

Opinion
No. 1234

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
TAX DIVISION

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TAX DIVISION

DEC 19 1984

FILED

JAMES A. HICKEY,
Archbishop of Washington,
A Corporation Sole,

Petitioner,

Tax Docket No. 3308-83

v.

DISTRICT OF COLUMBIA.

Respondent.

OPINION AND ORDER

This matter came before the Court on November 1, 1984, on Cross Motions for Summary Judgment. The petitioner appeals from a determination by the respondent, the District of Columbia Department of Finance and Revenue, that real property owned by him is not tax-exempt and from an assessment of real property taxes on the subject real estate. From July 1, 1982, through the filing of petitioner's motion on August 8, 1984, the taxes, together with assessed interest and penalties, totalled \$5,854.14. The petitioner has paid respondent this amount and now asks for a full refund.

This Court has jurisdiction to hear this appeal pursuant to D.C. Code §47-3303 and 47-3305 (1981 ed.).

I.

Petitioner, James A. Hickey, a religious corporation, sought exemption from taxation for the subject property under D.C. Code §47-1002(14) (1981 ed.) as a place of religious training and study. Petitioner claims the building on this property is used as a convent in which the Sisters carry out their religious community lifestyle and regimen required by the rules and regulations of their Order and Canon Law.

Respondent District of Columbia concedes the property is owned by a religious corporation, but denies petitioner is entitled to exemption on two grounds. First, respondent

asserts that §47-1002 (1981 ed.) specifically provides for exemptions only for certain residences owned by religious corporations, including pastoral residences (§47-1002(15)) and episcopal residences (§47-1002(16)), and that the subject property does not fit under either of these categories.

Second, respondent argues the building is utilized solely as a residence for school teachers from which the public is excluded, thereby precluding its characterization as a place of religious training and study which would entitle it to exemption under §47-1002(14). Therefore, the issue before this Court is whether, given the residential nature of the subject property, does its use by the Sisters qualify it for exemption? Finding that the property is entitled to exemption under §47-1002(14), this Court grants the petitioner's motion for summary judgment.

II.

The material facts of this case are not in dispute and may be briefly summarized:

1. Petitioner James A. Hickey, Archbishop of Washington, purchased property on Lot 2, Square 1729, with improvements thereon, known as 4133 Yuma Street, N.W., on November 9, 1981, as a residence for the religious Order of Roman Catholic Sisters, the Sisters of Providence of St. Mary of the Woods.

2. Petitioner, as corporate owner, attempted several times to obtain tax-exempt status. On the date of purchase, petitioner filed for an exemption from Dead Reckoning Taxation. On June 29, 1982, petitioner filed Form PP 300 requesting Real Estate Taxation Exemption for the property. On February 18, 1983, petitioner filed an Exempt Property Use Report for the property. On June 21, 1983, the Director for

the Department of Finance and Revenue denied petitioner's request for exemption from real property taxes.

3. The subject property is a part of St. Ann's Parish, which includes a church building, a rectory, and a school. The building at issue is a house wherein three nuns reside. One is principal of St. Ann's Elementary School, another teaches at a nearby Catholic girls' school, and the third teaches music in a parish in Rockville, Maryland.

4. Petitioner's building, also known as St. Ann's Convent, is used by the Sisters for their daily and regular personal prayer, for their community prayers, and for their regular monthly meetings as required by the Constitutions of their Religious Institute. The building houses a chapel in which the Sisters celebrate Mass and regularly worship. The residence is used exclusively and primarily by the Sisters for the living out of their communal religious life, including spiritual reading and study, as approved by the Roman Catholic Church.

5. During the hearing, petitioner's attorney admitted the house was not used for any form of public worship nor did the nuns counsel or otherwise assist persons at the dwelling.

6. Petitioner has paid \$5,854.14 in real estate taxes (including penalties and interest) assessed by the District of Columbia on the subject property.

III.

In determining that §47-1002(14) (1981 ed.) applies to petitioner's property, this Court has considered the legislative history and recent judicial interpretation of the exemption statute. The statute grants exemption from real estate taxation "[b]uildings belonging to religious corporations or

societies primarily and regularly used for religious worship, study, training, and missionary activities." D.C. Code §47-1002(14) (1931 ed.). The respondent concedes the Yuma Street property is owned by a religious corporation. However, respondent contends that, based on the statute's legislative history, the residential nature of the building precludes its characterization as a place of religious study and training. Respondent argues Congress intended with subsection 14 to exempt residential dwellings only when such dwellings were owned by religious corporations outside of the District of Columbia and used by them to house and feed university students. The Court concludes this is too narrow a reading of the legislative history.

In House Report No. 2635, 77th Cong. 2d Session (1942), the Committee on the District of Columbia explained its consideration of new subsection (n), now §47-1002(14), as it related to residential dwellings. Although the legislative history of the section dwells upon houses of study in the vicinity of Catholic University, this section was not confined or restricted to this one class. For example, in Calvary Baptist Church Extension Association v. District of Columbia, 158 F.2d 327, 328 (D.C. Cir. 1946), the Court, in granting an exemption to property not used for public worship services, recognized the broader reach of the statute. There the Court noted that the property was entirely devoted to the religious objectives of the organization which occupied the building, and further specifically noted that the Congressional Committee which drafted the statute "stated in unequivocal words that the statute was designed to include . . . those buildings . . . where the nature of the organized work

is essentially religious, . . . and to clarify its position in this respect the Committee reported that 'houses of study' (or religious institutes) at Catholic University come within the section, thus demonstrating the intent of Congress to include all bona fide religious activities, whether in embryo or full development. Calvary Baptist at 328.

