

Opinion No.  
1155

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CLERK OF  
SUPERIOR COURT OF THE  
DISTRICT OF COLUMBIA  
TAX DIVISION

FEB 14 1973

FILED

WASHINGTON BIBLE COLLEGE, )

Petitioner )

v. )

Docket No. 2250

DISTRICT OF COLUMBIA, )

Respondent )

OPINION AND ORDER

The petitioner appeals from an assessment for real property taxes made for Fiscal Year 1974 and a portion of Fiscal Year 1975.<sup>1/</sup> The subject property is located on Rhode Island Avenue, N.W. in the District of Columbia with street numbers and legal descriptions as follows: 1441, 1443, and 1445 (Square 210, Lot 834), 1449 (Square 210, Lot 833), 1451 (Square 210, Lot 93) and 1453 (Square 210, Lot 94). Throughout this Opinion and Order the property will be described solely by the street address.

The total tax involved for Fiscal Year 1974 is \$9,058.50.

The assessment was mailed on April 4, 1974. The subject property

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<sup>1/</sup> The petition refers only to the appeal for Fiscal Year 1974 (July 1, 1973 to June 30, 1974), however, the petitioner presented evidence concerning its alleged entitlement to exemption for the above fiscal year to and including September 30, 1974, representing a portion of Fiscal Year 1975.

had previously been treated as exempt under the predecessor of D. C. Code 1973, §47-801a(n) as "buildings belonging to religious corporations and societies primarily and regularly used for religious worship, study, training and missionary activities", however, the property was returned to the tax rolls for Fiscal Year 1974.

The petitioner contends that it was entitled to have the property continued as exempt property under D. C. Code 1973, §47-801a(j), (n), (q) and (r).

This Court has jurisdiction to hear this appeal pursuant to D. C. Code 1973, §11-1201.

I

The Court held a nonjury trial in this case and the facts as found by the Court are set forth below.

The petitioner is a nonprofit educational corporation, incorporated in the District of Columbia, with its principal office located at 6511 Princess Gardens Parkway, Lanhan, Maryland. The tax in controversy for Fiscal Year 1974 is on the property described as 1441, 1443, 1445, 1449, 1451 and 1453 Rhode Island Avenue, N.W., and is in the amount of \$9,058.50. The petitioner also claims exempt status up to September 30, 1974. The petitioner had apparently been granted an exemption on some of the property as early as 1947. It subsequently acquired additional property in the same location which makes up the subject property and according to the respondent, that property was all exempted from real property

taxes pursuant to Section 47-801a(n). (Resp. Memo of Law 1.)

The petitioner acquired property in Lanham, Maryland, in June 1969 with the intention of moving the school to that location. It also began to look for a purchaser for the District property at or about the same time. The school moved to the Lanham, Maryland campus in September 1969 and the administrative offices were moved there in 1972. The petitioner finally sold the property, on or about September 30, 1974, for \$532,000. A District of Columbia Revenue Officer visited the property on January 31, 1974 after his attention was called to the property when he observed leaves and other debris in the entranceway of 1441 Rhode Island Avenue, N.W. His attempts to reach someone at that address were unsuccessful however, he was successful in meeting the caretaker at 1449 Rhode Island Avenue, N.W. who had been employed by the petitioner to look after all of the property. The Revenue Officer observed no students or classes but did see some old furniture in some of the rooms and buildings.

The petitioner did not have regular classes on the subject property during the period July 1, 1973 to September 30, 1974. It did conduct evening adult classes on the property Tuesday evenings between September 11 and December 11, 1973 from 7:00 p.m. to 8:50 p.m. Those were two 50 minute classes,<sup>2/</sup> and the registration fee for each course was \$10.00.

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<sup>2/</sup> The classes were as follows: From 7:00 to 7:50 p.m. the class was entitled "Trinity (Unit 9)" and from 8:00 to 8:50 p.m. the class was entitled "Book of Romans".

