



WISCONSIN ALLIANCE OF CITIES

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May 9, 2001

Appleton
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 Stevens Point
 Superior
 Two Rivers
 Watertown
 Waukesha
 Wausau
 Wauwatosa
 West Allis
 West Bend
 Whitewater
 Wisconsin Rapids

TO: Honorable Members of the Assembly Ways and Means Committee

FROM: Edward J. Huck

RE: AB 250

Chairperson Lehman, members, the Wisconsin Alliance of Cities is testifying against AB 250 for the following reasons:

- ◆ The bill expands the property tax exemption to property owned but not occupied by the YMCA.
- ◆ The bill fails to recognize the YMCA has changed from a "faith based" organization to one that has functions more properly classified as profit orientated.

I would like to read directly from a 1932 YMCA Article of Incorporation in the City of Appleton. From Article Six:

"... Voting membership shall be open to any male at least eighteen years of age who complies with the requirements of the Association regarding membership fees and any other requirements for participating membership which this Association may establish, and who also conform to one or more of the following requirements: (1) Is a member of an evangelical church (2) Who subscribes in writing to the following: "I hereby declare my faith in God, and my acceptance of Jesus Christ as Savior and Lord. I desire to serve him and be his disciple in accordance with the teachings of the New Testament and to unite with others in the extension of the Kingdom of God.

*I am in full accord with the following purpose of the Young Men's Christian Association, and commit myself to its voluntary service and support:
 To lead young men to faith in God through Jesus Christ; to promote their growth into fullness of Christian Character; to lead them into active membership in the church of their choice; and to make the extension of the Kingdom of God through out the world the purpose of their lives."*

I think we can all agree the Association has evolved from an organization where physical health was incidental to spiritual health to an organization where spiritual health is incidental to physical health.

Page 2
Testimony on AB250
WI Alliance of Cities

I would also like to point out that the YMCA in downtown Pittsburgh went through a similar examination. The case was settled twice by negotiation. Although the Ys declare they have never been taxed in the United States, they have been on the City of Pittsburgh's rolls since 1985. I have provided you with copies of the court case and the settlements.

Each YMCA, except for the 2% it pays to its national organization, dedicates its resources in the service of its members and the community in which it is located. When we judge a charitable organization we frequently ask, "What percent of its resources is dedicated to the mission of the organization?" Today we ask, before you consider this very broad tax exemption language, "What is the mission of each, individual YMCA? How much of each individual YMCA's resources go to serve whom? And, what will each individual YMCA evolve into given these new powers and opportunities?"

As we speak, this bill may be added to the state budget. I am also asking all of the members of the legislature to remove the bill from the budget and allow it to go through the legislative process. Thank you.

At a special meeting of the members of The Young Men's Christian Association of Appleton, Wisconsin, a corporation organized under the laws of the State of Wisconsin, which meeting was duly convened pursuant to the Articles and By-Laws of the said corporation, and at which meeting were present, either in person or by proxy, the owners of 100 voting memberships of said corporation, the following resolutions were duly adopted by the affirmative vote of all members present.

RESOLVED: That the Articles of Incorporation of The Young Men's Christian Association of Appleton, Wisconsin be amended, rewritten and re-numbered so that when so amended, said Articles of Association shall read as follows:

BEFORE ALL MEN BY THESE PRESENTS, that the undersigned, adult residents of the State of Wisconsin, do hereby make, sign and agree to the following:

ARTICLE FIRST: The undersigned have associated and do hereby associate themselves together for the purpose of forming a corporation under Chapter 56 of the Wisconsin Statutes of 1935 and the Acts Amendmentary thereto and supplementary thereto, the business and purpose of which corporation shall be to promote sociability, friendship, education, morality, and Christian principles among its members. To hold and conduct entertainments and social meetings of its members, and to purchase, hold, sell, improve and lease real estate, and mortgage and encumber the same, and to erect, manage, care for and maintain, extend and alter buildings thereon when necessary for the purpose of said society; to render aid to its members in misfortune, sickness, poverty or death, which said business is to be carried on in the State of Wisconsin, and especially within the City of Appleton, in the County of Outagamie in said State.

ARTICLE SECOND: The name of said corporation shall be THE YOUNG MEN'S CHRISTIAN ASSOCIATION OF APPLETON, WISCONSIN, its location shall be in said City of Appleton, Outagamie County, State of Wisconsin, and no dividend or pecuniary profits shall be declared or paid to the members thereof.

ARTICLE THIRD: This corporation is formed without capital stock, and the first meeting of the incorporators and members of the association shall be held Tuesday, July 1st, 1933, at 8 P. M., in the City Hall in the City of Appleton, County of Outagamie, Wisconsin.

ARTICLE FOURTH: The general officers of said corporation shall be, President, Vice-President, Secretary and Treasurer, and the Board of Directors shall consist of fifteen (15) members who shall be elected and hold their terms of office for three (3) years, or until their successors shall have been elected and qualified. At least ninety per cent

(90%) of the members of the Board shall be comprised of voting members who are also members of the evangelical churches. Not more than one-third (1/3) of the members of the Board shall be members of any one religious denomination.

ARTICLE FIFTH: The principal duties of the President shall be to preside at all meetings of the Board of Directors, and to have general supervision of the affairs of the corporation.

