OPINION NO. 871

FILED

APR 29 1954

District of Columbia Tax Court

DISTRICT OF COLUMBIA TAX COURT

THE GEORGE WASHINGTON UNIVERSITY, Petitioner, v. DISTRICT OF COLUMBIA, Respondent.	DOCKET NOS. 1401, 1402, 1403, 1404, 1405, 1406, 1407 and 1408

FINDINGS OF FACT AND OPINION

The above entitled proceedings were filed by the same taxpayer. In all of them is involved the matter of real estate taxes. The issue in all of them except three, is whether certain pieces of real property belonging to the petitioner were grounds belonging to, and reasonably required and actually used for the carrying on of the activities and purposes of the petitioner within the meaning of Section 1(r) (1) of the Act of December 24, 1942, (Section 47-801a (r) (1), D. C. Code 1951 Ed). In three of the proceedings the issue is whether the pieces of real property therein involved were buildings belonging to, and operated by the petitioner within the meaning of Section 1(j) of the Act of December 24, 1942 (Section 47-801a (j), D. C. Code, 1951 Ed.).

FINDINGS OF FACT

In General

1. The petitioner is a corporation with its principal offices at 725 - 21st Street, Northwest, Washington, D. C. It was chartered by Congress on February 9, 1821, and is engaged in the operation of a university and, as an adjunct, a hospital. It is not organized or operated for private gain and embraces the general recognized relationship of teacher and student. Its principal facilities are located in downtown Washington in an area roughly bordered by Pennsylvania Avenue, 20th Street, F Street and 24th Street, Northwest. All of the foregoing

2. As of July 1, 1953, and during the period since that date the petitioner had an enrollment of 10,000 students and a staff consisting of faculty and administrative personnel, in excess of 2,000. Approximately 60 per centum of the staff commute to the University in their automobiles. Many reside in nearby Maryland and Virginia.

3. The petitioner does not have any parking facilities in or along campus drives or like areas.

4. The universities of the same standing in Washington as the petitioner, that is to say, Georgetown University, Catholic University and American University, supply automobile parking privileges in spaces on their respective properties to faculty members and administrative staff and employees free of charge.

5. The matter of supplying parking facilities for automobiles belonging to the petitioner and the members of its staff and faculty presents a difficult problem which has not yet been solved by its officers. There is not enough parking space to fill such need, and those members for whom parking spaces are not provided have to "shift as best they can", and are continually bringing pressure to bear in order to get such privileges. Such persons park some distance away from the university, in some instances as far away as the Lincoln Memorial.

6. All parcels of land used by the petitioner for parking its own automobiles, including those pertaining to its Athletic Department, have been exempted from taxation.

7. Section 14(a) of the District of Columbia Zoning Regulations provides in respect of parking spaces in "commerical" parking lots, that is said, those open to the public for hire, provides as follows: "For the purpose of this section, a parking space shall be an area not less than a hundred and fifty(150) square feet."

8. On July 1, 1953, there were the general vicinity of the petitioner university building and campus duly licenced commercial parking lots, with areas, authorized parking spaces (without consideration of, or subtraction for driveways ingress, and egress) rates; on February 22, 1954, with the number of parked cars there in as follows:

(a) 500 Twenty-fifth Street, Northwest. - Area, 43,820 square feet. Authorized parking spaces, 279. Rates, $6.00 a month or 35 cents all day. Parked cars, 250.

(b) Cornor of Twenty-fifth Street, E and F. - Area, 34,240 square feet. Authorized parking spaces, 222.(1) Rates, $6.00 a month or 35 cents all day. Parked cars, 156.

(c) 2401 E Street, Northwest. - Area, 9,719 square feet. Authorized parking spaces 65. Rates, $7.00 a month, 25 cents for the first hour, 5 cents for each additional hour and 40 cents all day. Parked cars, (not given).

(d) 2012 E Street, Northwest. - Area, 34,051 square feet. Authorized parking spaces 227. Rates, (not given). Parked cars, 255.

(e) 509 Twentieth Street, Northwest. - Area, 9, 150 square feet. Authorized parking spaces, 61. Rates, 30 cents for the first hour, 10 cents for each additional hour and 75 cents for all day. Parked cars, 60.

(f) 715 Twentieth Street, Northwest. - Area, 11,069 square feet. Authorized parking spaces, 75. Rates, 35 cents for the first hour, and $1.00 for all day. Parked cars, 74.

(g) 1727 and 1737 Pennsylvania Avenue, or the rear of 1712 H Street, Northwest. - Area, 21,351 square feet. Authorized parking spaces, 142. Rates, 40 cents the first hour, 20 cents for each additional hour, 50 cents from six p. m. to twelve midnight and $1.50 for all day. Parked cars, 165.

(h) 725 Seventeeth Street, Northwest. - Area 28,186 square feet. Authorized parking spaces, 187. Rates, 40 cents for the first hour, 20 cents for each additional hour, and $1.40 for all day. Parked cars, 165.

(i) 1724 G Street, Northwest. - Area, 5,960 square feet. Authorized parking spaces, 40. Rates, 35 cents for the first

(1) Witness for respondent who examined lot testified, without giving reason, that lot would not accomodate more than 175 automobiles.

hour and 15 cents for each additional hour, and $1.00 for all day.[1] Parked cars, 70.

(j) 1736 Eye Street, Northwest. - Area, 3,814 square feet. Authorized parking spaces, 26. Rates, 40 cents for the first hour and 25 cents for each additional hour. Parked cars, 20.

(k) 1715 and 1717 Eye Street, Northwest. - Area, 10,255 square feet. Authorized parking spaces, 68. Rates, 40 cents for the first hour and 20 cents for each additional hour and $1.80 for all day. Cars parked, 55.

(l) 1725 Eye Street, Northwest. - Area, 4,425 square feet. Authorized parking spaces, 30. Rates, 35 cents for the first hour, 20 cents for each additional hour and $1.25 for all day. Cars parked, 25.

9. On February 22, 1954, an employee of, and witness for the respondent visited the following unlicensed parking lots, whose areas, lawfully permissable parking spaces, rates and car parking were as follows:

(a) 2200 C Street, Northwest. - Area, 92,000 square feet. Lawfully permissable parking spaces 61. Rates, 35 cents for the first hour, 10 cents for each additional hour and 70 cents for all day. Cars parked, approximately 82.

(b) Rear of 537 and 539 Twenty-first Street, Northwest. - Area, 11,202 square feet. Lawfully permissable parking spaces, 75. Rates, $13.00 a month, 30 cents for the first hour and 10 cents for each additional hour and 70 cents for all day. Cars parked, 76.

10. Parking restrictions established by the approprate official of the respondent on the streets traversing and surrounding the area in which the buildings of the petitioner's university and hospital are located. On July 1, 1953, were, and still are as follows:

(a) E Street, Northwest.
From 19th Street to Virginia Avenue, on the north side, one-hour parking, 7 a. m. to 4 p. m.; the south side, one-hour parking, 7 a. m. to 6:30 p. m.
From Virginia Avenue, to 22nd Street, no parking on the north side, from 8 a.m. to 6 p. m.

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(1) The operator of the parking lot was using an alley to park the overflow on February 22, 1954, when visited by the respondent's witness.

From 23rd Street to Virginia Avenue, on the south side, no parking at any time.

(b) F Street, Northwest.

From New Hampshire Avenue west to end of roadway on both sides, two-hour parking, 8 a. m. to 6 p. m.

(c) G Street, Northwest.

From 24th Street to Virginia Avenue on the south side, and 10 feet east and 10 feet west of the driveway to the Washington Gas Light Company property yard, on the north side, no parking at any time.

From 25th Street to New Hampshire Avenue on both sides, two-hours parking from 7 a. m. to 6:30 p. m.

(d) H Street, Northwest. (None)

(e) I Street, Northwest.

From 20th to 21st Street on the south side, one-hour parking from 7 a. m. to 6:30 p. m.

From 20th Street to Pennsylvania Avenue on both sides, one-hour parking from 7 a. m. to 6:30 p. m.

From 22nd to 23rd Street on both sides, one-hour parking 7 a. m. to 10 p. m.

(f) Pennsylvania Avenue, Northwest.

From Washington Circle to 17th Street, one-hour parking 9:30 a. m. to 6:30 p. m., on the south side; one-hour parking 7 a. m. to 4 p. m. on the north side, except from the first alley east of 18th Street, west a distance of 83 feet, parking limited to 20 minutes from 7 a. m. to 4 p. m.

From 24th to 26th Street, on the north side, from 24th to 25th Street, on the south side, one-hour parking from 7 a. m. to 6:30 p. m.

(g) Nineteenth Street, Northwest.

From Virginia Avenue, to Pennsylvania Avenue, on the west side, no parking at any time.

From Virginia Avenue to E Street (south side of Rawlins Square) no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m. one-hour parking from 9:30 a. m. to 4 p. m.

(h) Twentieth Street, Northwest.

From New Hampshire Avenue, on the west side, no parking at any time, except on Sundays, between F and H Street, parking shall be permitted between the hours of 8:30 a. m. to 1 p. m. and between 6 and 9:30 p. m. On the east side no parking from 4 to 6:30 p. m.

(i) Twenty-first Street, Northwest.

From E Street to Virginia Avenue, no parking on east side from 8 a. m. to 6 p. m.

From P Street to Virginia Avenue, no parking on west side from 7 a. m. to 6:30 p. m.

From K Street to Pennsylvania Avenue, no parking on the east side from 7 to 9:30 a. m. and from 4 to 6:30 p. m.

(j) Twenty-second Street, Northwest.

From Virginia Avenue to H Street, on the west side, no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m.

From H Street to Pennsylvania Avenue, on the east side, one-hour parking from 9:30 a. m. to 4 p. m. and 6:30 to 10 p. m., one-hour parking from 7 to 9:30 a. m. and 4 to 6:30 p. m.

(k) Twenty-third Street, Northwest.

