OPINION NO. 984

DISTRICT OF COLUMBIA TAX COURT

FILED

APR 20 1961

District of Columbia Tax Court

AMERICAN FRIENDS SERVICE COMMITTEE, INC., Petitioner,	)	
vs.	)	DOCKET NOS. 1719 and 1720
DISTRICT OF COLUMBIA, Respondent.	)	

FINDINGS OF FACT AND OPINION

The petitioner in the two cases above appeals from assessments of real estate taxes on two pieces of property which it owns, and which, it claims, are used for purposes of education and public charity. The respondent contends that the activities of the petitioner in the properties do not amount to education or charity; and that the assessments are valid.

Findings of Fact

1. The petitioner is a Delaware corporation with its principal office at 160 North Fifteenth Street, Philadelphia, Pennsylvania. The petitioner is not organized or operated for private gain. Its purpose and object as stated in its charter are the following:

> "THIRD: The purpose and object of said Corporation is to engage in religious, charitable, social philanthropic and relief work in the United States and in foreign countries on behalf of the several branches and divisions of the Religious Society of Friends in America; and in addition to the purposes and objects expressly enumerated above, to promote the general objects and purposes of the said several divisions and branches of the said Religious Society of Friends and to have and exercise all powers necessary, or convenient for the same, or incident thereto, as well as all powers granted or permitted by law."

2. The petitioner is, and was on July 1, 1960, the owner of Lots 163 and 164 in Helen S. Meserve's subdivision of lots in Square 133, Washington, District of Columbia, improved by a large residential type building, being premises No. 1825 R Street, Northwest, and known as "International Student House", and which will hereinafter be so called.

3(a) The accomodations of International Student House and the activities carried on therein were generally for the use and the benefit of students from foreign countries who were attending American University, the University of Maryland, Howard University, District of Columbia Teachers College, Georgetown University, George Washington University, Strayer's Business College, Johns Hopkins School of International Relations and other educational institutions in and around Washington.

(b) The accomodations and activities were afforded to the above described students without regard to their countries of origin and without regard to their race, color or religion. Approximately thirty foreign nationalities are represented by the students.

(c) Thirty-four of the students lived in the house and were furnished breakfast and dinner. A substantial number of others took their meals therein, and a number attended the various activities carried on therein, and paid therefor a a small membership fee.

4(a) Groups, called "discussion groups", attended discussion sessions at which prominent persons were invited to, and did come and discuss current affairs and answered questions asked by the students, after which the students engaged in a general discussion.

(b) There were held what was called "nationality dinners", at which groups of students from one foreign country came together and cooked dinner, and at which there was arranged with

the assistance of the embassy of their country an exhibit, and a program of dancing or singing or whatever was most typical of their country.

(c) There were group meetings called "English conversation" attended by those students who were in the first trying period of learning English and whose English was not good enough to under stand teachers sufficiently. "English conversation" was held on Tuesday nights of each week at which a number of persons who spoke both English and the particular foreign language came and instructed or assisted the students in learning English.

(d) Twice a month, on Friday nights, there was held a dance run by the "Students' Council" and open to members of the house, who could have one guest.

(e) There was held a small amount of folk dancing.

(f) There was held each Sunday what was called "Sunday afternoon tea" which could be attended by any foreign student, whether a member of the house or not. The tea was held at 4 o'clock, and the students were given the opportunity to meet some Washingtonians and other foreign students.

(g) A few musical programs were held during the year.

(h) In the summer the students were offered facilities for picnics, arrangements were made by International Student House to have persons who owned swimming pools and creeks, invite the students to their home and have a picnic on their property.

(i) An important activity of International Student House was what was called "home hospitality". The house arranged meetings between the students and Washingtonians living in the neighborhood of the house, and arranged that the neighbors invite the students to their home, especially at Christmas, New Year and Thanksgiving.

5. The International Student House contains very few single bedrooms, one room large enough to accomodate four students and the rest were double rooms.

6(a) According to the accomdation, the rates are $68 to $72 per month for room, laundrying of linen, breakfast and dinner. Both meals are large, even under American standards.

(b) There were a few transients. There were rooms for four male students who were in Washington for a week or two. They were charged $2.66 per day for room and breakfast.