The principal duties of the Vice-President shall be to discharge the duties of the President in the event of the absence or disability for any cause whatever of the latter.

The principal duties of the Secretary shall be to countersign all deeds, leases and conveyances executed by the corporation, affix the seal of the corporation thereto, and to such other papers as shall be required or directed to be sealed, and to keep a record of the proceedings of the Board of Directors, and to safely and systematically keep all books, papers, records and documents belonging to the corporation or in any wise appertaining to the business thereof.

The principal duties of the Treasurer shall be to keep an account and account for all moneys, credits and property of any and every nature of the corporation which shall come into his hands, and keep an accurate account of all moneys received and disbursed, and proper vouchers for money disbursed, and to render such accounts, statements and inventories of moneys received and disbursed, and all money and property on hand, and generally of all matters pertaining to this office as shall be required by the Board of Directors.

The Board of Directors may provide for the appointment of such additional officers as they may deem for the best interest of the corporation.

The said officers shall perform such additional or different duties as shall from time to time be imposed or required by the Board of Directors or as may be prescribed from time to time by the By-Laws.

ARTICLE SIXTH: Any male person twelve (12) years of age or over, of good moral character can become an associate member of the Association by paying the membership fee as required by the Constitution and By-Laws of the Association, and by being elected by the Board of Directors.

Voting membership shall be open to any male at least eighteen (18) years of age who complies with the requirements of the Association regarding membership fees and any other requirements for participating membership which this Association may establish, and who also conforms to one or more of the following requirements:

- (1) Is a member of an evangelical church.
- (2) Who subscribes in writing to the following:

"I hereby declare my faith in God, and my acceptance of Jesus Christ as Savior and Lord.

I desire to serve him and to be His disciple in accordance with the teachings of the New Testament, and to unite with others in the extension of the Kingdom of God.

I am in full accord with the following purpose of The Young Men's Christian Association, and commit myself to its voluntary service and support.

To lead young men to faith in God through Jesus Christ; to promote their growth into fullness of Christian character; to lead them into active membership in the church of their choice; and to make the extension of the Kingdom of God throughout the world the governing purpose of their lives."

Any member of the Association can be suspended, disfellowed or expelled, as provided by the Constitution and By-Laws of the Association.

ARTICLE SEVENTH: These Articles may be amended by resolution setting forth said amendment or amendments adopted by a majority vote of the voting members at a meeting regularly called for that purpose.

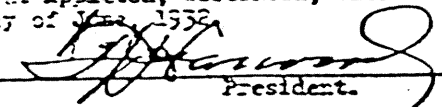
State of Wisconsin }
 } ss
Outagamie County }

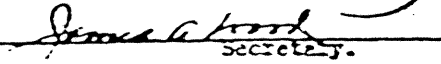
We, the undersigned, R. J. Barwood, President and James A. Wood, Secretary, of The Young Men's Christian Association of Appleton, Wisconsin, do hereby certify that the foregoing amendment to the Articles of Association of said corporation was duly adopted at a special meeting of the members of said corporation, duly convened according to the Articles and By-Laws of said corporation, which meeting was held at the principal office of said corporation at the City of Appleton, Wisconsin on the 29th day of June, in the year 1952.

And we do further certify that such amendment was adopted at said meeting by the affirmative votes of voting members owning more than a majority of all of the memberships of said corporation then outstanding; that the total number of voting members of said corporation is 200; that 162 members voted in favor of said amendment and that no members voted against it; and that the foregoing copy of such resolution and amendment to said Articles of Association is a full, true and correct copy of the original thereof.

IN WITNESS WHEREOF, we, the said R. J. Barwood, President, and James A. Wood, Secretary, have hereunto set our hands and have caused the corporate seal of the said corporation to be affixed hereto at Appleton, Wisconsin, this 29th day of June, 1952.

(Corp. Seal)



President.


Secretary.

Fiscal Estimate Narratives

DOR 3/29/01

LRB Number 01-2471/1	Introduction Number SB-98	Estimate Type Original
Subject Property tax exemption for YMCA		

Assumptions Used in Arriving at Fiscal Estimate

Under current law, property located in towns, not exceeding 40 acres, owned by the Young Men's Christian Associations (YMCA) used for summer camps are exempt from property taxation. Also under current law, property, not exceeding 10 acres, owned and used exclusively by educational or benevolent associations are exempt from property taxation.

The bill would exempt all property owned by the YMCA. The exemption would be limited to 10 acres of property located inside the limit of any incorporated city or village and to 40 acres of unincorporated property.

According to the YMCA Management Resource Center, there are 44 YMCA facilities in Wisconsin operating on YMCA-owned property. Currently these facilities are exempt as property owned and exclusively used by a benevolent organization. Thus, the bill would have no fiscal effect on property owned and used by the YMCA.

It is assumed that all property currently owned by the YMCA in the state is exclusively used by the organization. However, to the extent that the bill does not require that the YMCA exclusively use the exempt property, the bill would also exempt all property the YMCA may acquire in the future that would not be exclusively used by the organization. To the extent that property that would be taxable under current law becomes exempt, the bill would result in a property tax shift from YMCA property to other property taxpayers. State forestation tax revenue would decrease by a minor amount.

The bill would require minor modification to the Property Assessment Manual for Wisconsin Assessors, the costs of which can be absorbed.

