

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE PROPERTY TAX COMMISSION
SITTING AS THE STATE BOARD OF
EQUALIZATION AND REVIEW

In the matter of:
The appeal of Carolina Conference)
Association of Seventh Day Adventists,))
Inc., and W. R. Winslow Memorial Home,))
Inc., from the denial of their claim)
for exemption by the Pasquotank County))
Board of Equalization and Review for)
1977.)

FINAL

DECISION

This matter coming on to be heard, and being heard, before the Property Tax Commission, sitting as the State Board of Equalization and Review, in the City of Raleigh, Wake County, North Carolina, on June 20, 1978, pursuant to the appeal of the above taxpayer from the denial of its claim for exemption by the Pasquotank County Board of Equalization and Review for 1977.

STATEMENT OF CASE

Carolina Conference Association of Seventh Day Adventists, Inc., is a non-profit corporation chartered by the Carolina Conference of Seventh Day Adventists to hold title to and operate schools, churches and medical facilities. The Association holds title to the subject property and makes it available to Winslow Memorial Home, Inc., another non-profit corporation chartered by the Carolina Conference of Seventh Day Adventists for the operation of the subject home. The property under appeal is a 10.5 acre tract of land located at 1700 West Ehringhaus Street in Elizabeth City and improved with a 121 bed extended care nursing home for the elderly.

Appellant contends that the subject property is exempt from taxes under the provisions of G. S. 105-278.3, .6, .7 and .8.

The County does not argue that the property is a home for the aged but does contend that it is not operated for charitable purposes as required under G. S. 105-278.6(a)(2).

ISSUE

Is the property entitled to exemption under G. S. 105-278.3, .6, .7 or .8?

APPLICABLE LAW

The law governing the taxation of property in the State of North Carolina is found in the "Machinery Act" N. C. General Statute 105-271, et seq.

G. S. 105-278.3 provides in pertinent part as follows:

- " 105-278.3. Real and personal property used for religious purposes.—
- (a) Buildings, the land they actually occupy, and additional adjacent land reasonably necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:
- (1) Wholly and exclusively used by its owner for religious purposes as defined in subsection (d)(1), below; or
 - (2) Occupied gratuitously by one other than the owner and wholly and exclusively used by the occupant for religious, charitable, or nonprofit educational, literary, scientific, or cultural purposes.
- (c) The following agencies, when the other requirements of this section are met may obtain exemption for their properties:
- (1) A congregation, parish, mission, or similar local unit of a church or religious body or
 - (2) A conference, association, presbytery, diocese, district, synod, or similar unit comprising local units of a church or religious body.
- (d) Within the meaning of this section:
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- (2) A charitable purpose is one that has humane and philanthropic objectives; it is an activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. The humane treatment of animals is also a charitable purpose."

G. S. 105-278.6 provides in pertinent part as follows:

- " 105-278.6. Real and personal property used for charitable purposes. —
- (a) Real and personal property owned by:
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- (2) A home for the aged, sick, or infirm;
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shall be exempted from taxation if: (i) as to real property, it is actually and exclusively occupied and used, and as to personal property, it is entirely and completely used, by the owner for charitable purposes; and (ii) the owner is not organized or operated for profit."

G. S. 105-278.7 provides in pertinent part as follows:

- " 105-278.7. Real and personal property used for educational, scientific, literary, or charitable purposes. — (a) Buildings, the land they actually occupy, and additional adjacent land necessary for the convenient use of any such building shall be exempted from taxation if wholly owned by an agency listed in subsection (c), below, and if:
- (1) Wholly and exclusively used by its owner for nonprofit educational, scientific, literary, or charitable purposes as defined in subsection (e) below; or
 - (2) Occupied gratuitously by an agency listed in subsection (c), below, other than the owner, and wholly and exclusively used by the occupant for nonprofit educational, scientific, literary, or charitable purposes.
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- (c) The following agencies, when the other requirements of this section are met, may obtain property tax exemption under this section:
- (1) A charitable association or institution,
 -
 - (6) A nonprofit community or neighborhood organization."

G. S. 105-278.8 provides in pertinent part as follows:

" 105-278.8. Real and personal property used for charitable hospital purposes. -- (a) Real and personal property held for or owned by a hospital organized and operated as a nonstock, nonprofit, charitable institution (without profit to members or their successors) shall be exempted from taxation if actually and exclusively used for charitable hospital purposes.

.....
 (c) Within the meaning of this section, a charitable hospital purpose is a hospital purpose that has humane and philanthropic objectives; it is a hospital activity that benefits humanity or a significant rather than limited segment of the community without expectation of pecuniary profit or reward. However, the fact that a qualifying hospital charges patients who are able to pay for services rendered does not defeat the exemption granted by this section."

