

*Opinion  
No 1282*

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

**FILED**

TAX DIVISION

MAY 31 1990

SUPERIOR COURT OF THE  
DISTRICT OF COLUMBIA  
TAX DIVISION

NATIONAL SOCIETY COLONIAL  
DAMES XVII CENTURY,

Petitioner

v.

DISTRICT OF COLUMBIA

Respondent

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Tax Docket No. 4022-88

**MEMORANDUM OPINION AND ORDER GRANTING  
PETITIONER'S MOTION FOR SUMMARY JUDGMENT**

This matter is before the Court upon Cross-Motions for Summary Judgment filed by the parties. Upon consideration of same, the points and authorities in support of the parties' respective positions and the record herein, the Court concludes that petitioner's motion must be granted, and respondent's motion must be denied.

The parties filed a Stipulated Statement of Material Facts As To Which There Is No Genuine Issue. Briefly summarized, the pertinent facts are as follows. Petitioner owns real property at 1300 New Hampshire Avenue, N.W. in the District of Columbia. Petitioner is a non-profit corporation organized under the laws of the District of Columbia. Its bylaws list a number of purposes among which are preservation of records and historic sites, fostering interest in historical colonial research, aiding in the

education of youth, commemorating heroic deeds of the founders of this country, maintaining high principles of virtue, courage and patriotism, maintaining a library of Heraldry, and developing a library specializing in seventeenth century American colonial data. In 1987, the corporation filed with the District of Columbia a statement of election to accept the provisions of the District of Columbia Non-profit Corporation Act. In the statement filed the organization reaffirmed its prior purposes and added to them its intention to maintain a genealogical research library and colonial history museum, to promote scholarship assistance to Americans of Indian descent in medical, dental and nursing fields, to foster other educational activities and patriotic or historically commemorative activities, and to encourage and coordinate efforts of the organization's other chapters in these areas. In 1984, petitioner's bylaws were revised to include among the organization's purposes the development of a library specializing in seventeenth century American colonial data.

The property at 1300 New Hampshire Avenue, N.W. serves as the national headquarters for the organization. The building is used for coordinating the activities of the organization and for operation of the genealogy library and colonial history art gallery. The parties stipulated that 14% of the building is used for office space for the organization. The first, second and third floors of the

property house the colonial history art gallery. These floors are used to display antiques, paintings, furniture, and other art objects of the nation's colonial heritage and the history of the National Society Colonial Dames XVII Century. Except for the administrative office and the library in the basement, the entire property is used to display the antiques, furnishings and other art objects in the gallery. The gallery is open to the general public without charge Monday through Friday from 10:00 a.m. to 3:00 p.m. Staff or docents are available to give guided tours. Generally, the art objects are incorporated as a part of the furnishings in the property. There are three special collections housed in the Textile Room, The Mississippi Room and The Alabama Children's Room. These three rooms are approximately 588 square feet of the approximately 2644 square feet. The contents of the building are insured for \$144,700.

The genealogy library is open to members and to the general public for research Monday through Friday from 10:00 a.m. to 3:00 p.m. at no charge. The library contains 2,877 volumes and 900 frames of microfiche, many of which are unpublished or not available from other library sources. The library contains colonial records by colonies and counties. It contains family histories as well. The public is assisted in the library by staff or a volunteer docent. The library acquires its materials through donations and

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purchases. The library is housed in approximately 408 square feet of the total 2644 square feet of the building. Its collections of books is valued at approximately \$57,540.

In the petitioner's policy of insurance for the property, the property is described as: " club, including lodges, fraternal orders and sororities." The designation appears to be one described by the insurer for selection by the insured rather than a description written by petitioner. In a proposal for liability insurance for its officers in 1986 and 1987, the organization listed as its purposes the preservation of records and historical sites, colonial research, maintenance of a library of seventeenth century American Colonial data, education of youth, and commemoration of heroic deeds of colonial ancestors. In 1954 and 1958, a certificate of occupancy was granted for the use of the subject property as a private club. The certificate of occupancy for the property issued in 1968 shows its purpose as the headquarters for the non-profit society's use.

Petitioner has already qualified for tax exempt status under various statutes of the District of Columbia. It is exempted from income and franchise taxes as a non-profit organization operated for charitable, literary or educational purposes and/or for the promotion of social welfare under D.C. Code §47-1802.1(1981)(1988) Supp. Petitioner was granted an exemption from District of

Columbia sales and use taxes pursuant to D.C. Code §47-2005(3) and 2206 because the organization's activities resulted in substantial benefits to the citizens of the District. It has also been exempted from personal property tax based upon its status as a non-profit group organized exclusively for charitable or educational purposes pursuant to D.C. Code §47-1508(1981)(1988) Supp. Petitioner has been declared exempt from federal income tax pursuant to §501(c)(3) of the Internal Revenue Code.

Petitioner seeks to qualify for an exemption from real property taxes based upon D.C. Code §47-1002(6), (7), (8) (17) and (18). Each of these subsections of the statute requires that the organization seeking the exemption be one that is not organized or operated for private gain. Unquestionably, petitioner is not organized or operated for private gain. Respondent has so stipulated. Petitioner's affidavits and exhibits support this fact. The Federal and District governments have reorganized the organization's non-profit status in granting exemptions from other taxes as described in the foregoing facts. The only questions is whether petitioner meets the other criteria for the exemptions under any of the subsections listed. Unless it does, then it must seek exemption for real property taxes, if it is to obtain it, under D.C. Code §47-1002(11) through special legislation.