Long-Range Fiscal Implications

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

COUNTY OF ALLEGHENY,)	JUDGE RALPH H. SMITH, JR., J.
)	
)	
)	OPINION IN SUPPORT
Appellants,)	OF ORDERS DATED
)	NOVEMBER 22, 1988 AND
)	DECEMBER 14, 1988
)	
versus)	No. G.D. 88-2349
)	G.D. 88-2704
)	G.D. 88-3323
BOARD OF PROPERTY ASSESSMENT)	
APPEALS & REVIEW OF ALLEGHENY)	
COUNTY,)	
)	
Appellee.)	
)	
INTERESTED PARTIES:)	
)	
Property Owner:)	
ALLEGHENY COUNTY INDUSTRIAL)	
DEVELOPMENT AUTHORITY (Y.M.C.A.)	
OF PITTSBURGH))	

Counsel for the parties:

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Property Owners

O P I N I O N

The above-captioned cases are appeals from the decision of the Board of Property Assessment, Appeals and Review of Allegheny County and presented for our consideration and determination the following issues:

[1] Is the Greater Pittsburgh Y.M.C.A. a purely public charity?; and, if so,

[2] What portion of its Boulevard of the Allies property is used for purely public purposes?

The authority to exempt real property from taxation is found in the Pennsylvania Constitution in the following relevant language:

"Section 2.(a) The General Assembly may by law exempt from taxation:

* * *

(v) institutions of purely public charity, but in the case of any real property tax exemptions only that portion of real property of such institution which is actually and regularly used for the purposes of the institution. [Pa. Const., Art. VIII, Section 2]

The General Assembly exercised its constitutionally granted authority by enacting legislation which provides that:

"(a) The following property shall be exempt from all county, city, ... and school tax, to-wit:

* * *

(3) All ... associations and institutions of ... charity ... founded, endowed, and maintained by public or private charity: That the entire revenue derived by the same be applied to the support and to increase the efficiency and facilities thereof, the repair and the necessary increase of grounds and buildings thereof, and for no other purpose;

* * *

(9) All real property owned by one or more institutions of purely public charity, used and occupied partly by such owner or owners and partly by other institutions of purely public charity, and necessary for the occupancy and enjoyment of such institutions so using it;" [Act No. 22-1986, 72 P.S., Sec. 5020-204]

In Hospital Utilization Project v. Commonwealth, 487 A.2d 1306, at 1312, (Pa. 1985); the Pennsylvania Supreme Court held that a property owner has the burden of proving that it is entitled to a tax exemption under Pennsylvania's constitution, statutes and court decisions. Moreover, it stated that before we consider the statute exempting property from taxation, it should be determined whether the property owner comes within the constitutional requirement that it be a "purely public charity". For tax exemption purposes, it is of no moment that the Y.M.C.A. qualifies as a charitable organization under federal tax law, the Pennsylvania Code or is a non-profit corporation if it doesn't meet the Pennsylvania constitutional requirement that it be a "purely public charity" (Id., 487 A.2d at 1311, 1312, 1316 and 1317).

In the Hospitalization Review Project case, supra, the Pennsylvania Supreme Court adopted the following criteria in order to determine whether an institution is a purely public charity:

". . . an entity qualifies as a purely public charity if it possesses the following characteristics.

- (a) Advances a charitable purpose.
 - (b) Donates or renders gratuitously a substantial portion of its services;
 - (c) Benefits a substantial and indefinite class of persons who are legitimate subjects of charity;
 - (d) Relieves the government of some of its burden; and
 - (e) Operates entirely free from private profit motive.
- [487 A.2d 1306 at 1317]

In order to determine whether the Y.M.C.A. qualifies as a purely public charity, we will review the facts of this case in light of the stated criteria.

ADVANCES A CHARITABLE PURPOSE

The Y.M.C.A. is a corporation not-for-profit whose primary purpose for existence is "to assist people to grow in body, mind and spirit and to build Christian personalities and Christian communities across the world". [T 9]

In order to give meaning and substance to this purpose the Y.M.C.A. is composed of members of various classes. It is for these members, a well defined and limited group, that the Y.M.C.A. exists. To serve its membership, the Y.M.C.A. maintains buildings and employs a service staff.

It provides its members with:

- (a) counseling;
- (b) physical facilities such as gyms, swimming pools, work-out equipment, running tracks, saunas, steam rooms, showers and related health care facilities;
- (c) pro shop; and,
- (d) physical facilities for meetings.

For these services the members pay dues according to the class to which they belong. The members whose class entitles them to the use of the Gold Locker Room and its facilities pay approximately \$600.00 per year. Those members entitled to the use of the Gold Locker Room enjoy within that area steam, sauna and whirlpool facilities in addition to lockers and a shoe shine service.

There are other facilities with varying degrees of facilities depending on the class of the membership a particular person has purchased. For example, there is the Silver Locker Room which is physically segregated from the Gold Locker Room and whose user enjoys lesser facilities. The various types of memberships have been defined as Executive, Business, Senior, Youth, Women and Student. Each of the members of these various classes pays dues for the facilities that their membership permits them to use with the exception of an extremely small and percentage wise insignificant number of members who are subsidized by fellow members. It is fair to conclude that the Y.M.C.A. exists to provide facilities and services for its members and any other use of the Y.M.C.A's facilities and services is merely incidental.

