

Appeal Nos. 93-0771 to 93-0779

containing #####-acres in the SUBDIVISION-1, COUNTY, Utah.

4. Prior to 1992, the Board concluded the properties were exempt from property tax pursuant to §59-2-1101(2)(d) of Utah's Property Tax Act because they were owned by a nonprofit entity and used exclusively for charitable purposes. As of January 1, 1992 and continuing for 1993, the Board returned the properties to the tax rolls. PETITIONER then appealed the Board's action to the Commission.

5. PETITIONER is a nonprofit organization incorporated in Utah during 1978 for the purpose of promoting animal rights. It has acquired the subject properties for use as an animal refuge. To that end, PETITIONER has left the subject properties in their natural state. The properties are unfenced, except for a dilapidated fence along a county road. Boundaries are marked with painted posts and "No Trespassing" and "No Hunting" signs. A gate of posts and barbed wire has been placed across the entrance to the properties, but the gate is in disrepair and has been driven over.

6. PETITIONER members visit the property in small groups for a day or two at a time, a few times each year, for purposes of maintaining the properties' boundaries and signs. A single-wide mobile home is kept at the edge of the properties for use during such visits. No other use is made of the property.

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7. PETITIONER is funded by private donations. It has been recognized by the Internal Revenue Service as exempt from federal income tax under §501(c)(3) of the Internal Revenue Code.

8. Under PETITIONER's Articles of Incorporation, if it ceases to operate it must transfer all its property to other nonprofit organizations also qualifying as exempt under §501(c)(3).

CONCLUSIONS OF LAW

The Tax Commission is required to oversee the just administration of property taxes. (Utah Code Ann. §59-1-210(7).)

Property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes is exempt from taxation. (Utah Code Ann. §59-2-1101(2)(d).)

The Petitioner has the burden of proof to establish that the subject properties are entitled to exemption from property tax.

(Utah Administrative Code, R861-1-7A.G.)

The following factors determine whether a particular institution is using its property exclusively for charitable purposes:

- (1) Whether the stated purpose is to provide a significant service to others without immediate expectation of material reward;
- (2) whether the entity is supported by donations and gifts;
- (3) whether the recipients are required to pay for the charity received;

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- (4) whether income received from all sources produces a profit;
 - (5) whether the beneficiaries of the charity are restricted or unrestricted; and
 - (6) whether some form of financial benefits are available to private interests.
- (See Utah County v. Intermountain Health Care, 709 P.2d 265, 269-270 (Utah 1985).)

DECISION AND ORDER

PETITIONER seeks exemption of the subject properties from property tax on the grounds such property is used for charitable purposes. Applying the six elements identified by Utah's Supreme Court in Utah County v. Intermountain Health Care, *ibid*, there is no question that PETITIONER meets elements 2 through 6. However, further discussion is warranted as to the first element's requirement that the "stated purpose of the entity provides a significant service to others".

What qualifies as an exclusively charitable purpose is subject to judgment according to changing community standards.¹ In a nutshell, PETITIONER's charitable purpose is its provision of a wildlife refuge. While individuals might disagree as to the benefit to the public of such refuges, the Commission notes that state governments, the federal government, individuals and other

¹ Yorgason v. County Board of Equalization, 714 P.2d 653, 656 (Utah 1986), citing Salt Lake County v. Tax Commission ex rel. Greater Salt Lake Recreational Facilities, 596 P.2d 641, 643 (Utah 1979).

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charitable groups beside PETITIONER also maintain such refuges. Based upon the general recognition that wildlife refuges are in the public good, the Commission finds that PETITIONER's wildlife refuge serves a significant service to the public, thereby fulfilling the remaining consideration mentioned in Utah County v. Intermountain Health Care.

In summary, the Tax Commission concludes that the subject property is owned by a nonprofit organization and used exclusively for charitable purposes. It is therefore exempt from property tax pursuant to Utah Code Ann. §59-2-1101(2)(d). The COUNTY Auditor is instructed to adjust the county's records accordingly. It is so ordered.

DATED this _____ day of _____, 1993.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

W. Val Oveson
Chairman

Roger O. Tew
Commissioner

Joe B. Pacheco
Commissioner

Alice Shearer
Commissioner

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NOTICE: You have twenty (20) days after the date of the final order to file a request for reconsideration or thirty (30) days after the date of final order to file in Supreme Court a petition for judicial review. Utah Code Ann. §§63-46b-13(1), 63-46b-14(3) (a).

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