



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION
1020 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0001)

(916) 445-4982

January 15, 1992

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No. 92/04

TO COUNTY ASSESSORS:

WELFARE EXEMPTION FOR MUSEUMS

A recent Third District Court of Appeal decision affirmed a Superior Court decision in the case of Fellowship of Friends, Inc. v. County of Yuba that property claimed to be exempt as a museum must be used primarily as a museum.

In this case, the claimant is a religious organization that owns approximately 1,400 acres of property known as "Renaissance" in Yuba County. As part of its beliefs, the organization collects fine art and other artifacts to preserve them for future generations and to change the viewer's emotional and spiritual state.

The art collection is housed on claimant's property in Yuba County in a building known as the Goethe Academy. The art objects are displayed in designated rooms on the first floor, comprising approximately 60 percent of the total floor space, but these rooms are not segregated from the rest of the Academy. The founder of the organization resided in a portion of the Academy, and the rooms he used as his living area were not part of the tour for museum visitors. The basement area also accommodated several other people who resided on the premises for indefinite periods of time and assisted in the maintenance and security of the property. While the Academy was closed to the general public, except in connection with the display of art works, many other Fellowship activities took place there and on the grounds, including group dinners, lectures, concerts, music recitals, and weddings.

Initially, because of security concerns and limited personnel, claimant required visitors to make appointments in order to visit the Academy during open hours, although staff attempted to accommodate drop-in visitors. During the first year for which the exemption was claimed, the museum was open to the public two days a week by appointment only. During the second and third years, the appointment only policy was discontinued, but the museum remained closed to the public five days out of the week.

Claimant advertised the art display in a local quarterly publication, prepared a video of the "museum," published two articles in an international art magazine, and placed a listing in the Yellow Pages under "Museums." There were no signs directing the public to the "museum" and no signs on the building itself to identify it as a museum.

Records presented to the trial court indicate the Academy's art display attracted approximately 300 guests per year, of which 60 percent were Fellowship members the first year, 20 percent of visitors were members in the second year, and 7 percent were members in the third year.

The claimant asserted the primary use of the property is as a public museum/religious academy with the incidental use as a parsonage. The claimant requested the exemption for about 63 percent of the Academy, or the portion open to the general public, plus 100 percent of the approximately 3.1 acre parcel on which the Academy is located which showcases a rose garden that is also open to the public.

The trial court found that the use of the Academy for purposes other than a museum did not preclude award of the exemption, nor did the other uses interfere with the property's use as a museum. However, the trial court found that the property was not used principally as a museum and the exemption must be denied.

The claimant argued that the trial court erred in construing the term "museum" to require the property use be "primarily" or "predominantly" as a museum. The appellate court agreed with the trial court that ". . . a museum is a building whose 'predominant purpose' is to house and display objects of lasting value. Property used 'for a museum' must be used primarily to house and display objects of lasting value. This does not preclude other uses, but requires the use as a museum to be primary."

Furthermore, a museum is not a property that merely warehouses works of art; a museum exhibits the works. ". . . as between the function of a museum as a repository and its display function, clearly the latter is of paramount importance for purposes of the exemption."

In summary, a museum is a place specifically designated for the display and storage of artifacts or objects of art that is open to the public during its normal operating hours, and the public is aware that such is the use of the property. The predominant use of the property is as a museum, although other uses are permitted. And, finally, the display of the art objects is more important than the storage function since the purpose of the exemption is to encourage the display of art and other items of value to the public.

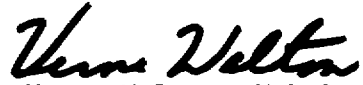
TO COUNTY ASSESSORS

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If you have any questions, please contact our Exemptions Unit at
(916) 445-4982.

Sincerely,



Verne Walton, Chief
Assessment Standards Division

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