We make this statement with the knowledge that the Y.M.C.A. makes some of its facilities available to organizations of a charitable nature for their use. However, this is an insignificant use of its facilities in comparison with their use by the members.

In Hospitalization Utilization Project v Commonwealth, supra, at 1312, our Supreme Court cited with approval the following definition of a "purely public charity".

". . . as the public is the beneficiary, the charity is a public charity. As no private or pecuniary return is reserved to the giver or any particular person, but all the benefit resulting from the gift or act goes to the public, it is a "purely public charity", the word "purely" being equivalent to the word "wholly".

Moreover, an institution must devote a substantial portion of its assets to the public [Id. at 1315]. In the instant case the Y.M.C.A. assets are primarily devoted to its membership and not the general public.

It is our conclusion that the Y.M.C.A. does not advance a charitable purpose.

DONATES OR RENDERS GRATUITOUSLY A SUBSTANTIAL
PORTION OF ITS SERVICES

As we have previously indicated, the ultimate reason for the Y.M.C.A.'s existence is to provide service and facilities to its membership, a small and well defined group. While it does provide facilities or service to some members of the general public, the provisions so provided are insignificant when viewed in light of that provided the membership.

We conclude that the Y.M.C.A. does not gratuitously provide a substantial portion of its services.

BENEFITS A SUBSTANTIAL AND INDEFINITE CLASS OF PERSONS
WHO ARE LEGITIMATE SUBJECTS OF CHARITY

The beneficiaries of the Y.M.C.A.'s assets are its members, a definite and small group. The evidence does not justify a conclusion to the contrary.

Moreover, the evidence, at least as it applies to the Downtown Y.M.C.A., does not warrant or justify a finding that these members are legitimate subjects of charity. A large percentage of the membership of the Downtown Y.M.C.A. are businessmen, lawyers, doctors and persons of many diversified professions.

RELIEVES THE GOVERNMENT OF SOME OF ITS BURDEN

The Y.M.C.A. works with governmental agencies in providing services for needy individuals. For this the Y.M.C.A. receives tax funds. There is very little, if any, that the Y.M.C.A. does that could be classified as relieving the government of some of its burdens.

OPERATES ENTIRELY FREE FROM PRIVATE PROFIT MOTIVE

While the Y.M.C.A. is not a profit-orientated organization, it does have some functions which should be classified as profit orientated and which exist in competition with other entities. An example of such activity is its operation of the child care center. The Y.M.C.A.'s child care center was established after it conducted a survey of the market.

This survey took into consideration the nature of this market, competitive rates, demand for the service and the need for its services in the marketplace. The Y.M.C.A.'s child care center occupies two out of the seven floors of its Boulevard of the Allies building.

Additionally, the Y.M.C.A. operates a pro shop for the sale of products in competition with other commercial businesses.

The Y.M.C.A.'s participation in commercial activities which do not directly benefit its membership or its stated purposes places it in a position where it is not entirely free of a profit motive.

USE OF THE BOULEVARD OF THE ALLIES PROPERTY

In the event that we found that the Y.M.C.A. as an institution was a purely public charity, we would have to determine what portion of the Boulevard of the Allies property, if any, was devoted to a purely public purpose. Based upon the record before us, we would have to conclude that this property did not serve any purely public purpose.

Constructed on this property is a seven story building with basement which is used for the following purposes:

- Basement: Indoor swimming pool and the mechanical systems to run the building
- Ground Level: Lobby and administrative offices for the downtown Y.M.C.A.
- Mezzanine: Commercial child care program
- Second floor: Commercial child care program
- Third Floor: locker rooms
- Fourth Floor: exercise area with two Nautilus circuits and exercycles, indoor track, squash court, two handball and racquetball courts, two rooms for fitness testing and staff offices for the program staff of the building.

- Fifth Floor: Gymnasium
- Sixth Floor: Weight room, two handball and racquetball courts
- Seventh Floor: Metropolitan staff offices which provides service to the rest of the Y.M.C.A. of Pittsburgh [T 44, 45, 46]

Some of the athletic facilities and the meeting areas are made available to the public for the use of individuals and organizations. For the use of these facilities the Y.M.C.A. generally charges a fee. Additionally, the Y.M.C.A. offers certain educational and training programs to the public for which it generally charges a fee.

However, the use of Y.M.C.A.'s facilities by outside or public groups is extremely small in proportion to their use by the membership. The Y.M.C.A.'s building is maintained to carry out its stated function in relationship to its membership. It does not function as a purely public charity.

CONCLUSION

The Y.M.C.A. has failed to carry its burden of persuasion. Based upon the record before us, we concluded that the Y.M.C.A. was not a purely public charity and that the use of its facilities on the Boulevard of the Allies was not for a purely public purpose. For these reasons we entered our orders of November 22, 1988 and December 14, 1988.

New Settlement

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

YOUNG MEN'S CHRISTIAN
ASSOCIATION OF PITTSBURGH, as
equitable owner of property of which the
ALLEGHENY COUNTY INDUSTRIAL
REDEVELOPMENT AUTHORITY is the
legal owner,

Appellant,

v.