No tuition was charged. The spring semester included two Tuesday evening classes between January 22 and April 23, given at the same time and with the same registration fee as for the fall courses.<sup>3/</sup> No other classes were given at the Rhode Island Avenue address between July 1, 1973 and September 30, 1974. (Pet. Ex. 1.) Those classes were given in the building located at 1449 Rhode Island Avenue and a total of 30 to 50 students attended per week.

The classes were held on the first floor of 1449 Rhode Island Avenue and the caretaker lived on the upper floor. Some furniture was located at 1441, 1443, 1445, 1451 and 1453, however, the furniture stored there appeared to be old. The remaining equipment was transferred from the buildings in July 1974. The petitioner did not receive rental income on the property during the taxable periods.

The petitioner was accredited as a school in 1951 and confers a Bachelor of Arts degree. The primary office building prior to transfer of the school to Lanham, Maryland was 1441 Rhode Island Avenue, and at one time the school, when it was located in the District, had nine fulltime

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<sup>3/</sup> The spring term courses were: 7:00 to 7:50 p.m. "New Testament Survey (Unit 3)" and 8:30 to 8:50 p.m. "Book of Joshua".

professors.

II

The rule in this jurisdiction is that exemptions from taxation are strictly construed against the person or entity claiming the exemption. Conference of Major Religious Superiors of Women, Inc. v. District of Columbia, 121 U.S. App. D. C. 171, 348 F.2d 783 (1965); Washington Chapter of American Institute of Banking v. District of Columbia, 92 U.S. App. D.C. 139, 203 F.2d 68 (1953); Hebrew Home for the Aged v. District of Columbia, 79 U.S. App. D.C. 64, 142 F.2d 573 (1944); Combined Congregations of District of Columbia v. Dent, 78 U.S. App. D.C. 254, 140 F.2d 9 (1943); District Unemployment Compensation Board v. Security Storage Company of Washington, 365 A.2d 785, 790, n. 9.

Here the petitioner contends that the property is exempt under Sections 47-801a(j), (n), (q), and (r).

It seems clear that the petitioner was not entitled to an exemption under Section 47-801a(q) since that provision grants an exemption on "buildings belonging to organizations which are charged with the administration, coordination, or unification of activities, locally or otherwise, of institutions or organizations entitled to exemption" under some other provision.

This petitioner really makes no such claim. The petitioner is a college and its main facility is located in Lanham, Maryland. There is no evidence that it is charged with the administration, coordination or unification of any activities.

Even more important in this connection is the fact, admitted by the petitioner, that it moved its offices to Lanham, Maryland in 1972 prior to the taxable period and that it maintained no school offices on the subject property during the taxable period. The petitioner does not qualify for exemption under Section 47-801a(q). See Conference of Major Religious Superiors of Women, Inc. v. District of Columbia, supra.

III

The petitioner also claims that the property was exempt under Section 47-801a(n) which grants an exemption to "buildings belonging to religious corporations or societies primarily and regularly used for religious worship, study, training, and missionary activities".

It is interesting to note that the respondent contends that the petitioner was originally granted an exemption under this section, however, no evidence was introduced to show that the petitioner is or was a "religious corporation or society". Even though the term "religion" and "religious" in ordinary usage are not rigid concepts, Washington Ethical Society v. District of Columbia, 101 U.S. App. D.C. 371, 373, 249 F.2d 127, 129 (1957), petitioner must still present some evidence to support the claimed exemption. As has already been noted, exemptions from taxation are strictly construed. Part II, supra.