(c) A number of Congolese students who lived in a rooming house nearby and a number of other foreign students who did not live in International Student House came in for breakfast and dinner. A lavish breakfast is served to them for 60 cents each, and a substantial dinner for $1.20 each, or ten dinner tickets for $10.80.

(d) For the Friday night dances the students attending paid 25 cents.

7. The International Student House has been, and still is operated at a substantial deficit, due to the fact that the rooming accomodations, meals and other services furnished as above stated cost substantially more than the amounts collected therefor from the students.(1) The annual deficit is approximately $15,000, and is met from the sources following: $4,500 from a benefit party given by the Citizens Council of International Student House; $2,000 to $3,000 from a bazaar conducted by Sidwell Friends School, and the balance, approximately, $9,000 from the petitioner's office in Philadelphia.

8. On September 1, 1960, the assessing authority of the District of Columbia assessed a real estate tax for the fiscal year ending June 30, 1961, on the aforesaid Lot 163 in the amount of $2,217.20, and on the aforesaid Lot 164 in the amount of $264.50. The petitioner has not paid the tax.

(1) In respect of students from the Congo and Ghana, the charges were assumed and paid by the United States Government.

9. This case was filed on November 14, 1960.

Docket No. 1720

10(a) The petitioner is, and was on July 1, 1960, the owner of Lot 148 in Theodosia Wallace Pleadwell and other's subdivision of lots in Square 134, Washington, District of Columbia, improved by a residential type building, being premises No. 1822 R Street, Northwest, and known as "Davis House", and which will hereinafter be so called.

(b) Davis House has four floors, nine bedrooms, a dining room, parlor, small kitchen, reception hall and an office.

11(a) Davis House accepted guests from foreign countries. It accomodated about ten guests at a time. The guests stayed at Davis House for a few days only, in other words, they were transients.

(b) The guests were referred to Davis House by the Departments of the United States Government, the departments of the United Nations, the Society of Friends (Quakers) and other similar organizations.

(c) The guests lived at the Davis House and were looked after by the directors, who helped them with their problems while visiting Washington in any way that they could do so. Breakfast was served to the guests. In addition, an afternoon tea was held for the guests and for anyone else who wished to attend.

(d) The charge to a guest for one overnight lodging and breakfast was $3.75; and to a married couple, $6.25.

12(a) There is held a prayer service each morning for a few minutes; and a regular Sunday School class was held in the Davis House every Sunday.

(b) Davis House served as a meeting place for the petitioner in relation to the different projects it had.

(c) Davis House served as a meeting place for other groups whose purposes were similar to those of the petitioner.

(d) In addition many groups, seminar and other small groups, came to the Davis House for luncheons and dinners.

(e) The usual charge for each lunch or dinner was $1.50, but such charge was reduced or increased according to the kind of meal served, it being the purpose of the house to charge the cost of the meal and no more.

13. The seminars that were held in Davis House were called "International Affairs Seminars of Washington". They were a project of the petitioner. The participants generally met at Davis House for dinner, but sometimes for lunch. They consisted of about twenty persons drawn from the Executive and Legislative branches of the United States, the press and educational organizations. They met about once a month and discussed international affairs.

14. The cost of operating Davis House was approximately $25,000 per annum. Of that expense one-third was met by the charges of $3.75 per night per guest, one-third from the endowment of Mrs. Bancroft Davis (2) and one-third from the petitioner's Philadelphia office. The deficit from operation was approximately $17,000 per annum.

15. On September 1, 1960, the assessing authority of the District of Columbia assessed a real estate tax for the fiscal year ending June 30, 1961, on the aforesaid Lot 148 in the amount of $624.46. The tax has not been paid by the petitioner.

16. This case was filed on November 14, 1960.

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(2) The donor of Davis House.

Opinion

These two cases involve the taxation of two pieces of real estate in the District of Columbia owned by the petitioner. One of the properties was a large residential type building, being No. 1825 R Street, Northwest, and known as "International Student House". It will hereinafter be so called. The other property was a residential type building also. It is number 1822 R Street, Northwest, and is known as "Davis House". It will hereinafter be so called.