COUNTY OF ALLEGHENY BOARD OF
PROPERTY ASSESSMENT APPEALS AND
REVIEW, PITTSBURGH PUBLIC
SCHOOLS, CITY OF PITTSBURGH and
COUNTY OF ALLEGHENY,

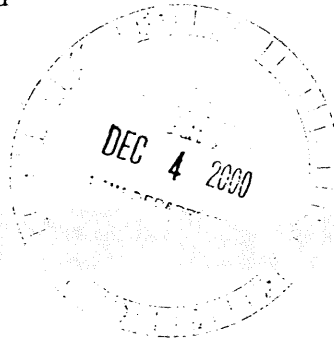
Appellees.

CIVIL DIVISION

G.D. No. 00-2680

Code: 120 (Tax Appeal (Realty))

CONSENT ORDER



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY,
PENNSYLVANIA

YOUNG MEN'S CHRISTIAN
ASSOCIATION OF PITTSBURGH, as
equitable owner of property of which the
ALLEGHENY COUNTY INDUSTRIAL
REDEVELOPMENT AUTHORITY is the
legal owner,

CIVIL DIVISION

G.D. No. 00-2680

Code: 120 (Tax Appeal (Realty))

Appellant,

v.

COUNTY OF ALLEGHENY BOARD OF
PROPERTY ASSESSMENT APPEALS AND
REVIEW, PITTSBURGH PUBLIC
SCHOOLS, CITY OF PITTSBURGH and
COUNTY OF ALLEGHENY,

Appellees.

CONSENT ORDER

WHEREAS the Appellee Young Men's Christian Association of Pittsburgh (the "YMCA") is the equitable owner of property located at 330 Boulevard of the Allies in the City of Pittsburgh, Lot and Block No. 1-M-107;

WHEREAS the YMCA believes that this property is entitled to exemption from real property taxes levied by the Appellees the School District of Pittsburgh, the City of Pittsburgh and Allegheny County pursuant to Section 204 of the General County Assessment Law, 72 Pa. Stat. § 5020-204, because the YMCA believes that it is an institution of purely public charity, this property is necessary to the YMCA's charitable purposes, and the YMCA actually and regularly uses this property in furtherance of those purposes;

WHEREAS the YMCA timely applied for an exemption for this property beginning in Tax Year 1999;

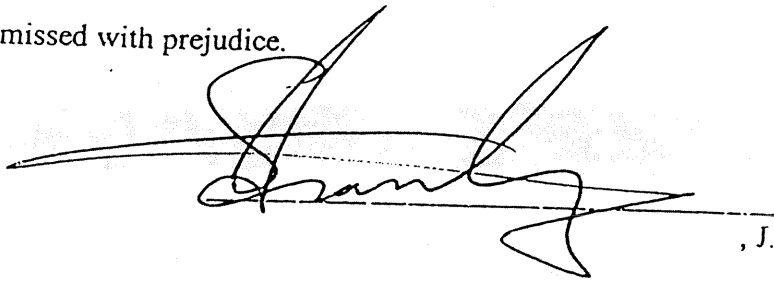
WHEREAS the School District of Pittsburgh, the City of Pittsburgh and Allegheny County dispute that this property is exempt from real property taxes;

WHEREAS this dispute is the subject of this action; and

WHEREAS the parties are desirous of resolving this dispute without trial;

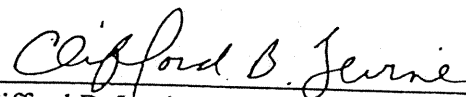
NOW, this 1st day of December, 2000, and with the consent of the parties, IT IS HEREBY ORDERED:

1. The property located at 330 Boulevard of the Allies in the City of Pittsburgh, Lot and Block No. 1-M-107, shall be placed 87.5 percent in the Exempt category for Tax Years 1999 through 2008, inclusive;
2. The School District of Pittsburgh, the City of Pittsburgh and Allegheny County may levy taxes upon 12.5 percent of the assessed value of that property for Tax Years 1999 through 2008, inclusive; and
3. This action is dismissed with prejudice.




, J.

CONSENTED TO:



Clifford B. Levine
Stuart C. Gaul, Jr.
Counsel for the YMCA of Pittsburgh



Ira Weiss
James A. Baxley
Counsel for the Pittsburgh Public Schools

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

COUNTY OF ALLEGHENY,

Appellant,

vs.

No. G.D. 88-2349

No. G.D. 88-2704

No. G.D. 88-3323

Consolidated At:

No. G.D. 88-2704

BOARD OF PROPERTY ASSESSMENT,
APPEALS AND REVIEW OF
ALLEGHENY COUNTY,

Appellee.

ORDER OF COURT APPROVING SETTLEMENT

AND NOW, this 18th day of May, 1990, it is hereby ORDERED, ADJUDGED and DECREED that, in accordance with the terms and conditions of the Agreement of Settlement attached hereto and incorporated herein, marked as Exhibit "A", the property owned by the Y.M.C.A. of Pittsburgh through the Allegheny County Industrial Development Authority, designated as Block and Lot Number 1-M-107 in the Deed Registry Office of Allegheny County, located at 330 Boulevard of the Allies, First Ward, City of Pittsburgh, Allegheny County, shall be classified as follows for the years 1986 through 1995:

<u>Year</u>	<u>Percentage of Assessment Taxable</u>	<u>Percentage of Assessment Exempt</u>
1986	15%	85%
1987	15%	85%
1988	20%	80%
1989	23%	77%
1990	23%	77%
1991	40%	60%
1992	40%	60%
1993	40%	60%
1994	40%	60%
1995	40%	60%

No interest or penalties shall be due and owing on any such taxes for the years 1986 through 1990: (a) at the fourteen (14%) percent rate in effect prior to this Order if paid on or before July 31, 1990; and (b) at the percentages in excess of fourteen (14%) percent established by this Order if paid on the thirtieth day after receipt by the Y.M.C.A. of the statements for such taxes or July 31, 1990, whichever occurs last. Thereafter, interest and penalties shall begin to accrue on any outstanding balance at the rates in effect on August 1, 1990, and shall continue to accrue at those rates or at any future rates which shall subsequently take effect.