From C Street to Washington Circle, no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m., on either side; and in addition, from Eye Street to Washington Circle, one-hour parking from 9:30 a. m. to 4 p. m. and 6:30 to 10 p. m.

(l) Zone 2, General Restrictions.

Zone 2 of the "Conjected District" of Washington included the area bounded by the east curb of Seventeenth Street from G to F Street, and south curb of F Street from Seventeenth to Twentieth Street, the west curb of Twentieth Street from F to N Street, the north curb of N Street from Twentieth to Fourteenth Street, and the west curb of Fourteenth Street from N to L Streets.

With respect of Zone 2 as above delineated, except as restricted in the preceding sub-paragraphs (a) to (k) inclusive hereof, parking of automobiles and trucks was limited to two hours from 7 a.m., to 6:30 p.m.

11. In the immediate vicinity of the petitioner's campus there are many apartments, churches and church edifices. In the general vicinity of such campus there are several government departmental buildings. Such general vicinity is heavily congested with automotive traffic.

12. The lots and parcels of land which on July 1, 1953, were, and still are owned by the petitioner, are as represented by the darkened areas in the squares appearing on Figure I, appended after these Findings of Fact.

DOCKET NO. 1401

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of an area of ground consisting of Lots numbered 20, 24, 25, 29, 823, 828, 830, 831, 832, 833 and 834, in Square numbered 56 in Washington, D. C., and bounded by G, H, 22nd and 23rd Streets, Northwest in that City and District. On that date, and for some time prior thereto, such area was, and still is being used by the petitioner as an automobile parking lot for members of the petitioner's faculty without charge. It contains approximately 150 parking spaces. No charge has been made for such parking privileges, and no income in respect of such area is derived from any other source.

2. The selection of members of the faculty for parking privileges is made on the basis of academic rank, that is to say, such privileges are issued first to all full professors, then to associate professors. No parking privileges are issued to assistant professors and instructors. There are not enough parking spaces available to permit privileges for all members of the faculty. The spaces are used on a "First come, first served" basis. The spaces are used by several persons each day. If a member of the faculty comes to the parking lot in the morning and leaves early, someone else uses the space later in the day. Unless the privileged member of the faculty arrives at the parking lot early in the morning he does not get to use a parking space. There is not enough space to accomodate all of the privileged class of the members of the faculty.

3. The area of land here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purpose of the petitioner.

4. The Assessor assessed a real estate tax against the above mentioned lots for the fiscal year ending June 30, 1954, in the total sum of One Thousand, Two Hundred and Five Dollars and Forty-eight cents ($1,205.48).

DOCKET NO. 1402

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of Lot numbered 811 in Square numbered 77, Washington, D. C., being premises 2137 and 2139 H Street, Northwest therein. On that date, and for some time prior thereto such lot was, and still is being used by the petitioner as an automobile parking lot without charge for members of the faculty engaged in research work, all of whom take part in research under a contract between the Quartermaster Corps of the Army and the petitioner, and none of whom, with the exception of one member, Professor Van Evera, does any teaching.

2. The lot involved contains seven parking space.

3. The members of the research staff are paid a salary by the petitioner. The contract with the Quartermaster Corps provides that there is to be no profit to the petitioner. It is to receive from the Government merely the cost of the research project to it.

4. No charge is made by the petitioner for the use of the seven parking spaces on said lot.

5. The project of research is undertaken by petitioner as a contribution by the petitioner as an educational institution to the development of research for the benefit of the Government. The work of the research group and that of the other members of the faculty in the particular field is coordinated.

6. The lot of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

7. The Assessor assessed a real estate tax against the above described

lot for the fiscal year ending June 30, 1954, in the amount of One Hundred and Forty-five Dollars and Eighty-eight cents ($145.88).

DOCKET NO. 1403

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of Lot numbered 830 in Square numbered 101, Washington, D. C. On that date and some time prior thereto the said lot was and still is being used by the petitioner as an automobile parking lot for the administrative employees of the petitioner without charge.

2. The lot involved contains thirteen parking spaces.

3. The lot involved adjoins a building in which are employed the members of the administrative staff using the lot.

4. The lot involved originally had on it a building which was rented to a tenant, and which was razed in the early part of the Spring of 1953.

5. The lot of ground here involved on July 1, 1953, was and still reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed a real estate tax against the above described lot for the fiscal year ending June 30, 1954, in the amount of $245.16.

DOCKET NO. 1404

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of Lots numbered 829 and 830 in Square numbered 55, known as premises 820-822 Twenty-second Street, Northwest, Washington, D. C. On that date and for some time prior thereto the two lots were, and still are being used by the petitioner as an automobile parking lot for the heads ofthe departments of the hospital conducted by it in Washington, D. C. No charge is made for such parking privileges.

2. The lots involved contain seven parking spaces.

3. The lots were first used as a parking lot on June 1, 1953. Prior to that time there were buildings thereon which were rented.

4. The persons using the parking lot are the Superintendent and Assistant Superintendent of the Hospital, and heads of the following services: surgery, obstretics, laboratory and anesthesiology.

5. The two lots of ground here involved on July 1, 1953, were and still are reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed a real estate tax against the above described real estate for the fiscal year ending June 30, 1954, in the amount of $152.12.

DOCKET NO. 1405

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of an area of ground consisting of Lots numbered 53, 54, 55, 56, 57, 58, 59, and 810 in Square numbered 79, Washington, D. C. known as "Mitchell Parade". On that date and for some time prior thereto such area was, and still is being used by the petitioner the drill ground for its Air Force Reserve Officers Training Corps, which is one of the regular corses in its curriculum, under the Division of Air Science.

2. There are 209 students in the Air Force ROTC. They are required to take the prescribed course in military science if they wish to apply for commissions in the armed services.

3. Drilling is required of all students enrolled in the above mentioned course. Drilling takes place on each Monday and Friday.

4. The Drills are conducted by students under the supervision of Air Force officers who are members of the faculty of the petitioner.

5. No income in relation to the lots here involved is received by the petitioner.

6. The area of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

7. The Assessor assessed against the lots comprising the area here involved a real estate tax for the fiscal year ending June 30, 1954, in the sum of $706.78.

DOCKET NO. 1406

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of Lot numbered 809 in Square numbered 77, Washington, D. C., improved by a small two-story house in bad condition, about 16 feet in width and covering the entire lot. It is known as premises 2127 H Street, Northwest, in that City. On that date and for some time prior thereto such property was, and still is being used by the petitioner for storage purposes. The articles stored therein are reasonably required for the conduct of the petitioner's university.

2. The petitioner also uses a building in Square numbered 101 to store small items, such as stationery and supplies.

3. The petitioner began the use of the lot here involved as storage space on June 22, 1953. Prior to that time it was rented to a tenant for a certain sum.

4. Since it has been used for storage no income therefrom has been received by the petitioner.

5. The lot of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed against the real property hereinvolved a real estate tax for the fiscal year ending June 30, 1954, in the amount of $113.74.

DOCKET NO. 1407

1. On July 1, 1953, the petitioner was, and still is the owner of Lot numbered 34 in Square numbered 79, Washington, D. C. On that date such property was, and still is being used by the petitioner as meeting rooms and other conveniences for students in the School of Engineering without any charge or income received.

2. The Assessor assessed against the petitioner the above described real property a real estate tax for the fiscal year ending June 30, 1954, in the amount of $127.36.

3. The respondent has conceded that the property involved is legally exempt from taxation, and that the tax involved was erroneously assessed.

1. On July 1, 1953, the petitioner was, and still is the owner of Lot numbered 831 in Square numbered 55, Washington, D. C. On that date such property was, and still is being used by the petitioner to house the resident physicians, surgeons and interns attached to the hospital operated by it in Washington. No income therefrom was received by the petitioner.

2. The Assessor assessed against the above-described real property a real estate tax for the fiscal year ending June 30, 1954, in the amount of $320.84.

3. The respondent has conceded that the property involved is legally exempt from taxation, and that the tax involved was erroneously assessed.

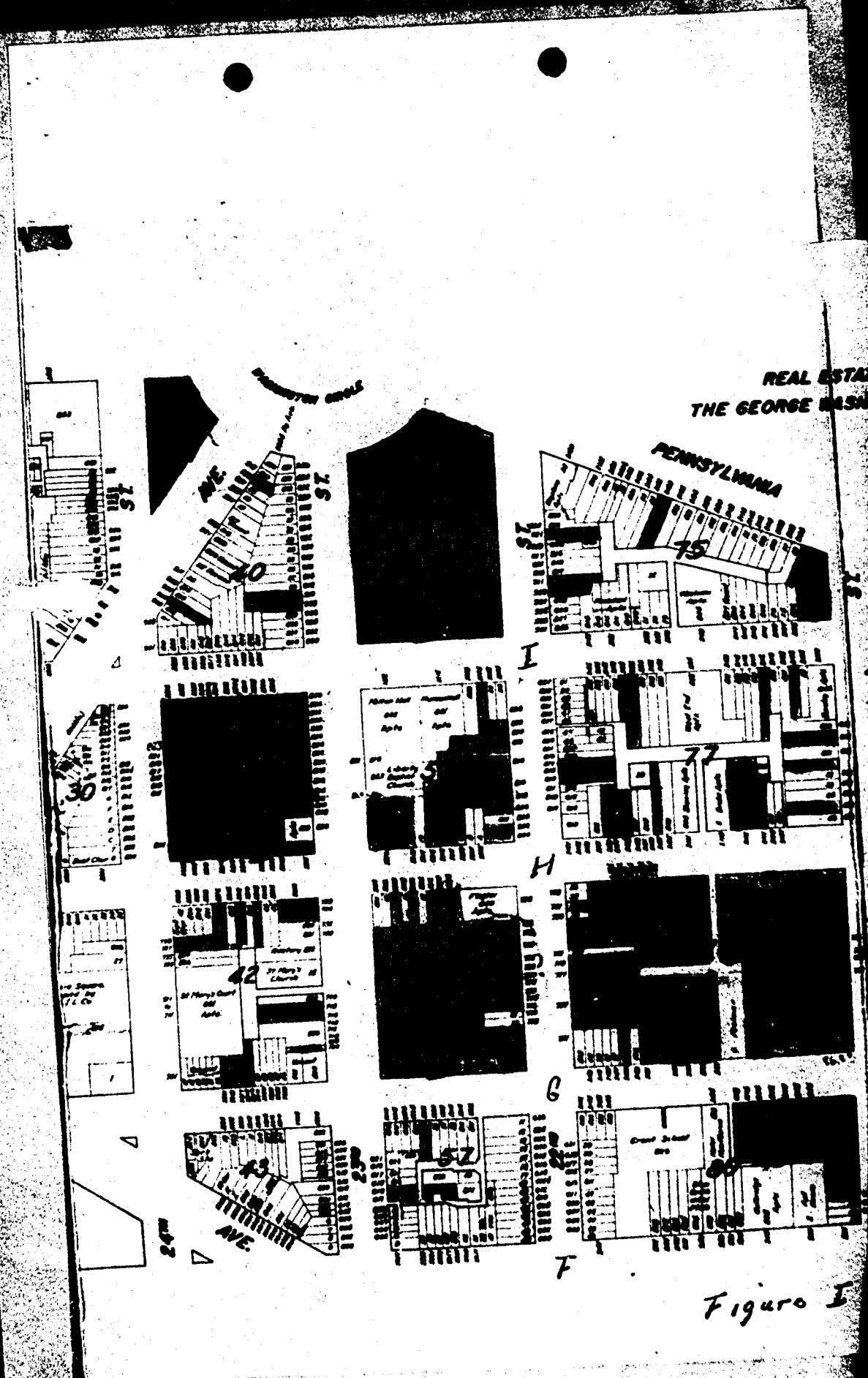
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Figure I