The petitioner is a non-profit institution, with its principal office or headquarters in Philadelphia, Pennsylvania. Its purpose and object are set forth in its charter as follows:

> "THIRD: The purpose and object of said Corporation is to engage in religious, charitable, social philanthropic and relief work in the United States and in foreign countries on behalf of the several branches and divisions of the Religious Society of Friends in America; and in addition to the purposes and objects expressly enumerated above, to promote the general objects and purposes of the said several divisions and branches of the said Religious Society of Friends and to have and exercise all powers necessary, or convenient for the same, or incident thereto, as well as all powers granted or permitted by law."

The taxing authority of the District of Columbia assessed real estate taxes on the two properties. From that assessment the petitioner here appeals.

Inasmuch as the facts relating to the operation of the two houses are different in important respects, they will be discussed separately.

International Student House

Docket No. 1719

International Student House is operated by the petitioner under the immediate control of a director. Its primary purpose is to furnish food and lodging to students from foreign countries attending schools, colleges and universities in and around Washington. These and other facts hereinafter detailed were

the same at the beginning of the current fiscal year.[3]

About thirty-four of the students live in the house, that is to say, are furnished lodging, breakfast and dinner. A substantial number come in for meals - breakfast and dinner, while others come to the house to participate in the various activities carried on therein.

It claims that both of the properties are exempt from real estate taxes under Section 47-801a(h),[4] which exempts the following property:

> "Buildings belonging to and operated by institutions which are not organized or operated for private gain, which are used for purposes of public charity principally in the District of Columbia."

Groups of foreign students, called "discussion groups" attended discussion sessions at the house at which prominent persons were invited to, and did come and discuss current public and international affairs and answered questions asked by the students, after which the students engaged in a general discussion. The following recounted by the director while a witness was typical of the sessions.

> "Now, let me tell you what happened night before last when Marquis Childs was our speaker. He not only gave what I considered a very welcome view of American foreign policy, but he was able in the discussion period to let a number of Africans, let's say, and a number of Arabian students ask questions which apparently had been bothering them for a long time; that is, in the nature of grievances and so forth. He was able to deal with those very, very successfully.
>
> "I should say it was quite different from what we usually think of going on in a classroom, because this is, we hope, affecting their attitudes toward Americans, and so forth.
>
> "A few weeks ago Leon Keyserling had done the same thing, and twice more this month other similar people will be doing that.
>
> "So, it does give foreign students the chance to talk to a well-informed American who knows and is very knowledgable about foreign policy and so forth. It gives them a chance to let off steam, so to speak, and to get their ideas clarified and revised. I consider that educational, but I don't think it is what you get in the classroom."

There were held in the International Student House what was called "nationality dinners", at which groups of students from

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(3) July 1, 1960 to June 30, 1961, which is the taxable year here involved.

(4) Section 1(h), Act of December 24, 1942.

one foreign country came and cooked dinner, and at which there was arranged, with the assistance of the embassy of their country, an exhibit and a program of dancing or singing or whatever was most typical of their country.

On Tuesday nights there were held group meetings called "English conversation", attended by, and for the benefit of those students who were in the first trying or difficult period of learning English. At those meetings were a number of persons familiar with English and the particular foreign language.

Twice a month, on Friday nights there was a dance run by the "Students' Council", open to members of the house and one guest. Occasionally there was folk dancing. A tea, called "Sunday afternoon tea" took place every Sunday afternoon, which was attended by foreign students, whether members of the house or not, and at which the students had the opportunity to meet socially Washingtonians and other foreign students. A few musical programs were given during the year. In the summer arrangements by the International Student House were made with persons who owned swimming pools and creeks to invite students to their homes and have picnics on their property.

An important activity of International Student House was what was called "home hospitality". There were arranged meetings between students and Washingtonians living in the neighborhood of the house, who invited the students to their homes, especially at Christmas, New Year and Thanksgiving.

The benefit of all the foregoing activities and accomodations was afforded the foreign students without regard to their countries of origin, or race, color or religion. Approximately thirty foreign countries were represented by the students associated with International Student House.