All other terms and conditions of the Agreement of Settlement executed by the parties are hereby incorporated by reference in their entirety, as if fully set forth herein, and are hereby adopted as an Order of this Court. The parties are directed to comply with all of said terms and conditions applicable to such parties.

C. Each of the YMCA, the City and the County appealed the determination of the Board to the Court of Common Pleas of Allegheny County at GD No. 88-3323, GD No. 88-2349 and GD No. 88-02704 respectively (collectively, the "Tax Cases"). The School District was not and is not a party to the Tax Cases.

D. The Tax Cases were consolidated for trial. The Court of Common Pleas of Allegheny County determined that the Downtown YMCA should be classified as 100% taxable.

E. The YMCA appealed the decision of the Court of Common Pleas in the Tax Cases to the Commonwealth Court at No. 3067 C.D. 1988. The Commonwealth Court by Order dated September 29, 1989 vacated the decision of the Common Pleas Court in the Tax Cases, remanded the Tax Cases to the Court of Common Pleas for proceedings in accordance with the opinion filed with the Commonwealth Court's aforementioned Order and relinquished jurisdiction.

F. The City and the County filed a Petition for Allowance of Appeal ("Petition") in the Supreme Court of Pennsylvania at Allocatur Docket No. 169 of 1989. The Petition was denied by the Supreme Court on March 28, 1990.

G. As a result of the matters recited in paragraphs E and F above, jurisdiction of the Tax Cases is in the Court of Common Pleas.

H. The parties have determined to compromise their claims and differences, to effect a release of all claims asserted in the Tax Cases and to cause the Petition to be withdrawn and the Tax Cases to be settled as hereinafter set forth by virtue of the facts that (i) the City, the County, the School District and the Board recognize the charitable nature of the YMCA in providing services to the citizens of the City of Pittsburgh and the County of Allegheny and the children attending the schools of the School District, (ii) the YMCA, although it has denied and continues to deny that it is liable for any real estate taxes as well as other taxes, recognizes the City's, the County's and the School District's fiscal needs and (iii) the parties hereto desire to avoid further expense, inconvenience and distraction of litigation.

NOW, THEREFORE in consideration of the foregoing Preambles which are incorporated herein by reference and intending to be legally bound hereby, the parties hereto covenant and agree as follows:

1. Assessment Classification. The parties agree that for the tax years 1986 to 1995 the assessment of the Downtown YMCA shall be classified as follows:

<u>Year</u>	<u>Percentage Taxable</u>	<u>Percentage Exempt</u>
1986	15	85
1987	15	85
1988	20	80
1989	23	77
1990	23	77
1991	40	60
1992	40	60
1993	40	60
1994	40	60
1995	40	60

2. Dismissal of Litigation. The City, the County, the Board and the YMCA will promptly cause the dockets in the Tax Cases to be marked as having been settled and discontinued with prejudice, each party to bear its own attorneys' fees, expenses and other costs incurred in the Tax Cases.

3. Covenants Concerning Assessments. The City, the School District and the County hereby covenant and agree not to assess, levy or sue the YMCA for any real estate taxes or other taxes associated with the Downtown YMCA except as set forth above and will recognize and therefore not challenge or seek to alter the tax exempt status of the YMCA as reflected by the percentages set forth in paragraph 1 hereof or the assessment of the Downtown YMCA during the term of this Agreement. The Board covenants and agrees to place the Downtown YMCA in the classifications set forth in paragraph 1 for the years 1986 through 1990 inclusive and shall permit said classification to be as set forth in paragraph 1 through the year 1995 unless this Agreement is terminated prior thereto as set forth herein. The parties hereto agree that the

aggregate assessment (taxable and exempt) in effect for the Downtown YMCA for the year 1990 (Land - \$203,700; Building - \$1,500,000) shall remain in effect for the year 1991.

4. Termination. Notwithstanding the foregoing, (a) the City, the County, the School District or the Board shall have the right to terminate this Agreement if the activities at the Downtown YMCA are no longer conducted in substantially the same fashion as the same are now being conducted; and (b) the YMCA shall have the right to terminate this Agreement (i) in the event of a legislatively mandated payment by the YMCA for municipal services; and (ii) the enactment of other legislation or a final judicial decree order or adjudication which, notwithstanding this Agreement, mandates the retroactive imposition by the City, the County or the School District, or a combination of a retroactive and prospective imposition, of a tax on the YMCA.

5. No Admission by YMCA. The YMCA's execution of this Agreement and its performance hereunder do not constitute an admission of liability except as set forth herein or waiver of any position of the YMCA with respect to any of the claims asserted in the Tax Cases or otherwise.

6. Entire Agreement. This Agreement contains the entire understanding of the parties and there are no other understandings, agreements, covenants or conditions relating to the subject matter hereof.

