



The Commission after hearing testimony and considering evidence from one of Taxpayer's Board members, Taxpayer's director of the subject property, Dr. Richard Clifford, an expert witness in the field of early childhood education, and John Smith, County Assessor for Orange County, renders the following final decision:

**BASED UPON THE EVIDENCE PRESENTED AND THE STIPULATIONS, OF THE PARTIES, THE COMMISSION MAKES THE FOLLOWING FINDINGS OF FACT:**

1. Taxpayer's day care facility was formed in 1967 in cooperation with the Chapel Hill Service League and United Church of Christ in Chapel Hill, North Carolina. The Center opened in the Educational Building of the United Church for the cost of utilities and received money, \$3,360 annually, for tuition assistance from the Church.

2. Taxpayer operated in the Education Building adjacent to the Church until 1995, when Taxpayer moved the day care to a temporary location in the old town library building in Chapel Hill pending construction of a new building for the day care in Southern Village in Chapel Hill.

3. The new day care facility was completed in the spring of 1996, and Taxpayer first occupied the building upon completion.

4. Once the Taxpayer left the Education Building adjacent to United Church of Christ, the Church's involvement with the day care ceased, and at that time, the four positions on the Taxpayer's Board of Directors reserved for representatives of United Church of Christ were no longer designated for United Church members, which ended any relationship or involvement with said church.

5. Taxpayer provides custodial care and services for the 88 children enrolled at its day care facility from the age of 3 weeks until they begin kindergarten, from the hours of 7:30 a.m. until 5:45 p.m. Tuition ranges from \$900.00 per month for an infant to \$630.00 per month for a 4-5 year old. Twelve children, currently enrolled at the day care, receive some type of tuition subsidy.

6. Taxpayer is accredited by the National Association for the Education of Young Children, whose purpose is "to improve the quality of care and education provided for young children in group programs in the United States.

7. The subject facility has established written lesson plans and structured activities, which are followed by Taxpayer's staff, but Taxpayer's staff does not assign homework to children enrolled at the facility.

8. In 1996, while temporarily residing in the old town library building, Taxpayer voluntarily listed its personal property and paid taxes on both the real and personal property.

9. In 1997, after moving into the new building constructed in Southern Village, Taxpayer listed its personal property and paid taxes on both the real and personal property.

10. The Orange County Assessor executed an audit of several nonprofit day care centers located in churches in the taxing jurisdiction and found in all cases that the centers operation is part of the religious mission of the host church.

11. The care provided at Taxpayer's day care is for custodial care of the young children enrolled there and the day care is not wholly and exclusively educational.

12. Taxpayer has never received an exemption from paying personal property or real property taxes from the Orange County Assessor under any provision of the North Carolina General Statutes.

**BASED UPON THE FOREGOING FINDINGS OF FACT, THE NORTH CAROLINA PROPERTY TAX COMMISSION CONCLUDES AS A MATTER OF LAW:**

1. G.S. §105-278.4 governs tax exemptions for real and personal property used for educational purposes. Exempt property pursuant to G.S. §105-278.4 includes:

“(a) Buildings, the land they actually occupy, and additional land reasonably necessary for the convenient use of any such building shall be exempted from taxation if:

- (1) Owned by an educational institution (including a university, college, school, seminary, academy industrial school, public library, museum, and similar institution;”

“(b) Land (exclusive of improvements); and improvements other than buildings, the land actually occupied by such improvements, and additional land reasonably necessary for the convenient use of any such improvement shall be exempted from taxation if:

- (1) Owned by an educational institution that owns real property entitled to exemption under the provisions of subsection (a), above;
- (2) Of a kind commonly employed in the performance of those activities naturally and properly incident to the operation of an educational institution such as the owner; and
- (3) Wholly and exclusively used for educational purposes by the owner or occupied gratuitously by another nonprofit educational institution (as defined herein) and wholly and exclusively used by the occupant for nonprofit educational purposes.”

2. Taxpayer is not a qualifying owner within the meaning of the provisions of G.S. §105-278.4 since Taxpayer provides primarily custodial care services to the young children enrolled at its day care facility.