The house contains very few single bedrooms, one room large enough to accomodate four students and the rest double rooms. The rates were $68 to $72 per month for room, laundering

of linen, breakfast and dinner. Both meals were substantial. There were rooms for four students in Washington for short periods. They were charged $2.66 per day for room and breakfast. In addition, there were a number of Congolese students living in a rooming house nearby and a number of other students not living at International Student House who came in for breakfast and dinner. They were served substantial meals at 60 cents for breakfast and $1.20 for dinner, or ten dinner tickets for $10.80. The charge for attendance at the Friday night dances was 25 cents.(5)

The International Student House has been, and still is operated at a substantial deficit, due to the fact that the rooming accomodations, meals and other services furnished as above stated cost substantially more than the amounts collected therefor from the students. The annual deficit is approximately $15,000, and is met from the sources following: $4,500 from a benefit party given by the Citizens Council of International Student House; $2,000 to $3,000 from a bazaar conducted by Sidwell Friends School, and the balance, approximately, $9,000 from the petitioner's office in Philadelphia.

The Court is of the opinion that the activities carried on by the petitioner in the International Student House amounted to charity. They were not only of extreme value to the foreign students who were fortunate enough to be associated with the house, but to the nation and to the community as well. In International Reform Federation v. District Unemployment Compensation Board, 76 U.S. App. D.C. 282, 284, 131 F.2d 337, is the observation by Chief Judge Groner following:

> "Counsel for the Board insist that, in order to be classified as a charitable corporation, it is necessary that appellant show that its principal objectives are to provide for the poor, the sick, and the needy, but we think this is too narrow and restricted a formula. In Commissioner v. Pensel, Lord MacNaghten said that charity,

(5) In respect of students from the Congo and Ghana, the charges were assumed and paid by the United States Government.

in its legal sense, comprises four principal divisions--trusts for the relief of proverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes beneficial to the community, not falling under any of the preceding heads. And we know of no modern case in which the definition has been confined strictly to the enumeration found in the Statute of Elizabeth. On the contrary, as the California Court said: ' * * * the differing condition, character, and wants of communities and nations, change and enlarge the scope of charity, and where new necessities are created new charitable uses must be established.'

"And, as Chief Justice Fitzgibbon in an Irish case said, if the benefit is one which the founder believes to be of public advantage and his belief is rational and not contrary to the general law of the land or the principles of morality, the gift is charitable in the eye of the law."

See also: Catholic Home for Aged Ladies v. District of Columbia, 82 U.S. App. D.C. 195, 161 F.2d 901; District of Columbia v. Friendship House Association, 91 U.S. App. D.C. 137, 198 F.2d 530.

To the same effect is the excerpt from the opinion in Old Colony Trust Co. v. Welch, 25 F.2d 45, following:

"The case of Little v. Newburyport, 210 Mass. 414, 417, 96 N.E. 1032, Ann. Cas. 1912 D, 425, in holding that the Young Men's Christian Association was a charitable institution because of the fact that it provided moral, mental, and physical welfare of young men, stated 'Charity in the legal sense is not confined to mere almsgiving or the relief of poverty and distress, but has a wider signification, which embraces the improvement and promotion of the happiness of man'. [page 1033]."

In People v. Y.M.C.A., 365 Ill. 118, 6 N.E.2d 166, 169, we find this language:

"'Charity', in law, is not confined to the relief of poverty or distress or to mere almsgiving, but embraces the improvement and promotion of the happiness of man."

As was said in Southern Methodist Hospital, etc. v. Wilson, 51 Ariz., 424, 77 P.2d 458, 461, "The idea which is back of all definitions of charity, we think, may well be described as 'an act or feeling of benevolence'. It is based primarily upon the motive behind the act, which is that of benefit to another, without private profit to the donor."

In Union & New Haven Trust Co. v. Eaton, 20 F.2d 419, 421, a bequest to a corporation whose corporate object and purpose was

"the promotion of practical benevolence in the City of New Haven" was held to be deductible for Federal estate tax purposes.

An old case, which arose in the District was Ould v. Washington Hospital for Foundlings, 95 U.S. 306, 24 L.Ed. 450, 451. It has been frequently cited and relied upon. There we find that "A charitable use, where neither law nor public policy forbids, may be applied to almost anything that tends to promote the well doing and well being of man" (citing Perry on Trusts, Section 687). In the International Reform Federation case cited above, the majority opinion applied to taxation the principles of trusts in relation to charity.