7. Counterparts. This agreement may be executed simultaneously in two or more counterparts and by the different parties hereto on separate counterparts, each of which shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument. It shall not be necessary in making proof of this agreement to produce or account for more than one such counterpart. This agreement shall become effective upon the execution of counterparts hereof by all parties hereto, whether or not all such parties have executed the same counterpart.

WITNESS the due execution hereof as of this 17th day of
May, 1990.

ATTEST:

Ronald A. Spordewitz

CITY OF PITTSBURGH

By Mary K. Conturo

Mark Taglia

COUNTY OF ALLEGHENY

By [Signature]

Mark Taglia

BOARD OF PROPERTY ASSESSMENT
APPEALS AND REVIEW

By [Signature]

Mark Taglia

SCHOOL DISTRICT OF THE CITY OF
PITTSBURGH

By Robert J. Schantz

Laura B. Clark

YOUNG MEN'S CHRISTIAN
ASSOCIATION OF PITTSBURGH

By [Signature]

AGREEMENT OF SETTLEMENT

MADE THIS 17th day of May, 1990 by and among YOUNG MEN'S CHRISTIAN ASSOCIATION OF PITTSBURGH ("YMCA"), the CITY OF PITTSBURGH ("City"), the COUNTY OF ALLEGHENY ("County"), the SCHOOL DISTRICT OF THE CITY OF PITTSBURGH ("School District") and the BOARD OF PROPERTY ASSESSMENT, APPEALS AND REVIEW OF ALLEGHENY COUNTY ("Board").

PREAMBLES:

A. The YMCA filed an Application for Exemption with the Board for the years 1986 and thereafter in respect of its property at 330 Boulevard of the Allies, Second Ward, Pittsburgh, Pennsylvania ("Downtown YMCA") which is designated in the Deed Registry office at Block 1M, Lot 107. Record title to the Downtown YMCA was placed in the Allegheny County Industrial Development Authority by the YMCA for the purpose of placing a mortgage on the Downtown YMCA in accordance with the provisions of the Internal Revenue Code of 1986, as amended, in respect of tax-exempt financing.

B. After a hearing, the Board determined that the Downtown YMCA should be classified as 14% taxable and 86% exempt ("Board Determination").

Exhibit "A"

It is further ORDERED, ADJUDGED and DECREED that the above captioned cases be and the same are hereby settled and discontinued with prejudice, each party to bear its own attorneys' fees, expenses and other costs incurred in said cases.

~~BY THE COURT~~

By the Court

S/ R. J. S. J., J.

CONSENTED TO:

Mary K. Conturo

MARY K. CONTURO, Solicitor
City of Pittsburgh

Ira Weiss

IRA WEISS, Deputy Solicitor
Allegheny County

Robert J. Stefanko

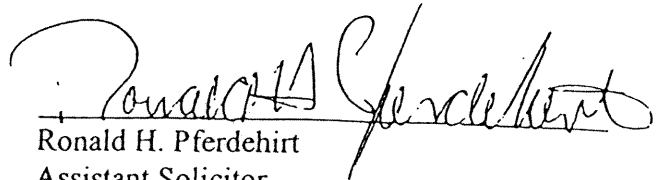
ROBERT J. STEFANKO, Solicitor
School District of Pittsburgh

Patrick J. Loughney

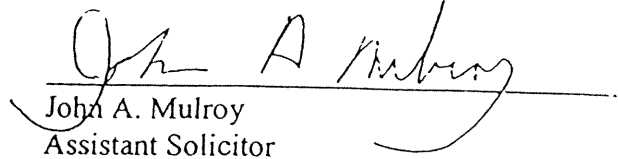
PATRICK J. LOUGHNEY, Solicitor
Board of Property Assessment,
Appeals and Review

Edward W. Seifert

EDWARD W. SEIFERT, Esquire
Attorney for Y.M.C.A.



Ronald H. Pferdehirt
Assistant Solicitor
City of Pittsburgh



John A. Mulroy
Assistant Solicitor
Allegheny County

Original Settlement

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

CITY OF PITTSBURGH,

Appellant,

No. G.D. 88-2349

No. G.D. 83-2704

No. G.D. 88-3323

vs.

Consolidated At:

No. G.D. 88-2704

BOARD OF PROPERTY ASSESSMENT,
APPEALS AND REVIEW OF
ALLEGHENY COUNTY,

Appellee.

ORDER OF COURT
APPROVING SETTLEMENT

Counsel for the Parties:

COUNTY OF ALLEGHENY,

Appellant,

Mary K. Conturo, Esquire
313 City-County Building
Pittsburgh, PA 15219
City of Pittsburgh

vs.

Ira Weiss, Esquire
Allegheny County Law Department
300 Fort Pitt Commons Building
445 Fort Pitt Boulevard
Pittsburgh, PA 15219
Allegheny County

BOARD OF PROPERTY ASSESSMENT,
APPEALS AND REVIEW OF
ALLEGHENY COUNTY,

Appellee.