EVIDENCE

The matters and evidence presented by appellant and considered by the Commission consisted of the following:

- (1) Exhibits 1 through 4 - Financial Reports for 1974 through 1977.
- (2) Exhibit 5 - Constitution of the Carolina Conference of Seventh Day Adventists.
- (3) Exhibit 6 - Charter of Carolina Conference Association of the Seventh Day Adventists, Inc.
- (4) Exhibit 7 - Constitution and By-Laws of Carolina Conference Association of Seventh Day Adventists, Inc.
- (5) Exhibit 8 - Charter of W. R. Winslow Memorial Home, Inc.
- (6) Exhibit 9 - By-Laws of W. R. Winslow Memorial Home, Inc.
- (7) Exhibit 10 - Deed from Winslow Foundation to Carolina Conference Association, Inc.
- (8) Exhibit 11 - Contract between Winslow Foundation and Carolina Conference Association, Inc.
- (9) Oral testimony of Mr. Gene B. Tarr, administrator of W. R. Winslow Home, Inc.
- (10) Oral testimony of Mr. Lynn Johnson, Certified Public Accountant.
- (11) Oral testimony of Mr. Malcolm Gordon, President and Chairman of the Board of W. R. Winslow Memorial Home, Inc.
- (12) Oral testimony of Mr. Al Ingram, Secretary-Treasurer of W. R. Winslow Memorial Home, Inc.
- (13) Oral statement of Mr. E. J. Walker, Jr., attorney for appellant.
- (14) Appellant's Brief.

The matters and evidence presented by the County and considered by the Commission consisted of the following:

- (1) Exhibit 1 - Letter from Mr. Gene Tarr.

- (2) Oral testimony of Mr. Ernest Anderson, Director of Social Services.
- (3) Oral testimony of Mrs. Joyce Pickerell, employee of W. R. Winslow Memorial Home, Inc.
- (4) Oral testimony of Mr. Raleigh Carver, Chairman, Pasquotank Board of Commissioners.
- (5) Oral statement of Mr. Herbert Mullen, Pasquotank County Attorney.
- (6) Memorandum of Law by Mr. Mullen.

In addition to the matters and evidence presented by the appellant and the County, the Commission considered the following exhibits:

- C-1 Notice of appeal dated July 18, 1977.
- C-2 Commission's acknowledgement of notice of appeal dated July 20, 1977.
- C-3 Letter to Commission from Mr. Walker accompanying application for hearing dated July 29, 1977.
- C-4 Application for hearing dated July 29, 1977.
- C-5 Commission's acknowledgement of application for hearing dated August 1, 1977.
- C-6 Letter to Commission from Mr. Mullen dated May 15, 1978.
- C-7 and 8 - Notices to parties of date and time of hearing dated May 24, 1978.
- C-9 Letter to Commission from Mr. Walker accompanying Appellant's Brief, dated June 9, 1978.
- C-10 Copy of Letter from Mr. Walker to Mr. Mullen accompanying the documents to be introduced by appellant, dated June 9, 1978.

FINDINGS OF FACT

The facts outlined in the Statement of Case are hereby made a part of this section by reference. After addressing itself to and considering all of the evidence of record, as set forth above, the Property Tax Commission makes the following additional findings of fact:

- (1) That the owner of the subject property -- Carolina Conference Association of Seventh Day Adventists, Inc., -- is a non-profit North Carolina corporation chartered by the Carolina Conference of the Seventh Day Adventists to hold title to and operate schools, churches and medical facilities"and to carry on any line of religious, educational, benevolent and philanthropic work" . . .

- (2) That the occupant and operator of the subject property -- W. R. Winslow Memorial Home, Inc. (Home) -- is also a non-profit North Carolina Corporation chartered by the Conference to "own, operate, and maintain a home or homes for aged persons or senior citizens."
- (3) That the subject property was expanded in 1974 to a 121 bed extended-care nursing facility.
- (4) That prior to the 1974 expansion, the Home made a monthly payment to the Association in an amount sufficient to cover the depreciation on the buildings.
- (5) That the funds for the expansion were made available through a loan obtained by the Association.
- (6) That following the 1974 expansion, the monthly payments were increased to include the interest on the loan.
- (7) That some of the funds paid by the Home to the Association have been returned to the Home for use in improvements to the property.
- (8) That the Home is also required to maintain the subject property.
- (9) That for the four fiscal years ending September 30, 1974; September 30, 1975; September 30, 1976; and September 30, 1977, the Home had operating revenues of \$3,410,169 and operating expenses of \$3,438,764 for an operating deficit of \$28,595.
- (10) That for the same period, the Home had non-operating income of \$202,109, primarily from contributions and grants from the Winslow Foundation.
- (11) That under the contract entered into between the Winslow Foundation and the Association establishing the Home, any surplus funds resulting from the operation of the Home would be used only for the benefit of the Home and not for the benefit of any individual or corporation.
- (12) That the Home accepts patients without regard to race, color, creed or national origin and without health restrictions except for maternity patients, tuberculosis patients and alcoholic and drug patients.
- (13) That the average age of the Home's patients is 75 with a high of 98 and a low of 14.
- (14) That approximately 82% of the patients use a wheel chair to some degree.