PET'S EX. NO. 1 D.

Received in evidence

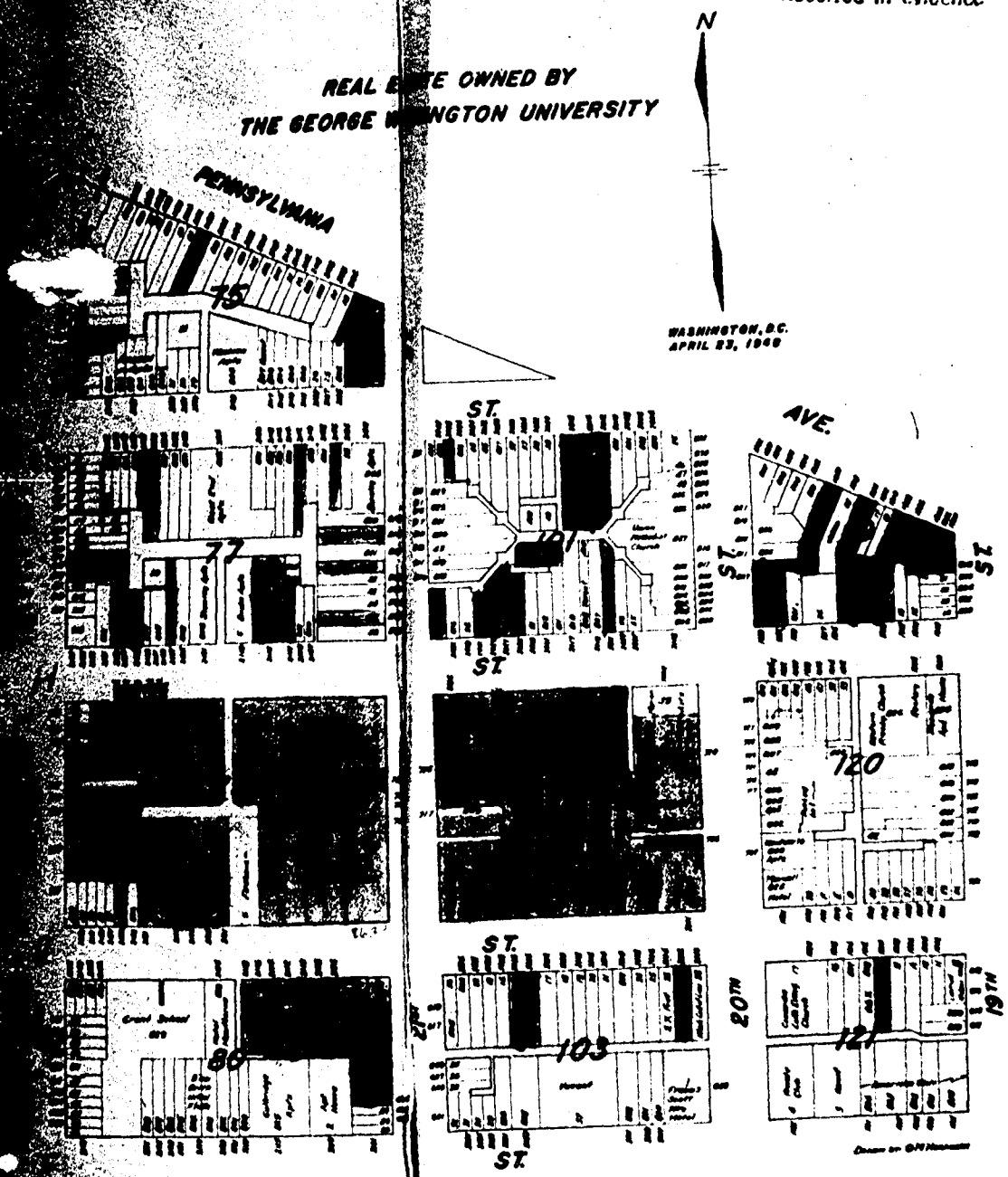

Figure I

OPINION

The real property here involved may be classified for the purpose of determining the issues here involved into four catagories, namely, (1) that used by the petitioner as parking lots, (2) that used as a military drill ground, (3) that used for storage purposes, and (4) that used in a manner inwhich the respondent now concedes entitles it to exemption. The tax liability of such real estate will be discussed and considered under those headings.

Before doing so the Court should state that it approaches the consideration of the questions present in the light of the well known principle of the law of taxation that exemptions from taxation are to be strictly construed. They are never presumed or extended by implication. He who claims exemption must clearly show that he is entitled to it. Ford v. Delta and Pine Land Co., 164 U.S. 662, 41 L. Ed. 590; Chicago Theological Seminary v. Illinois, 188 U.S. 662, 47 L. Ed. 641; Hebrew Home for the Aged v. District of Columbia, 79 U.S. App. D.C., 64, 142 F. 2d 573; Combined Congregations of the District of Columbia v. Dent, 75 U.S. App. D. C. 254, 140 F. 2d. 9; Washington Chapter etc. v. District of Columbia, _____, U.S. Appl. D. C.____; 203 F. 2d. 68. At the same time the Court must keep in mind the plain directive in the Act of December 24, 1942, "That the real property exempt from taxation in the District of Columbia shall be the following and none other;

> "SECTION 1(i) Hospital buildings, belonging to and operated by organizations which are not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a hospital.
>
> "(j) Buildings belonging to and operated by schools, colleges, or universities which are not operated for private gain, and which embrace the generally recognized relationship of teacher and student.
>
> "(r)(1) Grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes of any institution or organization entitled to exemption under the provision of this Act." (Section 47-801a(i), ((j) and (r)(1), D. C. Code, 1951 Ed.)

PARKING LOTS

Docket Nos. 1401, 1402, 1403 and 1404

Docket No. 1401, involves a group of eleven lots in Square 56 used on the tax day (July 1, 1953) and since then as a parking lot for the members of the petitioner's faculty in the higher echelons. The parking lot is not of sufficient area to supply even all in that class of members

of the faculty, and those who arrive late must find other parking accomodations. No charge is made for such privileges.

Docket No. 1403 involves thirteen parking spaces on Lot 803 in Square 101 used by petitioner as parking facilities for its administrative employees, and adjoining a building in which such employees perform their duties. No charge is made for such privileges.

Docket No. 1404 involves two lots, 820 and 830 in Square 55 used as a parking lot for the heads of the departments of the petitioner's hospital. The lots contain seven parking spaces for which no charge is made. In respect of the three above mentioned parking lots the Court is of the opinion that land upon which they are operated exempt from real estate taxation for the fiscal year involved. The Court has found that they belong to the petitioner and is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner. In a series of cases between the same parties, Docket Nos. 1345, to 1352, inclusive, decided March 17, 1953, and in were involved questions identical to those here under consideration, this Court observed:

> "The petitioner uses the above described property as an automobile parking lot for members of its faculty and attending physicians at its hospital. It contains 220 parking spaces which does not fill the need therefor by such restricted class of users. The Court has found as a fact, that on July 1, 1952 the maintenance of such parking lot by the petitioner was, and is reasonably required for the carrying on of the activities of the petitioner's university and hospital. There is no charge made for its use.
>
> "There is no question about the petitioner being a university within the meaning of Section 1(j) of the Act of December 24, 1942 (47-801a(j), D. C. Code, 1951 Ed.) nor is there any contention or claim by the respondent that its hospital is not a hospital within the meaning of Section 1(i) of the Act. What is here in issue is whether the land involved herein can be said to be "grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes" of the petitioner and its hospital, within the meaning of Section 1(r)(1) of the Act.
>
> "As has been often said, while it is a simple and sometimes easy matter to determine a principle of law or conduct, its application is frequently difficult, especially under changing conditions. What was undoubtedly not necessary several years ago to the maintenance and operation of an institution such as the petitioner, may at this time and age be reasonabbly required for the carrying on of its activities. In a comparatively recent case, Cedars of Lebanon Hospital v. Los Angeles County, 35 Cal2d 729, 221 P2d 31, 15 A.L.R.2d 1045, the Supreme Court of California gave expression to that thought in the language following:
>
> "In determining what constitutes 'property used exclusively for * * * hospital * * * purposes', it is appropriate first to note generally the nature of 'hospital.'

