

STATE TAX COMMISSION

In the Matter of the Petition :
of :
BRIDGEVIEW GARDEN CLUB : DECISION
for Redetermination of Exempt Organization :
Status under Articles 28 and 29 of the Tax :
Law. :

A formal hearing was held before Dennis M. Galliher, Hearing Officer, at the offices of the State Tax Commission, 65 Court Street, Part I, Buffalo, New York on Wednesday, May 23, 1984 at 2:45 P.M. Petitioner appeared by Blair & Roach, Esqs. (David L. Roach, Esq., of counsel). The Audit Division appeared by John P. Dugan, Esq. (Deborah J. Dwyer, Esq., of counsel).

Whether the Audit Division's denial of the application of Bridgeview Garden Club for exempt organization status was proper.

1. On March 8, 1982, petitioner, by its president Jean Brighton, filed an Application For An Exempt Organization Certificate (Form ST-119.2) seeking exemption from sales and use taxes under section 1116(a)(4) of the Tax Law, citing "charitable" and "educational" as the purposes upon which exempt status was claimed. Petitioner stated in the application that the club, organized in 1955, had not received an exemption from federal income tax.

2. By letter dated April 21, 1982, the Audit Division advised petitioner that its application for exempt status had been denied. This letter provided in relevant part as follows:

"The information presented discloses that although some of your organization's purposes and activities may be for exempt purposes, a substantial part of your purposes and activities are devoted to civic planting and community beautification. Such purposes are not among those specified in the statute for which sales tax exemption may be afforded. No matter how praiseworthy some of the purposes and activities of an organization may be, the presence of a single non-educational or non-charitable purpose or activity, if substantial in nature, will preclude it from exemption.

Since your organization is not both organized and operated exclusively for one or more purposes specified in section 1116(a)(4) of the Tax Law, it does not qualify for sales tax exemption."

3. A timely petition to contest the above denial was filed by petitioner asserting that petitioner qualifies for exemption because of its "substantial educational and charitable purposes."

4. By its answer, the Audit Division asserted that petitioner did not qualify for exemption for a variety of reasons including:

- "a) its membership is not open to the public;
- b) does not substantially engage in educating the public;
- c) while their contributions to exempt organizations may be considered charitable, this is an insubstantial part of its activities".

5. Petitioner offered a copy of its Constitution in evidence at the hearing, the Preamble of which reads as follows:

"The object of the club shall be to promote interest in and provide education in knowledge of all growing things, and an application of that knowledge toward beautifying the home and community."

Article II of petitioner's Constitution provided, at section "1" that membership was limited to thirty, and at section "2", that following attendance

at two consecutive business meetings a candidate would be invited to join the club or placed on a waiting list if membership was at maximum. Article III of the constitution, at section "2" indicated the following officers: president, vice-president, recording secretary, corresponding secretary (who is also publicity chairman) and treasurer. Article IV of the constitution provided that meetings were to be held on the first Tuesday of each month, in a public building, and public notice was to be given in local newspapers. Article V indicated that dues were \$6.00 per year, payable in March and November. Article VI indicated as follows: "members shall have the privilege of bringing guests to the meetings without fees. The public is invited but reservations are preferred for projects".

6. At the hearing, Mrs. Susan Overs, a member of petitioner for twelve years and formerly its treasurer and secretary, testified as to the activities engaged in by petitioner. Mrs. Overs explained that the club has monthly meetings which are open to the public and which are advertised in the Grand Island Pennysaver and the Grand Island Dispatch, two newspapers which service Grand Island, New York. Mrs. Overs testified that the agenda for the monthly meeting usually starts with the reading of a poem relating to the season, followed by a reading of the minutes of the last meeting, a reading of the treasurer's report and of various committee chair reports including the horticultural chair report which gives advice, determined by the season of the year, as to when to spray, when to prune and when to transplant. At the conclusion of the agenda the petitioner usually has a speaker or a demonstrator. Speakers and demonstrators include paid professional flower arrangers, representatives of the cooperative extension service and members of petitioner and other garden clubs.

7. Petitioner's meetings are held at a local church hall (with a capacity of about 120 people) located in Grand Island and are open to the public. Prior to meeting in the church, petitioner's meetings were held in the homes of its members. However, due to membership increases the meetings were transferred to the church and became open to the public in or about 1982. The number of people attending the meetings on a regular basis was not specified.

8. Petitioner engaged in only one civic planting or community beautification activity, specifically, taking care of a planter (approximately 25 feet in length) located at Sidway Elementary School in Grand Island. Petitioner provided geraniums and other plants, and planted and maintained these flowers throughout the summer months.¹ Petitioner makes charitable donations to the Grand Island Neighbors Association and to the volunteer firemen. The latter donation was financed by a joint garden club fund raising program with all other garden clubs on Grand Island, which included an exhibition and demonstration on how to make Christmas arrangements.

9. Petitioner derives its funds from the payment of dues and from the above-noted fund raiser. Mrs. Overs estimated that in total, petitioner raised less than a \$1,000.00 per year. At present, petitioner's membership includes thirty persons, and petitioner has a waiting list of approximately four persons. Mrs. Overs noted that one of petitioner's primary interests in having speakers was to learn about plants in order to have better gardens at home.

10. The subject matters or topics of petitioner's monthly meetings for the years 1981 - 1982 through 1984 - 1985, were as follows:

¹ Petitioner no longer maintains this planter due to closing of the Sidway School, but is considering undertaking another similar project to replace this discontinued endeavor.