- (15) That although the Home usually knows when a patient is accepted that he or she will be able to pay the charge for the level of service required — either from private funds or from Medicaid or Medicare — no patient has been discharged for inability to pay.
- (16) That the daily cost of providing skilled nursing care is \$31.50 and the charge by the Home is \$32.00.
- (17) That the daily cost of providing intermediate care is \$25.80 and the charge by the Home is \$26.00.
- (18) That all but two of the 34 skilled-care patients are Medicare-Medicaid patients.
- (19) That approximately 65 of the 85 intermediate-care patients are Medicare-Medicaid patients.
- (20) That the present Medicare-Medicaid reimbursement of \$29.00 for skilled care is being increased to \$34.00 and that for intermediate care has been increased to \$24.40.
- (21) That other privately-owned, profit-making nursing homes in the area of the subject Home charge fairly comparable rates but do not provide the same level of service as that of the Home.
- (22) That the Home does not require a lump sum payment for acceptance of a patient nor does it require an assignment of the patient's income or assets.

CONCLUSION, DECISION AND ORDER

From our review of the applicable law, the evidence and our findings of fact, we conclude and so decide that the subject property is exempt from property taxes under the provisions of G. S. 105-278.7(a)(2). The owner of the property and the operator of the nursing home are both non-profit corporations created by the Church Conference to carry out religious, charitable and educational objectives. Both corporations are charitable organizations within the meaning of our statute and the activity carried out on the subject property is clearly charitable. In our opinion, the fact that a non-profit organization makes a charge for services rendered is not inconsistent with its characterization as charitable. In fact, it is unlikely that such an organization could long exist if it had to rely entirely on charitable contributions to cover the high cost of providing professional services such as medical care.

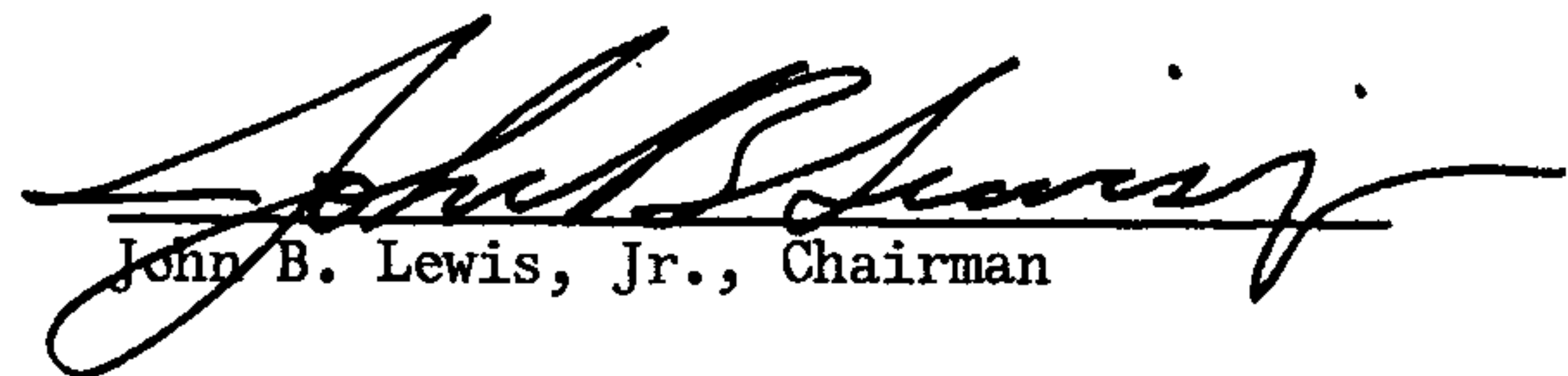
According to the evidence, the Home is usually assured of being paid for the care it provides, but some patients are accepted before eligibility for Medicare has been established. Patients are expected to pay for the care they receive but having been accepted, no patient has been discharged because of inability to pay. Some patients also do not pay the full charge for the care they receive and any deficit resulting from such cases is made up from donations.

With respect to the use of the property, we believe that it is being occupied gratuitously by the Home within the meaning of G. S. 105-278.7(a)(2). The monthly payments made by the Home to the Association can not be construed as rent because they have no relationship to the rental value of the property. Prior to the expansion in 1974, the payments covered only an amount designed to provide for a reserve to replace the buildings. After the expansion, the payments were increased to cover the interest cost on a loan obtained by the Association for the expansion. Some of the funds paid by the Home to the Association have been returned to the Home for use in making improvements to the property.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the assessment of the subject property by Pasquotank County be, and the same hereby is, set aside and appellant's claim for exemption is allowed.

This the 4TH day of August, 1978.

NORTH CAROLINA PROPERTY TAX COMMISSION


John B. Lewis, Jr., Chairman

Attest:


D. R. Holbrook, Secretary