"A fair and unchallenged description of the nature of such an institution is set forth in plaintiffs' combined brief as follows: 'A hospital is primarily a service organization. It serves three groups: the patients, its doctors, and the public. It furnishes a place where the patient, whether poor or rich, can be treated under ideal conditions. It makes available room, special diet, X-ray, laboratory, surgery, and a multitude of other services and equipment now available through the advances of medical science. Essential to the administration of these techniques is the corps of highly-trained nurses and student nurses who are on duty twenty-four hours per day. In the large hospitals there are the interns and residents whose presence make it possible for the hospital to do a better job. In addition, the hospital * * * must have administration to see that its services function properly and are coordinated, and that patients are received and cared for regardless of the hour or the patient's condition. Nothing can be left to chance because a slip may mean a life or many lives. These facilities also stand ready to serve the community in times of epidemic or disaster.'

"This description expresses in general terms the nature, functions, and purposes of a complete, modern hospital plant, which functions and purposes are more fully and more specifically alleged in the complaints on file herein and are admitted by the demurrers thereto. And as the constitutional amendment and statute under consideration were adopted and enacted in 1944 and 1945, respectively, it is entirely clear that the people and the legislature had in mind such a complete, modern hospital plant rather than one consisting only of the minimum and indispensable facilities found in earlier hospitals which inadequately served their purposes many years ago."

"In this automotive age parking facilities have come to be regarded in respect of many businesses and activities as essential. Indeed, in many localities today legislation has been adopted which provides that construction of apartment buildings, theatres, stores, shopping centers and the like shall not be permitted until the owner has made provision for adequate parking facilities determined by a formula with factors related to the number of persons to be served by such structures.

"This discussion is intended to relate to the issues raised in Docket Nos. 1350, 1351, and 1352, involving land used by the petitioner as automobile parking lots for staff and attending physicians of the hospital, professors and staff employees of the university and students, with which cases this proceeding has been consolidated, and what is said here, as far as pertinent, speaking, of course, the use of the automobile for transportation by teachers and students is not included in the term "education", but neither are sleeping and eating (except to such a slight degree that it can be ignored). Dormitories and dining halls, with the rarest exception, have always been regarded as essential facilities of schools, colleges and universities, and the space of ground occupied by such structures and the buildings themselves, have received at the hands of the legislatures and the courts the same favored treatment as that accorded land and buildings devoted exclusively to teaching in the narrow sense. There have been, it is true, some decisions which deny exemptions to such property, but they are against the vast majority of cases on that subject. And the fact that the teacher and the student might find eating and sleeping accommodations elsewhere in the vicinity, does not deprive dormitories and refectories of schools, colleges and universities of exemption. Nor is such right to exemption destroyed by the fact that a charge is made by the institution for such accommodations. It is difficult, if not impossible, to see any material difference between supplying teachers and students with such accommodations and supplying automobile parking facilities under the circumstances relating to the congested traffic conditions surrounding the petitioner's university buildings concerning the great need for such parking facilities."

"The Court realizes, of course, that the question here to be answered is novel. A search of authorities, text books and State tax services has revealed no case dealing with the matter of the exemption of automobile parking lots owned and operated by schools or by other semi-public institutions, except a case which was decided by this Court (then the Board of Tax Appeals) in National Catholic Welfare Conference v. District of Columbia, Docket No. 1000, which held under Section 1(r)(1) of the Act of December 24, 1942 (47-801a, D. C. Code, 1951 Ed.) a lot of land belonging to National Catholic Welfare Conference (whose other land was exempt) was exempt for real estate taxation under facts found in that proceeding as follows:

> "13. Lot 87 was a vacant lot in the rear of 1314 Massachusetts Avenue. It is used in part for the delivery of material in and out of 1312 Massachusetts Avenue. In addition, there was room for parking space for 15 or 20 automobiles, and it was used for that purpose for various members of the personnel of petitioner, or the subsidiary organizations. It was not open to the public. The charge made was $2.00 per month per car, which was less than charges made by commerical parkinglot operators, and did not aggregate an amount equal to the cost of maintaining the parking spaces. Such use of the property was necessitated by the fact that parking on the street upon which 1312 Massachusetts Avenue faces was prohibited."

"During the hearing it was developed that the parking facilities involved in this particular proceeding were used by staff physicians at the hospital (who teach medicine there) and by physicians who attend patients therein. The Court found as a fact that such parking facilities were reasonably required for the carrying on of the activities of the hospital."

Docket No. 1402 involves seven parking spaces on Lot 811 in Square 77 used by the petitioner to supply parking facilities without charge to members of its faculty engaged in research work under a contract between the Quartermasters Corps of the Army and the petitioner, none of whom, with the exception of one member, does any teaching. Salaries of such members are paid by the petitioner. No profit is derived by the petitioner from such project.

While it is true that the project involved has no direct relation to the student, it does have some indirect connection with, and benefit to him. Moreover, such undertakings have in recent years become very common with colleges and universities. It was in such that the science of atomic and thermo-nuclear energies were brought to flower and fruition. Certainly it tends to the advancement of science. The Court believes that such project is within the presently accepted sphere of activities of a university. The Court has found that the property involved is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner and holds that like the other parking lots involved this particular one is exempt from real estate taxation.

Military Drill Ground

Docket No. 1405

Docket No. 1405 involves practically the full square, numbered 79. It is used by petitioner as a drill ground in connection with its course in military science. It is required and actually used to carry on the activities and purposes of the petitioner and so found by the Court. There can be no doubt the exemption of the drill ground under the plain language of Section 1(r)(1) of the Act of December 24, 1942 (Section 47-801a (r)(1), D. C. Code, 1951 Ed.). The Court holds such real property exempt.

Storage Purposes

Docket No. 1406

Docket No. 1406 involves a house on lot 809 in Square 77. The house belongs to the petitioner and is used to store articles and objects necessary to the conduct of the petitioners university. It is reasonably -- red and actually used for the carrying on of the activities and purposes of the petitioner. The Court holds it is exempt under the provisions of Section 1(j) of the Act of December 24, 1942, (Section 47-801a (j), D. C. Code, 1951 Ed.).

Purpose which Respondent Concedes Entitles Property to Exemption

Docket Nos., 1407 and 1408

Dockets No. 1407 and 1408 involves real property owned by the petitioner and used by it as meeting rooms and other conveniences for students in the School of Engineering and to house the resident physicians, surgeons and interns attached to its hospital, respectively. The respondent concedes that such uses entitles the properties involved (Lot 34 in Square 79 and Lot 831 in Square 55) to exemption, and it so held by the Court.

In General

For the reasons stated above the Court here rules as follows:

(1) That a real estate tax for fiscal year ending June 30, 1954,

in the amount of One Thousand Two Hundred and Five Dollars and Forty-eight cents ($1,205.48) assessed against Lots 20, 24, 25, 29, 823, 828, 830, 831, 832, 833, and 834 in Square 56, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(2) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Forty-five Dollars and Eighty-eight cents ($145.88) assessed against Lot 811 in Square 77, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(3) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Two Hundred and Forty-five Dollars and Sixteen cents ($245.16), was assessed against Lot 830 in Square 101, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(4) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Fifty-two Dollars and Twelve cents ($152.12) assessed against Lots 829 and 830 in Square 55, Washington, D. C. was invalidly assessed and is hereby cancelled.

(5) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Seven Hundred and Six Dollars and Seventy-eight cents ($706.78) assessed against Lots 53, 54, 55, 56, 57, 58, 59 and 810 in Square 79, Washington, D. C. was invalidly assessed and is hereby cancelled.

(6) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Thirteen Dollars and Seventy-four cents ($113.74) assessed against Lot 809 in Square 77, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(7) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Twenty-seven Dollars and Thirty-six cents ($127.36) assessed against Lot 34 in Square 79, Washington, D. C. was invalidly assessed and is hereby cancelled.

(8) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Three Hundred and Twenty Dollars and Eighty-four cents ($320.84) assessed against Lot 831 in Square 55, Washington, D. C., was invalidly assessed, and is hereby cancelled.

Decisions in the above mentioned proceedings will be entered for the petitioner.

Jo. V. Morgan
Jo. V. Morgan
Judge

DISTRICT OF COLUMBIA TAX COURT

THE GEORGE WASHINGTON UNIVERSITY, Petitioner,	)	
vs.	)	DOCKET NO. 1401
DISTRICT OF COLUMBIA, Respondent.	)	

FILED
APR 29 1954
District of Columbia
Tax Court

DECISION

This proceeding came on to be heard upon the petition filed herein; and upon consideration thereof and of the evidence adduced at the hearing on said petition, it is by the Court this 29th day of April, 1954

ADJUDGED AND DETERMINED, That a real estate tax for the fiscal year ending June 30, 1954 in the amount of One Thousand Two Hundred and Five Dollars and Forty-eight cents ($1,205.48) assessed against Lots 20, 24, 25, 29, 823, 828, 830, 831, 832, 833, and 834, in Square 56, Washington, D. C., was invalidly assessed, and is hereby cancelled.

Jo. V. Morgan,
Judge

Findings of Fact, Opinion and Decision served as follows:

J. Edward Burroughs, Jr., Esq.,
Cary McN. Euwer, Esq.,
Attorney for Petitioner,
1625 K Street, N. W.,
Washington, D. C. (Mailed 4/29/54)

Assessor, D. C. (Personally 4/29/54)

Corporation Counsel, D. C. (Personally 4/29/54)

Phyllis R. Liberti

Phyllis R. Liberti, Clerk

OPINION NO. 871

FILED
APR 29 1954
District of Columbia
Tax Court

DISTRICT OF COLUMBIA TAX COURT

THE GEORGE WASHINGTON UNIVERSITY, Petitioner,	)	
v.	)	DOCKET NOS. 1401, 1402, 1403, 1404, 1405, 1406, 1407 and 1408
DISTRICT OF COLUMBIA, Respondent.	)	

FINDINGS OF FACT AND OPINION

The above entitled proceedings were filed by the same taxpayer. In all of them is involved the matter of real estate taxes. The issue in all of them except three, is whether certain pieces of real property belonging to the petitioner were grounds belonging to, and reasonably required and actually used for the carrying on of the activities and purposes of the petitioner within the meaning of Section 1(r) (1) of the Act of December 24, 1942, (Section 47-801a (r) (1), D. C. Code 1951 Ed). In three of the proceedings the issue is whether the pieces of real property therein involved were buildings belonging to, and operated by the petitioner within the meaning of Section 1(j) of the Act of December 24, 1942 (Section 47-801a (j), D. C. Code, 1951 Ed.).