One of the petitioner's stated purposes is the

maintenance of a genealogy library. It maintains such a library on the subject premises. The organization acquires material for the library through donations and purchases. The library specializes in seventeenth century American colonial data. The organization's publication, The Seventeenth Century Review, lists the library acquisitions as they are acquired. From all of the facts presented, it appears that one of the primary functions of the organization is the collection and preservation of such data. The subject property is a repository for the extensive collection in the District of Columbia. Even though the library does not occupy the largest space in the building, it appears that many of the administrative functions which are performed in other parts of the building are directed toward library acquisitions. The parties have stipulated that the library is open to the general public at no charge 5 hours each day, Monday through Friday. The number of hours that the library is open is significant consideration in determining its primary purpose.

Similarly, the organization collects and displays antiques, paintings, and furniture and other art objects pertaining to the history of the thirteen colonies in the major portion of the building. These objects are displayed in the first three floors of the subject property. The gallery is open to the public at no charge during the same hours as the library. Most of the building is used to house

the library and the art gallery.

It is the primary use of the property which determines whether it should be exempted from taxes. Hazen v. National Rifle Association of America, 69 U.S. App. D.C. 339, 343 (1938). The stipulated facts show that the primary uses of this building are as a gallery for the display of historical art objects from colonial America and for housing the library of American colonial history. Petitioner has demonstrated that the uses made of the building by the organization fall within the plain meaning of the statutory provision for exemption for art galleries. The library should also qualify for the exemption. The statutory scheme contemplates that portions of the building may be used for other purposes, even non-profit ones. Nevertheless, the exemption is allowed with an assessment for taxes made for only the income producing portions of the building. D.C. Code §47-1005 (1981). In this case petitioner qualifies for the exemption under two different subparagraphs. It should not be disqualified because it houses both a gallery and a library.

The building is also used as the national headquarters for the organization. In that connection many of the administrative functions required to maintain and improve the library and gallery collections, as well as to coordinate the other charitable activities of the organization, are performed in the building. D.C. Code



§47-1002(17) exempts from real property taxes buildings belonging to organizations which are charged with the administration, coordination and unification of activities of organizations which are entitled to exemptions under §47-1002. Since petitioner has shown its entitlement to the exemption under §47-1002(6) and (7) and that the building is used as the administrative headquarters of the organization, it would qualify under section (17) as well.

Respondent's motion for summary judgment and its opposition to petitioner's motion is based upon the restricted membership of the organization allowed under its bylaws. Respondent argues that the society is a narrowly focused social organization which allows the public to use its facilities which exist primarily for the benefit of its membership. These assertions are not supported by the stipulation and other facts identified by the parties. Moreover, the restriction on the membership of the organization does not alter the fact that the organization operates a library and an art gallery which are open to the general public on a regular basis at no charge. It is not the nature of the membership of the charitable organization which dictates its entitlement to the exemptions under D.C. Code §47-1002(6) and (7). The organization which operates an art gallery or library, for use of the public at no charge, must only be one which is not organized or operated for private gain to qualify for tax exemption. Once this

requirement is met, the primary focus of the two subsections is the character of the operation, not the characteristics of the individual members of the organization which owns and operates the library or gallery. As long as the entity is not organized or operated for private gain, and uses the building as a free library or gallery open to the general public, the plain meaning of the statute allows the exemption. In the first instance, the meaning of a statute is determined by its plain language. U.S. v. Edelen, 521 A.2d 774, 778 (1987). Whatever other benefits membership in the organization might offer, the organization itself nevertheless operates an exempt art gallery and an exempt library. Respondent has identified no evidence that the building's primary use is for the benefit of its membership. On the other hand, petitioner has demonstrated that it meets the statutory requirements for the exemption.

Petitioner contends that it is entitled to the exemption based on other sections of the Code. It is not necessary to determine whether it is or not. Once petitioner qualifies under any one of the subsections indicated, it is entitled to the exemption. See District of Columbia v. National Parks Association, 144 U.S. App. D.C. 88,93 (1971). Based on the undisputed facts as stipulated, the parties' affidavits, exhibits and other pertinent portions of the record, it is appears that petitioner is exempt from real property taxes under D.C. Code §47-1002

(6)(7) and (17).

It is therefore by the Court this 31<sup>st</sup> day of May, 1990,

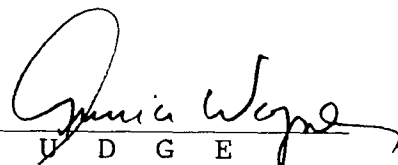
ORDERED, that petitioner's Motion for Summary Judgment be, and hereby is granted. It is further

ORDERED, that respondent's Motion for Summary Judgment be, and hereby is denied. It is further

ORDERED, that petitioner is exempt from real property taxes for tax year 1988. It is further

ORDERED, that the parties shall submit to the Court on or before the 14th day of June, 1990 a statement of the amount of refund to which petitioner is entitled and a proposed order for any refund consistent with this Order. It is further

ORDERED, that the case be, and hereby is set for a status hearing on June 18, 1990 at 9:30 a.m. in Courtroom 213 to determine whether the submission required hereunder has been submitted and any appropriate order entered.

  
J U D G E  
Signed In Chambers

Copies mailed this 1<sup>st</sup> day of May, 1990 to each of the following:

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*Calendar Clerk*

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*Tax Division*

*Harold L. Thomas, Director*  
*Dept. Finance & Revenue*

*R. Stanfield*