Educational 1981-82

March	Lecture "Color Your Garden From Early Spring to Late Fall" Mr. Don Davis: nurseryman
May	Demonstration/Project "Raffia Wreath/Scarecrow" Mrs. J. Brighton: Bridgeview Garden Club member Mrs. R. Wendling: Bridgeview Garden Club member
June	Demonstration/Project "Silk Flower Arrangement" Shelley Kobrin: Professional Floral Designer
September	Exhibit "Flower Arranging Show" All Member Participation Arrangements publicicly critiqued by judges
October	Demonstration/Project "Pinecone Baskets" Mrs. J. Brighton: Bridgeview Garden Club member
November	Demonstration/Project "Soft Sculpture Doll" Mrs. J. Brighton: Bridgeview Garden Club member
January	Lecture/Demonstration "Gala Edible Table Centerpiece" Chef Maurice: Professional Caterer

Educational 1982-83

March	Lecture "Perennials and Mums" Mr. John Farfaglia: Horticulturalist, Niagara County Cooperative Extension Service
May	Demonstration "Flower Arranging" Mrs. J. Hutt: Bridgeview Garden Club member
June	Demonstration/Project "Silk Flower Arrangements" Mrs. H. Sharpe: Bridgeview Garden Club member
September	Exhibit "Flower Arranging Show" All member participation Arrangements publicicly critiqued by judges

October	Demonstration/Project
	"Grapevine Wreath"
	Mrs. J. Brighton: Bridgeview Garden Club member
	Mrs. R. Wendling: Bridgeview Garden Club member

November : Demonstration/Project
 : "Herb Wreath"
 : Mrs. Grace Turner: Kenmore Garden Club member

[illegible]

Educational 1983-84

April Lecture/Tour
 "Solar Greenhouse and Garden"
 Mr. James Szafran: Grand Island High School Science
 Instructor

May Demonstration/Project
"Fresh Floral Arrangement in Pedestal Container"
Mrs. R. Haag: Professional Floral Designer

June Lecture/Demonstration
 "Interpretive Arrangements"
 Mrs. John Besch: Lancaster Federated Garden Club member

September : Demonstration/Project
: "Sweet Gum Ball Workshop"
: Mrs. R. Wakefield: Bridgeview Garden Club member

October : Demonstration/Project
"Fall Centerpiece Workshop"
Mrs. H. Sharpe: Bridgeview Garden Club member

November Exhibit/Demonstration
 "Mennes Holiday Show"
 Mennes Nursery Staff: Professional Floral Designers

January	Lecture "African Violets"
	Mrs. H. Sullivan: East Park Garden Club member American Violet Society member

Educational 1984-85

March

Lecture
"Faye's Fun and Fancy"
Mrs. D. Rech: East Park Garden Club member

May	Lecture/Demonstration "Prize-winning Flower Arrangements Hints" Mrs. R. Haag: Professional Floral Designer
June	Lecture/Demonstration "Orchids: Handle With Care" Dr. Lynne Schuster: Member of the Orchid Society of Buffalo
September	Exhibit "Flower Arranging Show" All member participation Arrangements publicly critiqued by judges
October	Lecture "Putting Your Garden To Rest" Mr. and Mrs. G. Williams: Bridgeview Garden Club member and spouse
November	Demonstration/Project "Mrs. Mitchell's Mini Mice" Mrs. A. Mitchell: Bridgeview Garden Club member
January	Lecture "Answers To Gardening Dilemmas" Mr. John Farfaglia: Horticulturalist, Niagara County Cooperative Extension Service

11. Petitioner asserts that it was formed to stimulate interest in and beautification by plants, and to further education in horticultural activities. Petitioner notes that its membership is open to the general public, subject only to a reasonable restriction as to the number of persons who can join the club. Petitioner asserts that civic planting and community beautification was not one of its principal purposes or a substantial purpose of the club's organization. Petitioner notes that the East Park Garden Club, also located in Grand Island, New York, which maintains planters at an elementary school and at a memorial park and which does not have meetings open to the public has been granted exemption from sales tax.

12. It is hereby found that: (a) the club never distributed its property to members; (b) no part of the club's earnings inure to the benefit of any individual; (c) the club never engaged in carrying on any propoganda, or advocated or opposed pending or proposed legislation; and (d) the club never participated in or intervened in any political campaign on behalf of any candidate for public office.

CONCLUSIONS OF LAW

A. That Tax Law section 1116(a)(4) provides an exemption from the sales and compensating use taxes imposed under Article 28 to "[a]ny corporation, association, trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes". In ascertaining whether an organization is organized exclusively for one or more of the enumerated exempt purposes, the focus is on the provisions of the organizing documents (20 NYCRR 529.7(c)(1)). On the other hand, in determining whether the organization is operated exclusively for one or more exempt purposes, the focus is on the organization's activities.

"An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if almost all of its activities accomplish one or more exempt purposes specified in section 1116(a)(4) of the Tax Law... An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose." 20 NYCRR 529.7(d)(2).

B. That petitioner premises its claim for exempt status upon the assertion that substantially all of its purposes and activities are charitable and educational. Petitioner is engaged in certain charitable activities. Moreover, as demonstrated by the evidence, petitioner's organizational intent and substantially all of its operational activities are in furtherance of educational


purposes. Specifically, petitioner is engaged in the presentation of information, lectures and demonstrations concerning plants, flower arranging and gardening techniques, at meetings advertised and open to the general public. No substantial portion of petitioner's activities are conducted other than in furtherance of exempt purposes. Accordingly, petitioner qualifies for exemption from sales and use taxes under Tax Law section 1116(a)(4).


C. That the petition of Bridgeview Garden Club is hereby granted.


DATED: Albany, New York

STATE TAX COMMISSION

JAN 18 1985


PRESIDENT


COMMISSIONER


COMMISSIONER