Here there is no evidence that the petitioner is a religious society; indeed, petitioner describes itself, not as a religious society but as a "nonprofit educational corporation". (Pet. ¶1.) Moreover, the petitioner has failed to present any evidence that the buildings were used for religious worship or missionary activities. If the buildings were exempt, they were exempt as buildings belonging to or operated by a school. Finally, assuming for the moment that the petitioner qualifies as a religious society, there is no evidence that property was "primarily and regularly used for religious worship, study, training and missionary activities". The key in recognizing the exemption under this provision is that the property be owned by a religious society or corporation and the use of the property: Calvary Baptist Church Extension Assoc. v. District of Columbia, 81 U.S. App. D.C. 330, 158 F.2d 327 (1946); District of Columbia v. Maryland Synod of the Lutheran Church in America, 307 A.2d 735 (D.C. App. 1973). See also H.R. Rep. No. 2635, 77th Cong. 2d Sess. (1942).

The petitioner has failed to prove that it is a religious society or that the character of the work carried on within fell within the requirement of the exemption, and accordingly, it must be denied an exemption under Section 801a(n).<sup>4/</sup>

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<sup>4/</sup> The fact that the school devotes considerable time to the study of the Bible and religion does not automatically entitle it to an exemption under D. C. Code 1973, 547-801a(n) nor does it entitle it to be deemed a religious society or corporation.

IV

It would seem that if the property was exempt, it would have been exempt under Section 47-801a(j) which exempts 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".

This Court believes that the petitioner has presented sufficient evidence that the petitioner is a school or college as those terms are used in the statute. The petitioner is a "nonprofit educational corporation", a fact admitted by the respondent. It has been accredited and offers a degree. It embraces the "generally recognized relationship of teacher and student". It is not operated for private gain. The subject property was owned by the petitioner. Thus, up to this point, it would appear to be entitled to exempt status.

At this point, however, there is a question since the petitioner actually operated its school in Lanham, Maryland, and, during the taxable year, was attempting to dispose of the subject property and did in fact dispose of the property in September 1974. In this sense then, there is a question whether the property was reasonably required and used for the purpose of carrying on the activities of the petitioner. Gibbons v. District of Columbia, 116 U.S. 404 (1886); District of Columbia v. George Washington University, 100 U.S. App. D.C. 140, 243 F.2d 246 (1957); District of Columbia v. George Washington University, 95 U.S. App. D.C. 214, 221 F.2d 87 (1955).

that portion of the property identified as 1441, 1443, 1445, 1451 and 1453 Rhode Island Avenue is concerned, this Court finds that petitioner has failed to demonstrate that the property was reasonably required for the purpose of carrying on the activities of the petitioner during Fiscal Year 1974 up to and including September 30, 1974. There was no evidence that the storage of some pieces of student furniture at those addresses was reasonably required by the petitioner, or that the petitioner did not have ample storage facilities at its campus in Lanham, Maryland, or that the furniture stored at Rhode Island Avenue was actually stored or just furniture which was not moved at the time the school moved to Lanham, or that it had any value or was of any use to the petitioner. This Court is left to conclude that the petitioner just happened to have some pieces of furniture at the Rhode Island Avenue site - a factor which does not justify the granting of exempt status. Furthermore, it may well have been that all the furniture "stored" in the several buildings could have been stored in one building rather than several thus allowing for the exemption of only one building providing all other prerequisites were met.

Therefore, as to the above lots and buildings the Court is satisfied that the petitioner was not entitled to an exemption. This Court can, of course, recognize an exemption for even a part of a building, District of Columbia v. Young Men's Christian Assoc., 95 U.S. App. D.C. 179, 221 F. 2d 56 (1955); there is no impediment to the refusal of exempt

status for one or more of several buildings or lots even though they are adjoining properties.

This Court holds therefore that petitioner is not entitled to an exemption for those properties described as 1441, 1443, 1445, 1451 and 1453 Rhode Island Avenue, N.W. in the District of Columbia.<sup>5/</sup>

V

The remaining issue is whether the property located at 1449 Rhode Island Avenue where adult evening classes were given by the petitioner once a week between September 1973 and May 1974 should have been exempt from real property taxes.

