

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

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CLERK OF
SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA
TAX DIVISION

HELEN DWIGHT REID
EDUCATION FOUNDATION,

Petitioner,

v.

DISTRICT OF COLUMBIA,

Respondent.

Tax Docket No.6759-9

ORDER

This matter is before the Court on Petitioner's Motion for Summary Judgment and Respondent's Cross-Motion for Summary Judgment. Upon careful consideration of the Petitioner's Motion, Respondent's Opposition, and the entire record herein, it is **ORDERED** that Petitioner's Motion be hereby **GRANTED**, and Respondent's Motion be hereby **DENIED**.

The law governing summary judgment is well settled. Summary judgment is an extreme remedy. Maddox v. Bano, 422 A.2d 763(1980). The moving party carries the burden of proof. Nader v. de Toledano, 408 A.2d 31(1979), cert denied, 444 U.S. 1078. The record is viewed in the light

most favorable to the party opposing the motion. Rinck v. Association of Reserve City Bankers, 676 A.2d 12 (1996).

Summary judgment is appropriate only where the facts submitted to the Court show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Osbourne v. Capital City Mtg. Corp., 667 A.2d 1321(1995).

The Court finds that both the petitioner and respondent agree that the following material facts are undisputed and true. The petitioner, Helen Dwight Reid Educational Foundation (hereafter, "the Foundation"), is a nonprofit, charitable and educational corporation organized under the laws of Maryland. Its sole office is located at 1319 18th Street, N.W., Washington, D.C. 20036. The real property at 1319 18th Street (hereafter, "the Property"), which is the subject of this action, is the Foundation's administrative headquarters and sole base of operations for all educational and charitable activities. The Property is improved by a four-story office building and an adjacent parking lot used by the Foundation's employees.

The Foundation was founded in 1956 to support projects in education, international affairs, and the sciences. In

1972, the Foundation created Heldref Publications to coordinate and unify the publication of academic journals for schools, universities, and colleges throughout the nation. Area schools that have academic journals published by the Foundation include American University, Georgetown University, The George Washington University, Howard University, Catholic University and Mount Vernon College.

The principal question presented in this case is whether the Helen Dwight Reid Education Foundation is entitled to exemption from District of Columbia real property taxes. The Court finds that the Foundation has been granted an exemption from federal income tax under I.R.C. §501(c)(3), because the Internal Revenue Service determined that the Foundation was a public foundation pursuant to I.R.C. §509(a)(2). The Foundation has also been granted exemption from District of Columbia sales and use taxes. However, the petitioner's application for property tax exemption was denied by the D.C. Department of Tax and Revenue. This case is before the Court on the petitioner's appeal of that denial.

The taxes in controversy are real property taxes assessed on the Property from June 1, 1992 to September 30,

1997. The first tax assessment was for June 1, 1992 through June 30, 1993 (Tax Year 1993). The second assessment covered an interim D.C. tax period July 1 through September 30, 1993 (between tax years 1993 and 1994).¹ The third tax assessment ran from October 1, 1993 through September 30, 1994 (Tax Year 1994). The fourth taxation period extended from October 1, 1994 through September 30, 1995 (Tax Year 1995). The fifth tax assessment was October 1, 1995 through September 30, 1996 (Tax Year 1996). The final tax period in controversy extends from October 1, 1996 through September 30, 1997 (Tax Year 1997). The taxes in dispute total \$439,377.44.²

The petitioner argues that it is entitled to a real property tax exemption pursuant to provisions of D.C. Code Ann. §47-1002 for the tax years in controversy.

Specifically, the Foundation argues the Property is tax exempt, because of subsections §47-1002(17)³ and §47-

¹ The 1994 D.C. Budget included a change in the tax accounting year, from July through June, to October through September.

² The \$439,377.44 total is comprised of taxes of \$70,412.50 for Tax Year 1993; \$40,850 for the interim period between tax years 1993 and 1994; \$81,700 for Tax Year 1994; \$81,700 for Tax Year 1995; \$78,220.44 for Tax Year 1996 and \$86,494.50 for Tax Year 1997. The Foundation paid each of these tax assessments in full prior to Tax Year 1997. The Foundation has paid \$43,247.25 of the taxes assessed for Tax Year 1997.

³ The Foundation would be entitled to an exemption if it met any provision of §47-1002. National Medical Association v. District of Columbia, 611 A.2d 53, 56 (1992). The petitioner argues in the alternative that it is entitled to real property tax exemption as a public charity pursuant to D.C. Code Ann. §47-1002(8), if it does not meet the requirements of §47-1002(17). The Court makes no finding on this alternative argument.

1002(18)(A).

D.C. Code Ann. §47-1002(17) exempts from real property taxation:

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 the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010, and used as administrative headquarters thereof;

D.C. Code Ann. §47-1002(17) (1997).

The Court finds that §47-1002(17) has three statutory elements that must be satisfied. First, the entity claiming an exemption must demonstrate that the property is used as its administrative headquarters. Second, the party claiming exemption must prove that it is "charged with the administration, coordination, or unification of activities" for the educational institutions that it serves. Finally, the party claiming exemption must demonstrate that the educational institutions it serves are also "entitled to exemption" under D.C. Code tax exemption provisions.

