (98%) in Queen City Broadcasting, Inc. became general partners in Queen City III Limited Partnership by trading their respective shares for cash and general partnership units. The limited partnership would

operate the television station. As a result of bringing in a new limited partner, which purchased 45% of the equity in the limited partnership, the equity interests of those stockholders, who became general partners, were diluted by 45%.

It is hereby certified that those shareholders who acquired stock in Queen City Broadcasting, Inc. provided start-up financing pursuant to the Commission's policy of fostering an increase in minority ownership of broadcast facilities. In that policy statement, the Commission stated that it would issue tax certificates to those initial investors who provide start-up financing, no later than the end of the first year after the station's license was issued or acquired. See *Minority Ownership in Broadcasting*, 92 FCC2d 849, 857 (1982).

This certificate is issued pursuant to the provisions of Section 1071 of the 1986 Internal Revenue Code.

In Witness whereof, I have hereunto set my hand and seal this 11th day of October, 1990.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy  
Secretary