Another old Supreme Court case is Peron v. Carey, 24 Howard 465, 506, 16 L.Ed. 701, 711, wherein is found in relation to "charity" the following: "The answer is, that charity is a gift to a general public use, which extends to the rich as well as to the poor."

See also: Armstrong v. Wallace, 8 Cal. App. 2d 429, 47 P.2d 740, 742; Franklin Square House, 188 Mass. 409, 74 N.E. 675.

For the reasons stated the Court holds that real estate taxes for the fiscal year ending June 30, 1961, assessed against Lots 163 and 164, in Helen S. Meserve's subdivision of lots in Square 133, as per plat recorded in Liber 46, folio 188 of the Records in the Office of the Surveyor of the District of Columbia, in the total amount of $2,481.70, were erroneously assessed, and must be cancelled.

Davis House

Docket No. 1720

Davis House was operated by the petitioner under the immediate control of a man and his wife as directors. It has four floors, nine bedrooms, a dining room, parlor, kitchen, reception hall and an office. Its primary purpose was to supply living accomodations to guests or visitors from foreign countries

who were in Washington for short periods of time, and who were referred to the Davis House by the Departments of the United States Government, departments of the United Nations, the Society of Friends and similar organizations.

The guests at Davis House were looked after by the directors, who helped them with their problems while visiting Washington in any way that they could. Breakfast was served to the guests, and, in addition, an afternoon tea was held for the guests and for anyone else who wished to attend. The charge to a guest for one overnight lodging and breakfast was $3.75, and to a married couple, $6.25.

A prayer meeting of a few minutes each morning took place in the Davis House, and a regular Sunday school class was held therein each Sunday. The house served as a meeting place for other groups whose purposes were similar to those of the petitioner. In addition, many seminar and other small groups came to the house for luncheons and dinners. The usual charge for lunch or dinner was $1.50, but that charge was reduced or increased according to the kind of meal served, it being the purpose of the house to charge the cost of the meal and no more.

The seminars that were held in Davis House were called "International Affairs Seminars of Washington". They were a project of the petitioner. The participants generally met at Davis House for dinner, but sometimes for lunch. They consisted of about twenty persons drawn from the Executive and Legislative branches of the United States, the press and educational organizations. They met about once a month and discussed international affairs.

The cost of operating Davis House was approximately $25,000 per annum. Of that expense one-third was met by the charges of $3.75 per night per guest, one-third from the endowment of Mrs. Bancroft Davis and one-third from the petitioner's

Philadelphia office. The deficit from operation was approximately $17,000 per annum.

The solution of the question presented in relation to the taxation of Davis House has presented some difficulty to the Court. The facts, are different from those concerning the International Student House, - at least, superficially. After a good deal of thought and consideration of the manifest purpose of the activities of the petitioner in that house, the Court has come to the conclusion that under the decisions cited in the International Student House case the activities must be held to be charitable.

For the reasons stated the Court holds that a real estate tax for the fiscal year ending June 30, 1961, assessed against Lot 148 in Theodosia Wallace Pleadwell and others' subdivision in Square 134, Washington, D. C., as per plat recorded in Liber 40, folio 115 of the Records of the Office of the Surveyor of the District of Columbia, in the amount of $624.46, was erroneously assessed and must be cancelled.

Decisions will be entered for petitioners.

Jo. V. Morgan,
Judge.

DISTRICT OF COLUMBIA TAX COURT

FILED

APR 20 1961

District of Columbia
Tax Court

AMERICAN FRIENDS SERVICE COMMITTEE, INC., Petitioner,	)	
vs.	)	DOCKET NO. 1719
DISTRICT OF COLUMBIA, Respondent.	)	

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 20th day of April, 1961,

ADJUDGED AND DETERMINED, that real estate taxes for the fiscal year ending June 30, 1961, assessed against Lots 163 and 164, in Helen S. Meserve's subdivision of lots in Square 133, as per plat recorded in Liber 46, folio 188 of the Records in the Office of the Surveyor of the District of Columbia, in the total amount of $2,481.70, were erroneously assessed, and are hereby cancelled.

Jo. V. Morgan,
Judge.

Findings of Fact, Opinion &
Decision served as follows:

Robert Hale, Esquire,
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Finance Officer, D.C. (Messenger 4/20/61)

Phyllis R. Liberti,
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