The Court finds that the petitioner meets the first element of §47-1002(17). The respondent does not dispute that the building and the improvements thereon, at 1319 18th Street, N.W. belong to the Foundation and that the Foundation is a nonprofit corporation. (Respondent's

Statement of Material Facts ¶1). Moreover, the District does not dispute that the Property is the Foundation's sole office and acts as its "administrative headquarters and sole base of operations for all of its educational and charitable activities." (See RSMF ¶5). Therefore, as a matter of law, the Court finds that the Property is the Foundation's administrative headquarters and meets the first element of subsection 47-1002(17).

The second requirement of §47-1002(17) that the Court finds the Foundation fulfills is that it be "charged with the administration, coordination, or unification of activities, locally or otherwise" of the educational institutions that it serves. The facts illustrate that the Foundation, through Heldref Publications, coordinates and publishes academic journals and critical works for schools, colleges and universities. (RSMF ¶4). The Foundation receives requests from schools and universities around the country to direct and coordinate the publication of their academic periodicals.

The Court finds that the Foundation manages, coordinates and publishes over forty-four academic journals for colleges and universities around the country, and uses

its economies of scale to continue the publication of academic journals that individually would not be economically viable. Local schools which have journals coordinated and published by the Foundation include American University, Georgetown University, The George Washington University, Howard University, Catholic University and Mount Vernon College.

It appears to the Court that academic publishing is an important activity of the educational institutions that the Foundation serves. The Foundation performs the function of publisher for the schools whose journals it manages and coordinates. Further, the Foundation centrally performs the publishing functions of a variety of schools, and thus also unifies the publishing function. Therefore, the Foundation meets the second requirement of §47-1002(17), because it is charged with the administration, coordination, and unification of the academic publishing for the forty-four schools that it serves.

The Court also finds that the Foundation meets the third requirement of §47-1002(17). This element of §47-1002(17) mandates that the institutions, whose activities the Foundation administers, coordinates, and unifies, be

"entitled to exemption" under the tax exemption provisions of D.C. Code.⁴

The educational institutions in the District served by the Helen Dwight Reid Foundation are all exempt under D.C. Code Ann. §47-1002(10).⁵ The schools are not organized or operated for private gain, and all embrace the generally recognized relationship of teacher and student. The Court also finds that the other institutions served by the Foundation meet this test and would be "entitled to exemption" if they were located in the District.

Therefore, the Court finds that as a matter of law the Foundation meets all the elements of D.C. Code Ann. §47-1002(17) and is exempt for real property taxes for the building at 1319 18th Street, N.W.

The Court finds that the Foundation is also entitled to a property exemption for the grounds adjacent to the Property, which is used as a parking lot for its employees, pursuant to D.C. Code Ann. §47-1002(18)(A).

D.C. Code Ann. §47-1002(18)(A) exempts:

Grounds belonging to and reasonably required and actually used for the carrying on of the activities and

⁴ The applicable provision in this case is §47-1002.

⁵ D.C. Code Ann. §47-2002(10) exempts: "Buildings belonging to an operated by schools, colleges or universities which are not organized or operated for private gain, and which embrace the generally recognized relationship of teacher and student."

purposes of any institution or organization entitled to exemption under the provisions of §§ 47-1002, 47-1005, and 47-1007 to 47-1010.

D.C. Code Ann. §47-1002(18) (A) (1997).

The Foundation meets all the elements of the provision.

The adjacent grounds are owned by the Foundation and are used as a parking lot by its employees. (RSMF ¶1). The parking lot is reasonably required and actually used for carrying on the Foundation's purposes. Finally, as stated above, the Court finds that the Foundation is entitled to exemption from real property taxes pursuant to D.C. Code Ann. §47-1002(17). Therefore, the Court finds that the adjacent grounds are entitled to a property exemption pursuant to 47-1002(18) (A).

The Court notes that the respondent advances several arguments for precluding exemption for the Foundation under §47-1002(17). The Court finds these arguments unpersuasive. The first argument offered by the respondent is that the Foundation is not entitled to a real property tax exemption because it does not own other real property in the District entitled to exemption under another provision of §47-1002. However, the Court finds no language in §47-1002(17) imposing such a requirement.

The respondent's second argument is that the Property

is used primarily for the production of income, and thus not entitled to exemption. However, the Court finds that the provisions of §47-1002 do not preclude exempt organizations from having income. The principal issue is not whether the organization has income, but what source generates the income. The statutory provision which governs this issue is D.C. Code Ann. §47-1005.

D.C. Code Ann. §47-1005 states that:

If any building or any portion thereof, or grounds belonging to and actually used by any institution or organization entitled to exemption under the provisions of §§ 47-1002 and 47-1007 to 47-1010 are used to secure a rent or income for any activity other than that for which exemption is granted, such building, or portion thereof, or grounds shall be assessed and taxed.

D.C. Code Ann. §47-1005(1997).

The undisputed material facts demonstrate that the principal source of income received by the Foundation is from the sale of its academic journals.⁶ Academic publishing is also the activity which the Foundation performs with exemption under §47-1002(17). Therefore, the Court finds that the Foundation's publishing income does not disqualify the Foundation from real property tax exemption.

⁶ The Foundation does receive income from the 10% of the Property that it rents to tenants. The Foundation is properly not seeking tax exemption for this portion of the Property, and taxes will continue to be levied on this rented portion of the Property.

For the foregoing reasons, the Court grants the
Petitioner's Motion for Summary Judgment. Wherefore, on
this 25th day of March 1998, it is hereby

ORDERED, that Petitioner's Motion for Summary Judgment
is hereby GRANTED, and Respondent's Cross-Motion for Summary
Judgment is hereby DENIED.

SO ORDERED.


Judge Kaye K. Christian

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