FINDINGS OF FACT

In General

1. The petitioner is a corporation with its principal offices at 725 - 21st Street, Northwest, Washington, D. C. It was chartered by Congress on February 9, 1821, and is engaged in the operation of a university and, as an adjunct, a hospital. It is not organized or operated for private gain and embraces the general recognized relationship of teacher and student. Its principal facilities are located in downtown Washington in an area roughly bordered by Pennsylvania Avenue, 20th Street, F Street and 24th Street, Northwest. All of the foregoing

2. As of July 1, 1953, and during the period since that date the petitioner had an enrollment of 10,000 students and a staff consisting of faculty and administrative personnel, in excess of 2,000. Approximately 60 per centum of the staff commute to the University in their automobiles. Many reside in nearby Maryland and Virginia.

3. The petitioner does not have any parking facilities in or along campus drives or like areas.

4. The universities of the same standing in Washington as the petitioner, that is to say, Georgetown University, Catholic University and American University, supply automobile parking privileges in spaces on their respective properties to faculty members and administrative staff and employees free of charge.

5. The matter of supplying parking facilities for automobiles belonging to the petitioner and the members of its staff and faculty presents a difficult problem which has not yet been solved by its officers. There is not enough parking space to fill such need, and those members for whom parking spaces are not provided have to "shift as best they can", and are continually bringing pressure to bear in order to get such privileges. Such persons park some distance away from the university, in some instances as far away as the Lincoln Memorial.

6. All parcels of land used by the petitioner for parking its own automobiles, including those pertaining to its Athletic Department, have been exempted from taxation.

7. Section 14(a) of the District of Columbia Zoning Regulations provides in respect of parking spaces in "commerical" parking lots, that is said, those open to the public for hire, provides as follows: "For the purpose of this section, a parking space shall be an area not less than a hundred and fifty(150) square feet."

8. On July 1, 1953, there were the general vicinity of the petitioner university building and campus duly licenced commercial parking lots, with areas, authorized parking spaces (without consideration of, or subtraction for driveways ingress, and egress) rates; on February 22, 1954, with the number of parked cars there in as follows:

(a) 500 Twenty-fifth Street, Northwest. - Area, 43,820 square feet. Authorized parking spaces, 279. Rates, $6.00 a month or 35 cents all day. Parked cars, 250.

(b) Cornor of Twenty-fifth Street, E and F. - Area, 34,240 square feet. Authorized parking spaces, 222.(1) Rates, $6.00 a month or 35 cents all day. Parked cars, 156.

(c) 2401 E Street, Northwest. - Area, 9,719 square feet. Authorized parking spaces 65. Rates, $7.00 a month, 25 cents for the first hour, 5 cents for each additional hour and 40 cents all day. Parked cars, (not given).

(d) 2012 E Street, Northwest. - Area, 34,051 square feet. Authorized parking spaces 227. Rates, (not given). Parked cars, 255.

(e) 509 Twentieth Street, Northwest. - Area, 9, 150 square feet. Authorized parking spaces, 61. Rates, 30 cents for the first hour, 10 cents for each additional hour and 75 cents for all day. Parked cars, 60.

(f) 715 Twentieth Street, Northwest. - Area, 11,069 square feet. Authorized parking spaces, 75. Rates, 35 cents for the first hour, and $1.00 for all day. Parked cars, 74.

(g) 1727 and 1737 Pennsylvania Avenue, or the rear of 1712 H Street, Northwest. - Area, 21,351 square feet. Authorized parking spaces, 142. Rates, 40 cents the first hour, 20 cents for each additional hour, 50 cents from six p. m. to twelve midnight and $1.50 for all day. Parked cars, 165.

(h) 725 Seventeeth Street, Northwest. - Area 28,186 square feet. Authorized parking spaces, 187. Rates, 40 cents for the first hour, 20 cents for each additional hour, and $1.40 for all day. Parked cars, 165.

(i) 1724 G Street, Northwest. - Area, 5,960 square feet. Authorized parking spaces, 40. Rates, 35 cents for the first

(1) Witness for respondent who examined lot testified, without giving reason, that lot would not accomodate more than 175 automobiles.

hour and 15 cents for each additional hour, and $1.00 for all day.[1] Parked cars, 70.

(j) 1736 Eye Street, Northwest. - Area, 3,814 square feet. Authorized parking spaces, 26. Rates, 40 cents for the first hour and 25 cents for each additional hour. Parked cars, 20.

(k) 1715 and 1717 Eye Street, Northwest. - Area, 10,255 square feet. Authorized parking spaces, 68. Rates, 40 cents for the first hour and 20 cents for each additional hour and $1.80 for all day. Cars parked, 55.

(l) 1725 Eye Street, Northwest. - Area, 4,425 square feet. Authorized parking spaces, 30. Rates, 35 cents for the first hour, 20 cents for each additional hour and $1.25 for all day. Cars parked, 25.

9. On February 22, 1954, an employee of, and witness for the respondent visited the following unlicensed parking lots, whose areas, lawfully permissable parking spaces, rates and car parking were as follows:

(a) 2200 C Street, Northwest. - Area, 92,000 square feet. Lawfully permissable parking spaces 61. Rates, 35 cents for the first hour, 10 cents for each additional hour and 70 cents for all day. Cars parked, approximately 82.

(b) Rear of 537 and 539 Twenty-first Street, Northwest. - Area, 11,202 square feet. Lawfully permissable parking spaces, 75. Rates, $13.00 a month, 30 cents for the first hour and 19 cents for each additional hour and 70 cents for all day. Cars parked, 76.

10. Parking restrictions established by the approprate official of the respondent on the streets traversing and surrounding the area in which the buildings of the petitioner's university and hospital are located. On July 1, 1953, were, and still are as follows:

(a) E Street, Northwest.
From 19th Street to Virginia Avenue, on the north side, one-hour parking, 7 a. m. to 4 p. m.; the south side, one-hour parking, 7 a. m. to 6:30 p. m.
From Virginia Avenue, to 22nd Street, no parking on the north side, from 8 a.m. to 6 p. m.

---

(1) The operator of the parking lot was using an alley to park the overflow on February 22, 1954, when visited by the respondent's witness.

From 23rd Street to Virginia Avenue, on the south side, no parking at any time.

(b) F Street, Northwest.

From New Hampshire Avenue west to end of roadway on both sides, two-hour parking, 8 a. m. to 6 p. m.

(c) G Street, Northwest.

From 24th Street to Virginia Avenue on the south side, and 10 feet east and 10 feet west of the driveway to the Washington Gas Light Company property yard, on the north side, no parking at any time.

From 25th Street to New Hampshire Avenue on both sides, two-hours parking from 7 a. m. to 6:30 p. m.

(d) H Street, Northwest. (None)

(e) I Street, Northwest.

From 20th to 21st Street on the south side, one-hour parking from 7 a. m. to 6:30 p. m.

From 20th Street to Pennsylvania Avenue on both sides, one-hour parking from 7 a. m. to 6:30 p. m.

From 22nd to 23rd Street on both sides, one-hour parking 7 a. m. to 10 p. m.

(f) Pennsylvania Avenue, Northwest.

From Washington Circle to 17th Street, one-hour parking 9:30 a. m. to 6:30 p. m., on the south side; one-hour parking 7 a. m. to 4 p. m. on the north side, except from the first alley east of 18th Street, west a distance of 83 feet, parking limited to 20 minutes from 7 a. m. to 4 p. m.

From 24th to 26th Street, on the north side, from 24th to 25th Street, on the south side, one-hour parking from 7 a. m. to 6:30 p. m.

(g) Nineteenth Street, Northwest.

From Virginia Avenue, to Pennsylvania Avenue, on the west side, no parking at any time.

From Virginia Avenue to E Street (south side of Rawlins Square) no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m. one-hour parking from 9:30 a. m. to 4 p. m.

(h) Twentieth Street, Northwest.

From New Hampshire Avenue, on the west side, no parking at any time, except on Sundays, between F and H Street, parking shall be permitted between the hours of 8:30 a. m. to 1 p. m. and between 6 and 9:30 p. m. On the east side no parking from 4 to 6:30 p. m.

(i) Twenty-first Street, Northwest.

From E Street to Virginia Avenue, no parking on east side from 8 a. m. to 6 p. m.

From P Street to Virginia Avenue, no parking on west side from 7 a. m. to 6:30 p. m.

From K Street to Pennsylvania Avenue, no parking on the east side from 7 to 9:30 a. m. and from 4 to 6:30 p. m.

(j) Twenty-second Street, Northwest.

From Virginia Avenue to H Street, on the west side, no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m.

From H Street to Pennsylvania Avenue, on the east side, one-hour parking from 9:30 a. m. to 4 p. m. and 6:30 to 10 p. m., one-hour parking from 7 to 9:30 a. m. and 4 to 6:30 p. m.

(k) Twenty-third Street, Northwest.

From C Street to Washington Circle, no parking from 7 to 9:30 a. m. and 4 to 6:30 p. m., on either side; and in addition, from Eye Street to Washington Circle, one-hour parking from 9:30 a. m. to 4 p. m. and 6:30 to 10 p. m.

(l) Zone 2, General Restrictions.