Petitioner's property functions in much the same capacity as do the houses of study which Congress was so intent on including under the exemption statute. In 1942 the Congressional Committee addressed itself to the concern now again expressed by the District in the present case: that the residences are serving merely as houses of abode. The Committee's response then is relevant today. It was significant to the Committee that the houses of study "are owned and maintained by the respective orders of the Catholic Church which train and teach students preparing for the priesthood and for the educational, charitable, benevolent, and religious work of the church." House Report at 5. The Committee recognized these houses of study as buildings in which members of religious institutes of the Roman Catholic Church do not merely reside, but lead a distinctive manner of life. They lead a communal religious life, praying together, holding regular meetings for their members, conducting spiritual and religious reading, and preparing through secular or religious studies for their future ministries. The Sisters of Providence living at the Yuma Street property are members of such a religious institute. Like the house of study students, they pray together on a regular basis, hold regular meetings for the sharing of faith experiences, do spiritual and religious reading as required by their Constitutions, and prepare

through both secular and religious study for their ministries. The statutory exemption was specifically created for buildings housing just such forms of bona fide religious activities. Calvary Baptist at 328.

The use of the property is the controlling element in granting tax-exempt status to buildings in the District of Columbia. District of Columbia v. The Maryland Synod of the Lutheran Church in America, 307 A.2d 735 (D.C. 1973). Respondent argues that the real property tax exemption statute prescribes the specific uses for which a religious corporation can claim tax-exempt status for its residential property, and that petitioner's property fits into neither of these categories. According to respondent, since petitioner's property is used neither as a home for a bishop (§47-1002(16)) nor as a pastoral residence (§47-1002(15)), it cannot qualify for a tax exemption. However, §47-1002(14) was created specifically to provide an exemption for buildings "used by religious organizations and used for other than strictly worship purposes . . . based upon the religious 'character of the work carried on within.'" The First Superet Branch Church of Washington, D.C., Inc. v. District of Columbia, 112 D.W.L.R. 369, 374 (D.C. Sup. Ct., Feb. 24, 1979). In First Superet Branch Church, the property was granted exempt status where the building was used as living quarters for its ministers, since the building was also used for worship, study, training, and missionary activity. Id. at 369. Given that the nuns at the Yuma Street property regularly use the building for religious worship, study, training, and missionary activities, i.e., that their work is "essentially religious," the residential nature of petitioner's property does not

preclude entitlement to tax-exempt status. Calvary Baptist at 328. Further, the fact that the nuns also work outside of the subject property does not detract from the religious nature of their work at the Yuma Street property or prevent the property from meeting the purpose and requirements of the exemption.*/

IV.

CONCLUSION AND ORDER

Therefore, this Court holds that petitioner's property at 4133 Yuma Street, N.W., being owned by a religious corporation and primarily and regularly used for religious worship, study, training, and missionary activity, is not precluded from tax-exempt status because of its residential nature. Of significance to this Court is the character of the work carried on within the residence. This work being essentially religious, the Court is satisfied petitioner's property meets all of the requirements of §47-1002(14) (1981 ed.). Wherefore, it is this 18th day of December, 1964,

*/ Moreover, the District of Columbia Department of Finance and Revenue has already demonstrated that a residential building not falling neatly within the delineated exemptions of §47-1002(15) and (16) (pastoral residence and episcopal residence) can still qualify for tax-exempt status. On March 20, 1982, the Department granted exemption under §47-1002(14) (1981 ed.) to property located at 3306 Wheeler Road, S.E., owned by petitioner and put to similar use as the subject property "as a residence for a religious Order of nuns ministering to the spiritual and corporal needs of the people in the community." (Petitioner's Exhibit 5) Although the Wheeler Road residence is open to the community, in that it ministers to the poor and needy in the locale, and the Yuma Street residence is not open to the public, in that it is used exclusively by the nuns, this distinction is irrelevant for the purpose of determining petitioner's tax-exempt status. A reading of §47-1002(14) reveals no requirement that there be public worship within the building itself or specific entry of the public into the building. Further, the Court notes that the tax-exempt houses of study near Catholic University exist primarily for the use of the members of the religious institutes which use them, and are not generally open to the public.

ORDERED that petitioner James M. Hickey's Motion for Summary Judgment be, and hereby is, granted; and that respondent District of Columbia's Motion for Summary Judgment be, and hereby is denied; and it is

FURTHER ORDERED that petitioner's property at 4133 Yuma Street, N.W., be and hereby is awarded tax-exempt status; and that respondent modify its records to reflect such status; and it is

FURTHER ORDERED petitioner is entitled to a refund of the taxes paid, including penalties and interest on the subject property; and it is

FURTHER ORDERED that petitioner shall submit a Proposed Order setting forth the amount of the refund due within ten days of the date of this Order.


JUDGE IRALINE G. BARNES

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Resonance Manifesto
12/26/14