It is noted that adult evening classes were given by the school in churches in Arlington and McLean, Virginia, and at the main campus in Lanham, Maryland. The only fee charged was for registration and the courses were apparently not for college credit. (Pet. Ex. 1.) Although the bulletin (Pet. Ex. 1) listed the Rhode Island Avenue address as 1441, the evidence presented during the trial revealed that the classes were actually given at 1449. Classes were given only on the first floor and the caretaker occupied the second floor.

The petitioner contends that the limited use of 1449 entitles petitioner to an exemption on the building; the

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<sup>5/</sup> The same is true whether the exemption is claimed under D. C. Code 1973, §47-801a(n) or (j).

respondent contends it does not, and if exempt at all, only a portion is exempt.

A somewhat analogous factual situation was found in Bethal Pentecostal Tabernacle v. District of Columbia, 106 A.2d 143 (D.C. Mun. App. 1954). There the church, which sought to claim an exemption under what is now D.C. Code 1973, §47-801a(m), had sold the building but contended that it was entitled to an exemption because on the first day of the taxable year the old church was being cleaned and repaired by members of the church's congregation who had also conducted religious services therein. The court denied the exemption because the building was not primarily and regularly used for public religious worship and because the congregation came primarily to work and not for worship. *Id.* at 145.

Here, although the use of the property between September 1973 and May 1974 was limited, the fact remains that the school regularly scheduled its evening adult classes there and published a notice and bulletin to that effect. Moreover, the petitioner's evidence suggested that the adult classes served the members of the community who previously had been served before the main school had been transferred to Lanham and who might have found it inconvenient or even impossible to travel to the new campus. The adult education courses were also consistent with other such courses given in other jurisdictions by the same school, suggesting again that the petitioner did not merely operate the adult classes in an attempt to gain

O R D E R

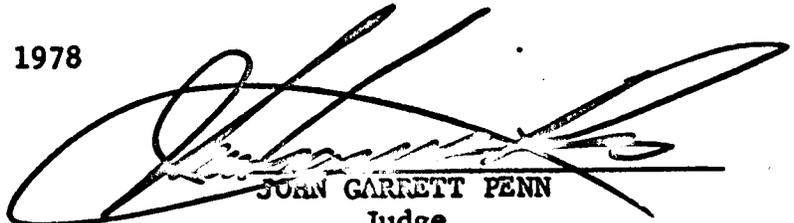
It is hereby \_\_\_\_\_

ORDERED as follows:

1. The petitioner was not entitled to an exemption for Fiscal Year 1974 or for any portion of Fiscal Year 1975 on the property located at 1441, 1443, 1445, 1451 and 1453 Rhode Island Avenue, N.W. in the District of Columbia.
2. The petitioner was entitled to an exemption on one-half of the property for Fiscal Year 1974, beginning July 1, 1973 and ending June 30, 1974, for that property located at 1449 Rhode Island Avenue, N.W. in the District of Columbia.
3. The petitioner was not entitled to an exemption for any portion of Fiscal Year 1975 for the property located at 1449 Rhode Island Avenue, N.W. in the District of Columbia.
4. The petitioner shall present an appropriate judgment order within ten days consistent with this Opinion and Order. Petitioner shall file the original of the proposed order directly with the Court and shall serve a copy of the proposed order on counsel for the respondent. The respondent will thereafter have ten days in which to accept the proposed order or note its objections thereto or submit its own proposed order consistent with this Opinion and Order. In the event the respondent fails to make a submission within the ten-day period

this Court will treat such failure as the respondent's acceptance of the form of petitioner's proposed order.

Dated: February 9, 1978



JOHN GARRETT PENN  
Judge

George R. Douglas, Jr., Esq.  
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Assistant Corporation Counsel  
Attorney for Respondent

Copies mailed postage prepaid  
to parties indicated above on  
2/10, 1978.

*Jean Senerius*

*and to*

*Mr. Kenneth Beck  
Penitence Office, D. C.*