Zone 2 of the "Conjected District" of Washington included the area bounded by the east curb of Seventeenth Street from G to F Street, and south curb of F Street from Seventeenth to Twentieth Street, the west curb of Twentieth Street from F to N Street, the north curb of N Street from Twentieth to Fourteenth Street, and the west curb of Fourteenth Street from N to L Streets.

With respect of Zone 2 as above delineated, except as restricted in the preceding sub-paragraphs (a) to (k) inclusive hereof, parking of automobiles and trucks was limited to two hours from 7 a.m., to 6:30 p.m.

11. In the immediate vicinity of the petitioner's campus there are many apartments, churches and church edifices. In the general vicinity of such campus there are several government departmental buildings. Such general vicinity is heavily congested with automotive traffic.

12. The lots and parcels of land which on July 1, 1953, were, and still are owned by the petitioner, are as represented by the darkened areas in the squares appearing on Figure I, appended after these Findings of Fact.

DOCKET NO. 1401

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of an area of ground consisting of Lots numbered 20, 24, 25, 29, 823, 828, 830, 831, 832, 833 and 834, in Square numbered 56 in Washington, D. C., and bounded by G, H, 22nd and 23rd Streets, Northwest in that City and District. On that date, and for some time prior thereto, such area was, and still is being used by the petitioner as an automobile parking lot for members of the petitioner's faculty without charge. It contains approximately 150 parking spaces. No charge has been made for such parking privileges, and no income in respect of such area is derived from any other source.

2. The selection of members of the faculty for parking privileges is made on the basis of academic rank, that is to say, such privileges are issued first to all full professors, then to associate professors. No parking privileges are issued to assistant professors and instructors. There are not enough parking spaces available to permit privileges for all members of the faculty. The spaces are used on a "First come, first served" basis. The spaces are used by several persons each day. If a member of the faculty comes to the parking lot in the morning and leaves early, someone else uses the space later in the day. Unless the privileged member of the faculty arrives at the parking lot early in the morning he does not get to use a parking space. There is not enough space to accomodate all of the privileged class of the members of the faculty.

3. The area of land here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purpose of the petitioner.

4. The Assessor assessed a real estate tax against the above mentioned lots for the fiscal year ending June 30, 1954, in the total sum of One Thousand, Two Hundred and Five Dollars and Forty-eight cents ($1,205.48).

DOCKET NO. 1402

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of Lot numbered 811 in Square numbered 77, Washington, D. C., being premises 2137 and 2139 H Street, Northwest therein. On that date, and for some time prior thereto such lot was, and still is being used by the petitioner as an automobile parking lot without charge for members of the faculty engaged in research work, all of whom take part in research under a contract between the Quartermaster Corps of the Army and the petitioner, and none of whom, with the exception of one member, Professor Van Evera, does any teaching.

2. The lot involved contains seven parking space.

3. The members of the research staff are paid a salary by the petitioner. The contract with the Quartermaster Corps provides that there is to be no profit to the petitioner. It is to receive from the Government merely the cost of the research project to it.

4. No charge is made by the petitioner for the use of the seven parking spaces on said lot.

5. The project of research is undertaken by petitioner as a contribution by the petitioner as an educational institution to the development of research for the benefit of the Government. The work of the research group and that of the other members of the faculty in the particular field is coordinated.

6. The lot of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

7. The Assessor assessed a real estate tax against the above described

lot for the fiscal year ending June 30, 1954, in the amount of One Hundred and Forty-five Dollars and Eighty-eight cents ($145.88).

DOCKET NO. 1403

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of Lot numbered 830 in Square numbered 101, Washington, D. C. On that date and some time prior thereto the said lot was and still is being used by the petitioner as an automobile parking lot for the administrative employees of the petitioner without charge.

2. The lot involved contains thirteen parking spaces.

3. The lot involved adjoins a building in which are employed the members of the administrative staff using the lot.

4. The lot involved originally had on it a building which was rented to a tenant, and which was razed in the early part of the Spring of 1953.

5. The lot of ground here involved on July 1, 1953, was and still reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed a real estate tax against the above described lot for the fiscal year ending June 30, 1954, in the amount of $245.16.

DOCKET NO. 1404

1. On July 1, 1953, and for some time prior thereto the petitioner was, and still is the owner of Lots numbered 829 and 830 in Square numbered 55, known as premises 820-822 Twenty-second Street, Northwest, Washington, D. C. On that date and for some time prior thereto the two lots were, and still are being used by the petitioner as an automobile parking lot for the heads of the departments of the hospital conducted by it in Washington, D. C. No charge is made for such parking privileges.

2. The lots involved contain seven parking spaces.

3. The lots were first used as a parking lot on June 1, 1953. Prior to that time there were buildings thereon which were rented.

4. The persons using the parking lot are the Superintendent and Assistant Superintendent of the Hospital, and heads of the following services: surgery, obstretics, laboratory and anesthesiology.

5. The two lots of ground here involved on July 1, 1953, were and still are reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed a real estate tax against the above described real estate for the fiscal year ending June 30, 1954, in the amount of $152.12.

DOCKET NO. 1405

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of an area of ground consisting of Lots numbered 53, 54, 55, 56, 57, 58, 59, and 810 in Square numbered 79, Washington, D. C. known as "Mitchell Parade". On that date and for some time prior thereto such area was, and still is being used by the petitioner the drill ground for its Air Force Reserve Officers Training Corps, which is one of the regular corses in its curriculum, under the Division of Air Science.

2. There are 209 students in the Air Force ROTC. They are required to take the prescribed course in military science if they wish to apply for commissions in the armed services.

3. Drilling is required of all students enrolled in the above mentioned course. Drilling takes place on each Monday and Friday.

4. The Drills are conducted by students under the supervision of Air Force officers who are members of the faculty of the petitioner.

5. No income in relation to the lots here involved is received by the petitioner.

6. The area of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

7. The Assessor assessed against the lots comprising the area here involved a real estate tax for the fiscal year ending June 30, 1954, in the sum of $706.78.

DOCKET NO. 1406

1. On July 1, 1953, and for some time prior thereto, the petitioner was, and still is the owner of Lot numbered 809 in Square numbered 77, Washington, D. C., improved by a small two-story house in bad condition, about 16 feet in width and covering the entire lot. It is known as premises 2127 H Street, Northwest, in that City. On that date and for some time prior thereto such property was, and still is being used by the petitioner for storage purposes. The articles stored therein are reasonably required for the conduct of the petitioner's university.

2. The petitioner also uses a building in Square numbered 101 to store small items, such as stationery and supplies.

3. The petitioner began the use of the lot here involved as storage space on June 22, 1953. Prior to that time it was rented to a tenant for a certain sum.

4. Since it has been used for storage no income therefrom has been received by the petitioner.

5. The lot of ground here involved on July 1, 1953, was, and still is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner.

6. The Assessor assessed against the real property hereinvolved a real estate tax for the fiscal year ending June 30, 1954, in the amount of $113.74.

DOCKET NO. 1407

1. On July 1, 1953, the petitioner was, and still is the owner of Lot numbered 34 in Square numbered 79, Washington, D. C. On that date such property was, and still is being used by the petitioner as meeting rooms and other conveniences for students in the School of Engineering without any charge or income received.

2. The Assessor assessed against the petitioner the above described real property a real estate tax for the fiscal year ending June 30, 1954, in the amount of $127.36.

3. The respondent has conceded that the property involved is legally exempt from taxation, and that the tax involved was erroneously assessed.

1. On July 1, 1953, the petitioner was, and still is the owner of Lot numbered 831 in Square numbered 55, Washington, D. C. On that date such property was, and still is being used by the petitioner to house the resident physicians, surgeons and interns attached to the hospital operated by it in Washington. No income therefrom was received by the petitioner.

2. The Assessor assessed against the above-described real property a real estate tax for the fiscal year ending June 30, 1954, in the amount of $320.84.

3. The respondent has conceded that the property involved is legally exempt from taxation, and that the tax involved was erroneously assessed.

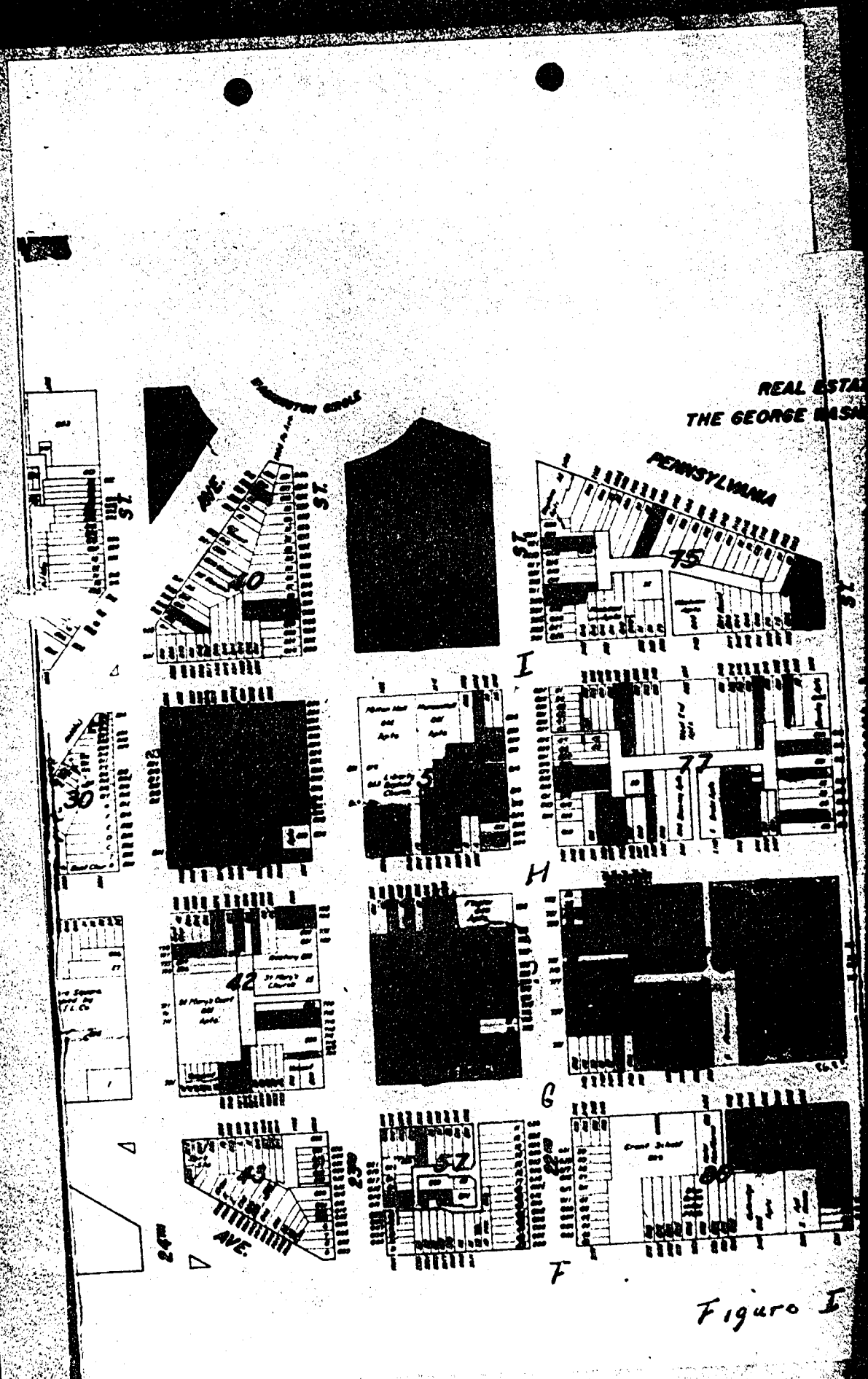
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Figure I