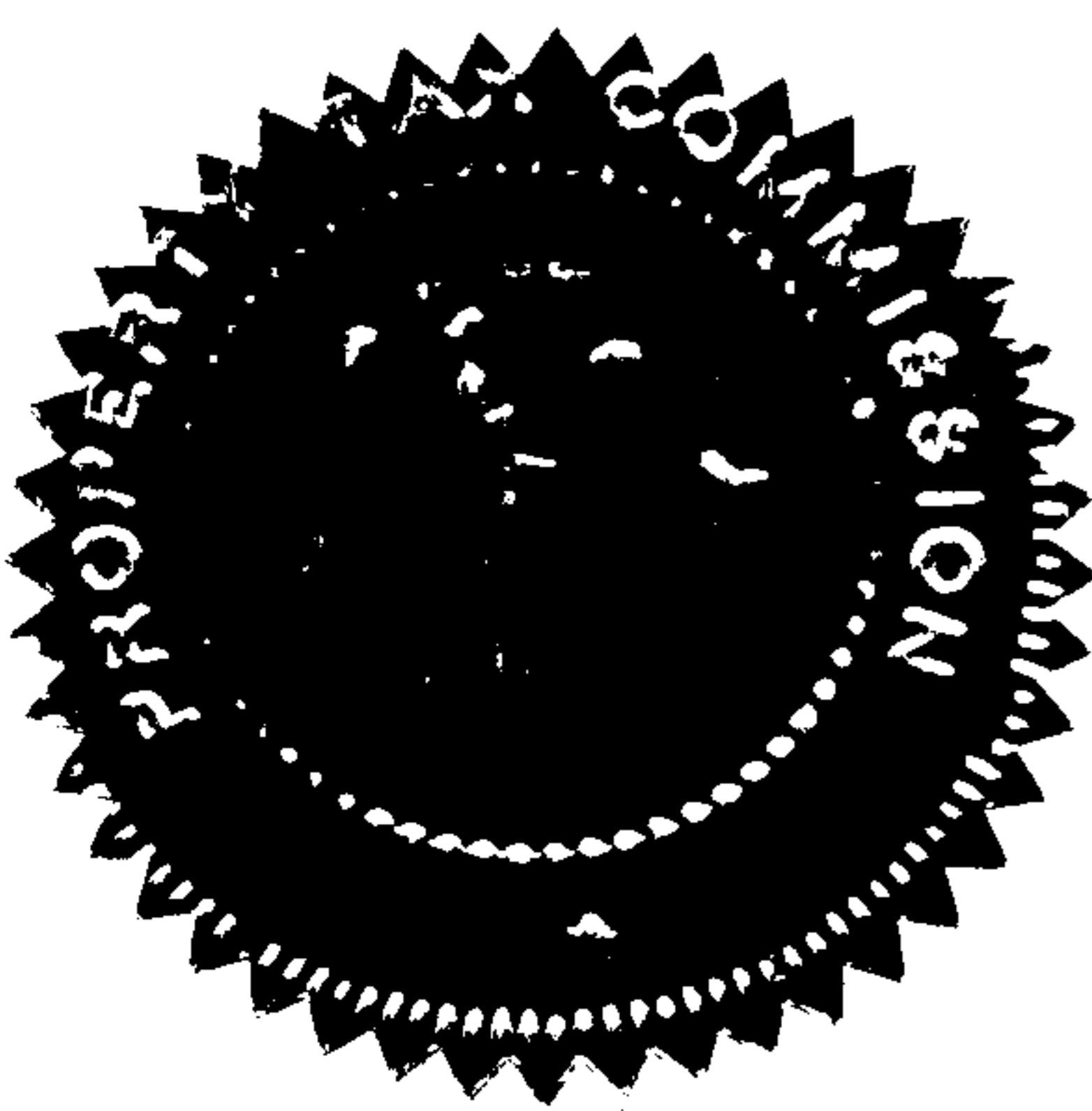
3. The educational activities provided for the children at Taxpayer's day care are incidental to the custodial care services provided which are the primary purpose of this day care facility.

4. The educational activities provided for 3-year-old infants to 4-5 year old preschoolers do not constitute the level required by G.S. §105-278.4, which requires that real and personal property used for educational purposes may be exempted if it is "wholly and exclusively used for educational purposes."

5. Taxpayer failed to establish by competent, material and substantial evidence that the subject day care facility is a qualifying institution as described in G.S. §105-278.4.

**BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE COMMISSION NOW, THEREFORE, ORDERS, ADJUDGES AND DECREES** that the decision of the 1997 Orange County Board of Equalization and Review denying property tax exemption for Taxpayer's real and personal property for tax year 1997 is hereby **Confirmed**.

Entered this the 13th day of April, 2000.



NORTH CAROLINA PROPERTY TAX COMMISSION

A handwritten signature in cursive script, appearing to read "Terry L. Wheeler", is written over a horizontal line.

Terry L. Wheeler, Chairman

Vice Chair Sitton and Commission members Cope, Absher and Wilmoth concur.

ENTERED: April 13, 2000

ATTEST:

A handwritten signature in cursive script, appearing to read "Janet L. Shires", is written over a horizontal line.

Janet L. Shires, Secretary