PET'S EX. NO. 1 D.

Received in evidence

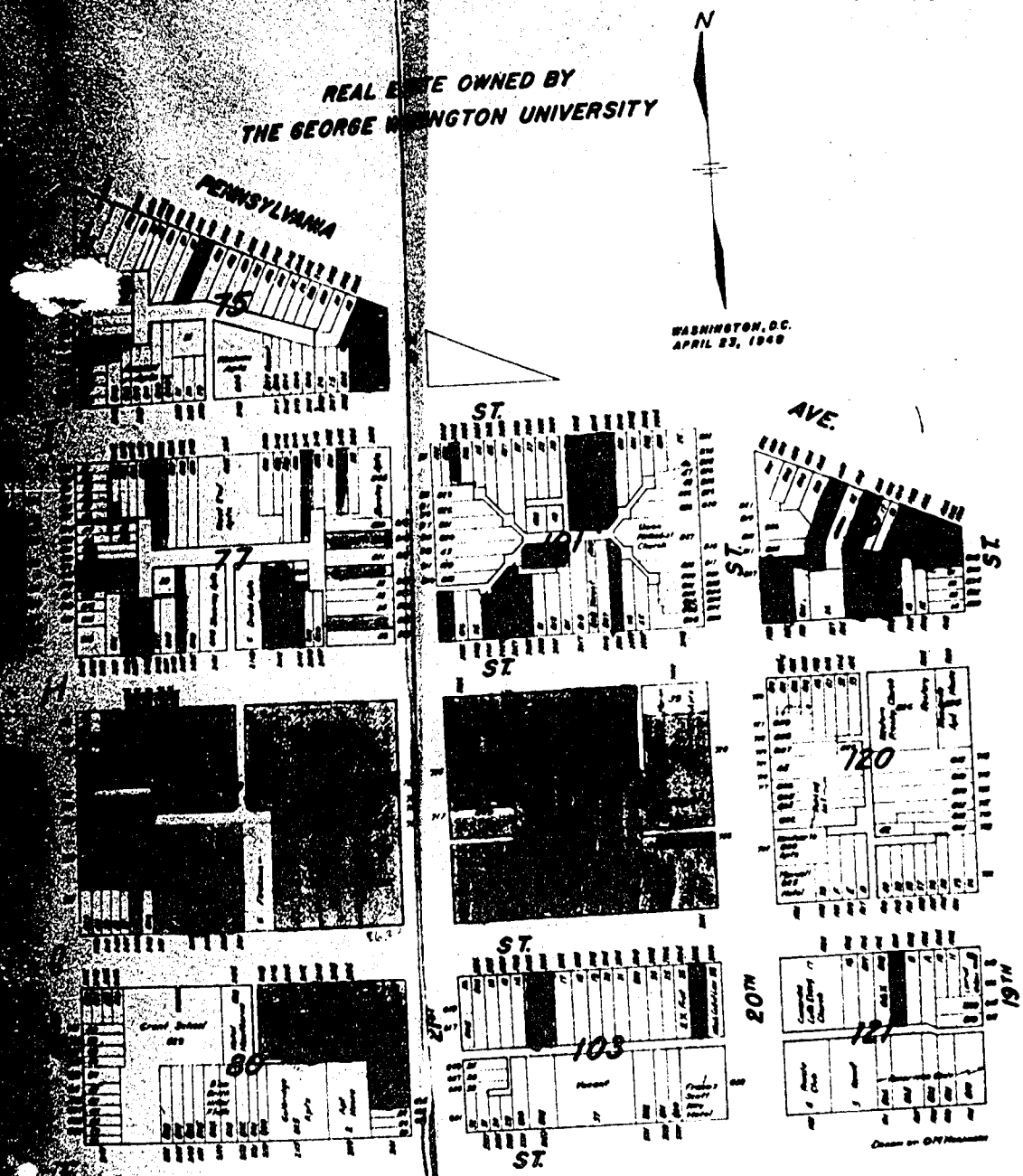

Figure I

OPINION

The real property here involved may be classified for the purpose of determining the issues here involved into four catagories, namely, (1) that used by the petitioner as parking lots, (2) that used as a military drill ground, (3) that used for storage purposes, and (4) that used in a manner in which the respondent now concedes entitles it to exemption. The tax liability of such real estate will be discussed and considered under those headings.

Before doing so the Court should state that it approaches the consideration of the questions present in the light of the well known principle of the law of taxation that exemptions from taxation are to be strictly construed. They are never presumed or extended by implication. He who claims exemption must clearly show that he is entitled to it. Ford v. Delta and Pine Land Co., 164 U.S. 662, 41 L. Ed. 590; Chicago Theological Seminary v. Illinois, 188 U.S. 662, 47 L. Ed. 641; Hebrew Home for the Aged v. District of Columbia, 79 U.S. App. D.C., 64, 142 F. 2d 573; Combined Congregations of the District of Columbia v. Dent, 75 U.S. App. D. C. 254, 140 F. 2d. 9; Washington Chapter etc. v. District of Columbia, _____, U.S. Appl. D. C._____; 203 F. 2d. 68. At the same time the Court must keep in mind the plain directive in the Act of December 24, 1942, "That the real property exempt from taxation in the District of Columbia shall be the following and none other;

> "SECTION 1(i) Hospital buildings, belonging to and operated by organizations which are not organized or operated for private gain, including buildings and structures reasonably necessary and usual to the operation of a hospital.
>
> "(j) Buildings belonging to and operated by schools, colleges, or universities which are not operated for private gain, and which embrace the generally recognized relationship of teacher and student.
>
> "(r)(1) Grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes of any institution or organization entitled to exemption under the provision of this Act." (Section 47-801a(i), ((j) and (r)(1), D. C. Code, 1951 Ed.)

PARKING LOTS

Docket Nos. 1401, 1402, 1403 and 1404

Docket No. 1401, involves a group of eleven lots in Square 56 used on the tax day (July 1, 1953) and since then as a parking lot for the members of the petitioner's faculty in the higher echelons. The parking lot is not of sufficient area to supply even all in that class of members

of the faculty, and those who arrive late must find other parking accomodations. No charge is made for such privileges.

Docket No. 1403 involves thirteen parking spaces on Lot 803 in Square 101 used by petitioner as parking facilities for its administrative employees, and adjoining a building in which such employees perform their duties. No charge is made for such privileges.

Docket No. 1404 involves two lots, 820 and 830 in Square 55 used as a parking lot for the heads of the departments of the petitioner's hospital. The lots contain seven parking spaces for which no charge is made. In respect of the three above mentioned parking lots the Court is of the opinion that land upon which they are operated exempt from real estate taxation for the fiscal year involved. The Court has found that they belong to the petitioner and is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner. In a series of cases between the same parties, Docket Nos. 1345, to 1352, inclusive, decided March 17, 1953, and in were involved questions identical to those here under consideration, this Court observed:

> "The petitioner uses the above described property as an automobile parking lot for members of its faculty and attending physicians at its hospital. It contains 220 parking spaces which does not fill the need therefor by such restricted class of users. The Court has found as a fact, that on July 1, 1952 the maintenance of such parking lot by the petitioner was, and is reasonably required for the carrying on of the activities of the petitioner's university and hospital. There is no charge made for its use.
>
> "There is no question about the petitioner being a university within the meaning of Section 1(j) of the Act of December 24, 1942 (47-801a(j), D. C. Code, 1951 Ed.) nor is there any contention or claim by the respondent that its hospital is not a hospital within the meaning of Section 1(i) of the Act. What is here in issue is whether the land involved herein can be said to be "grounds belonging to and reasonably required and actually used for the carrying on of the activities and purposes" of the petitioner and its hospital, within the meaning of Section 1(r)(1) of the Act.
>
> "As has been often said, while it is a simple and sometimes easy matter to determine a principle of law or conduct, its application is frequently difficult, especially under changing conditions. What was undoubtedly not necessary several years ago to the maintenance and operation of an institution such as the petitioner, may at this time and age be reasonably required for the carrying on of its activities. In a comparatively recent case, Cedars of Lebanon Hospital v. Los Angeles County, 35 Cal2d 729, 221 P2d 31, 15 A.L.R.2d 1045, the Supreme Court of California gave expression to that thought in the language following:
>
> "In determining what constitutes 'property used exclusively for * * * hospital * * * purposes', it is appropriate first to note generally the nature of 'hospital.'

"A fair and unchallenged description of the nature of such an institution is set forth in plaintiffs' combined brief as follows: 'A hospital is primarily a service organization. It serves three groups: the patients, its doctors, and the public. It furnishes a place where the patient, whether poor or rich, can be treated under ideal conditions. It makes available room, special diet, X-ray, laboratory, surgery, and a multitude of other services and equipment now available through the advances of medical science. Essential to the administration of these techniques is the corps of highly-trained nurses and student nurses who are on duty twenty-four hours per day. In the large hospitals there are the interns and residents whose presence make it possible for the hospital to do a better job. In addition, the hospital * * * must have administration to see that its services function properly and are coordinated, and that patients are received and cared for regardless of the hour or the patient's condition. Nothing can be left to chance because a slip may mean a life or many lives. These facilities also stand ready to serve the community in times of epidemic or disaster.'

"This description expresses in general terms the nature, functions, and purposes of a complete, modern hospital plant, which functions and purposes are more fully and more specifically alleged in the complaints on file herein and are admitted by the demurrers thereto. And as the constitutional amendment and statute under consideration were adopted and enacted in 1944 and 1945, respectively, it is entirely clear that the people and the legislature had in mind such a complete, modern hospital plant rather than one consisting only of the minimum and indispensable facilities found in earlier hospitals which inadequately served their purposes many years ago."

"In this automotive age parking facilities have come to be regarded in respect of many businesses and activities as essential. Indeed, in many localities today legislation has been adopted which provides that construction of apartment buildings, theatres, stores, shopping centers and the like shall not be permitted until the owner has made provision for adequate parking facilities determined by a formula with factors related to the number of persons to be served by such structures.

"This discussion is intended to relate to the issues raised in Docket Nos. 1350, 1351, and 1352, involving land used by the petitioner as automobile parking lots for staff and attending physicians of the hospital, professors and staff employees of the university and students, with which cases this proceeding has been consolidated, and what is said here, as far as pertinent, speaking, of course, the use of the automobile for transportation by teachers and students is not included in the term "education", but neither are sleeping and eating (except to such a slight degree that it can be ignored). Dormitories and dining halls, with the rarest exception, have always been regarded as essential facilities of schools, colleges and universities, and the space of ground occupied by such structures and the buildings themselves, have received at the hands of the legislatures and the courts the same favored treatment as that accorded land and buildings devoted exclusively to teaching in the narrow sense. There have been, it is true, some decisions which deny exemptions to such property, but they are against the vast majority of cases on that subject. And the fact that the teacher and the student might find eating and sleeping accommodations elsewhere in the vicinity, does not deprive dormitories and refectories of schools, colleges and universities of exemption. Nor is such right to exemption destroyed by the fact that a charge is made by the institution for such accommodations. It is difficult, if not impossible, to see any material difference between supplying teachers and students with such accommodations and supplying automobile parking facilities under the circumstances relating to the congested traffic conditions surrounding the petitioner's university buildings concerning the great need for such parking facilities."

"The Court realizes, of course, that the question here to be answered is novel. A search of authorities, text books and State tax services has revealed no case dealing with the matter of the exemption of automobile parking lots owned and operated by schools or by other semi-public institutions, except a case which was decided by this Court (then the Board of Tax Appeals) in National Catholic Welfare Conference v. District of Columbia, Docket No. 1000, which held under Section 1(r)(1) of the Act of December 24, 1942 (47-801a, D. C. Code, 1951 Ed.) a lot of land belonging to National Catholic Welfare Conference (whose other land was exempt) was exempt for real estate taxation under facts found in that proceeding as follows:

> "13. Lot 87 was a vacant lot in the rear of 1314 Massachusetts Avenue. It is used in part for the delivery of material in and out of 1312 Massachusetts Avenue. In addition, there was room for parking space for 15 or 20 automobiles, and it was used for that purpose for various members of the personnel of petitioner, or the subsidiary organizations. It was not open to the public. The charge made was $2.00 per month per car, which was less than charges made by commerical parkinglot operators, and did not aggregate an amount equal to the cost of maintaining the parking spaces. Such use of the property was necessitated by the fact that parking on the street upon which 1312 Massachusetts Avenue faces was prohibited."

"During the hearing it was developed that the parking facilities involved in this particular proceeding were used by staff physicians at the hospital (who teach medicine there) and by physicians who attend patients therein. The Court found as a fact that such parking facilities were reasonably required for the carrying on of the activities of the hospital."

Docket No. 1402 involves seven parking spaces on Lot 811 in Square 77 used by the petitioner to supply parking facilities without charge to members of its faculty engaged in research work under a contract between the Quartermasters Corps of the Army and the petitioner, none of whom, with the exception of one member, does any teaching. Salaries of such members are paid by the petitioner. No profit is derived by the petitioner from such project.

While it is true that the project involved has no direct relation to the student, it does have some indirect connection with, and benefit to him. Moreover, such undertakings have in recent years become very common with colleges and universities. It was in such that the science of atomic and thermo-nuclear energies were brought to flower and fruition. Certainly it tends to the advancement of science. The Court believe that such project is within the presently accepted sphere of activities of a university. The Court has found that the property involved is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner and holds that like the other parking lots involved this particular one is exempt from real estate taxation.

Military Drill Ground

Docket No. 1405

Docket No. 1405 involves practically the full square, numbered 79. It is used by petitioner as a drill ground in connection with its course in military science. It is required and actually used to carry on the activities and purposes of the petitioner and so found by the Court. There can be no doubt the exemption of the drill ground under the plain language of Section 1(r)(1) of the Act of December 24, 1942 (Section 47-801a (r)(1), D. C. Code, 1951 Ed.). The Court holds such real property exempt.

Storage Purposes

Docket No. 1406

Docket No. 1406 involves a house on lot 809 in Square 77. The house belongs to the petitioner and is used to store articles and objects necessary to the conduct of the petitioners university. It is reasonably required and actually used for the carrying on of the activities and purposes of the petitioner. The Court holds it is exempt under the provisions of Section 1(j) of the Act of December 24, 1942, (Section 47-801a (j), D. C. Code, 1951 Ed.).

Purpose which Respondent Concedes Entitles Property to Exemption

Docket Nos., 1407 and 1408

Dockets No. 1407 and 1408 involves real property owned by the petitioner and used by it as meeting rooms and other conveniences for students in the School of Engineering and to house the resident physicians, surgeons and interns attached to its hospital, respectively. The respondent concedes that such uses entitles the properties involved (Lot 34 in Square 79 and Lot 831 in Square 55) to exemption, and it so held by the Court.

In General

For the reasons stated above the Court here rules as follows:

(1) That a real estate tax for fiscal year ending June 30, 1954,

in the amount of One Thousand Two Hundred and Five Dollars and Forty-eight cents ($1,205.48) assessed against Lots 20, 24, 25, 29, 823, 828, 830, 831, 832, 833, and 834 in Square 56, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(2) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Forty-five Dollars and Eighty-eight cents ($145.88) assessed against Lot 811 in Square 77, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(3) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Two Hundred and Forty-five Dollars and Sixteen cents ($245.16), was assessed against Lot 830 in Square 101, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(4) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Fifty-two Dollars and Twelve cents ($152.12) assessed against Lots 829 and 830 in Square 55, Washington, D. C. was invalidly assessed and is hereby cancelled.

(5) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Seven Hundred and Six Dollars and Seventy-eight cents ($706.78) assessed against Lots 53, 54, 55, 56, 57, 58, 59 and 810 in Square 79, Washington, D. C. was invalidly assessed and is hereby cancelled.

(6) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of One Hundred and Thirteen Dollars and Seventy-four cents ($113.74) assessed against Lot 809 in Square 77, Washington, D. C. was invalidly assessed, and is hereby cancelled.

(7) That a real estate tax for the fiscalyear ending June 30, 1954, in the amount of One Hundred and Twenty-seven Dollars and Thirty-six cents ($127.36) assessed against Lot 34 in Square 79, Washington, D. C. was invalidly assessed and is hereby cancelled.

(8) That a real estate tax for the fiscal year ending June 30, 1954, in the amount of Three Hundred and Twenty Dollars and Eighty-four cents ($320.84) assessed against Lot 831 in Square 55, Washington, D. C., was invalidly assessed, and is hereby cancelled.

Decisions in the above mentioned proceedings will be entered for the petitioner.

Jo. V. Morgan
Jo. V. Morgan
Judge

DISTRICT OF COLUMBIA TAX COURT

THE GEORGE WASHINGTON UNIVERSITY,
Petitioner,

vs.

DISTRICT OF COLUMBIA,
Respondent.

DOCKET NO. 1401

FILED
APR 29 1954
District of Columbia
Tax Court

DECISION

This proceeding came on to be heard upon the petition filed herein; and upon consideration thereof and of the evidence adduced at the hearing on said petition, it is by the Court this 29th day of April, 1954

ADJUDGED AND DETERMINED, That a real estate tax for the fiscal year ending June 30, 1954 in the amount of One Thousand Two Hundred and Five Dollars and Forty-eight cents ($1,205.48) assessed against Lots 20, 24, 25, 29, 823, 828, 830, 831, 832, 833, and 834, in Square 56, Washington, D. C., was invalidly assessed, and is hereby cancelled.

Jo. V. Morgan,
Judge

Findings of Fact, Opinion and
Decision served as follows:

J. Edward Burroughs, Jr., Esq.,
Cary McN. Euwer, Esq.,
Attorney for Petitioner,
1625 K Street, N. W.,
Washington, D. C. (Mailed 4/29/54)

Assessor, D. C. (Personally 4/29/54)

Corporation Counsel, D. C. (Personally 4/29/54)

Phyllis R. Liberti, Clerk