Robert J. Stefanko, Esquire
341 South Bellefield Avenue
Pittsburgh, PA 15213
School District of Pittsburgh

ALLEGHENY COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY (Y.M.C.A. OF
PITTSBURGH) and Y.M.C.A. OF PITTSBURGH,

Appellants,

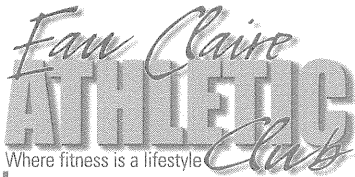
Patrick J. Loughney, Esquire
344 County Office Building
Pittsburgh, PA 15219
Board of Property Assessment,
Appeals and Review

vs.

BOARD OF PROPERTY ASSESSMENT,
APPEALS AND REVIEW OF
ALLEGHENY COUNTY,

Appellee.

Edward W. Seifert, Esquire
435 Sixth Avenue
P.O. Box 2009
Pittsburgh, PA 15230
Property Owner (Y.M.C.A.)



May 9, 2001

State Representative Michael Lehman
Ways and Means Committee Chair
State Capitol
P.O. Box 8952
Madison, WI 53708

RE: Public Hearing on AB250

Dear Rep. Lehman:

I am here to voice my concern regarding a specialty tax exemption being sought by the Wisconsin YMCA's that is not currently in the proposed budget. Here is why I object:

- #1) Under current State law YMCA's are exempt for benevolent services they provide, based upon the local tax assessors opinion.
- #2) To specifically change the State law to serve their purposes is a selfish and arrogant act that demeans other charitable causes that provide targeted services towards the disadvantaged.
- #3) To hold themselves in higher regard than *churches* in providing Christian values is an affront to organized religion and should not be tolerated. This assumption is based upon the fact that the Y is seeking an exemption specific to their organization and the exclusion of others.

From a **personal** standpoint, I think that a percent of the services offered by the Y are both admirable and necessary. But, a significant part of their services are no different than I provide but yet I pay property and income taxes. I take exception to the YMCA's contention that I am motivated primarily by profit (inferred as greed) at the exclusion of providing a community service. I receive compensation of less than 50% of the salary and benefits of the prior Y director. We struggle to make ends meet as we work on less than a 10% profit margin before taxes.

In recently received YMCA statewide mailing, "profit" is portrayed as a despicable end to questionable business tactics. Yet "profit" pays for street repair, protection services, community enhancements, etc.. I am particularly disturbed that Rep. Gard, dependent as he is on tax dollars to fund the State budget (and projected shortfalls) would seek to sponsor legislation that specifically singles out one entity as being worth of preferential tax treatment at the exclusion of others. The Y is **one of numerous organizations** funded by a credible reviewing agency known as United Way. Is Rep Gard in someway suggesting the the Y performs a much more needed and necessary services than these other worthwhile agencies?



I donate in excess of \$30,000 per year in services to other community organization; have been a 13 year member (and Paul Harris Fellow) of a local Rotary Club; have served on non-profit boards and my church parish council; along with my wife act as a co-chairpersons for the community wide UCP 'Friends' walk; the list goes on.

What the Y is asking for **today** to protect their \$700.00 tennis memberships, climbing walls, adult (>12) Nautilus exercise areas is a pittance compared to the Y of **tomorrow**. These future Y's will house state-of-the-art fitness technology, dining areas, Rehab areas and other items non-related to their mission of serving the community's youth and instilling Christian values. Water parks, golf courses, corporate retreats, etc., will be soon to follow but protected by an act of legislation to forever be tax exempt. The current YMCA organization has strayed so significantly from its' purported mission how can they ever be trusted to reign in their ever increasing appetite towards additional opportunities.

I suggest current law to be left as is and continue to allow the local assessor to determine if what looks like a duck, walks like a duck, quacks like a duck and is birthed by a duck, **IS ACTUALLY A DUCK!**

Thanks for your understanding on this issue.

Sincerely,



Jeff Sauter
President & General Manager



IT SEEMS TO ME (Letter to the editor-published April 14th 2001)

A recent mailing crossed my desk and prompted me to enlighten area residents about a pressing public issue involving a popular institution-the WI YMCA. The mailing contains innuendo and conveniently skewed information that incorrectly portrays YMCA's as an endangered species.

First, the issue. Current state law allows a YMCA to remain tax exempt for providing services directly tied to their benevolent mission. For example, on IRS form 990, the EC-YMCA states their mission to be "a benevolent, charitable and reformatory association for the improvement of the spiritual, social and physical condition of **youth**." When an entity begins to stray from its' mission and provide services that other tax-paying entities provide, the **local tax assessor** has the ability to levy a property tax assessment on the portion of services he/she deems appropriate. The WI-Y's would like to change this by *specifically excluding* themselves from existing state law.

The YMCA's have hired the same "big-gun/big dollar" lobbyist firm that was successful in passing the Packer stadium package. They have launched an all-out effort to protect their foray into competitive 'profit-making' markets by portraying the 'other side' as a well-oiled, mean spirited industry, bent upon the demise of the YMCA's. This is blatantly untrue and is in fact the reverse of what is actually happening.

This well-coordinated effort began a letter writing campaign to their elected representatives approximately 2 months ago; held a YMCA day in Madison in the second week of March in which Y officials met with legislators; conveniently provided these legislators with a copy of a proposed bill directly related to the purpose of the "Y" day; mailed a slick 3-color brochure which in Eau Claire arrived the day before budget finance hearings were to be held on the CVTC campus. And all of this was carried out by a supposedly benign, oppressed organization that is under bombardment by a for-profit health club machine that only exists to take advantage of an unsuspecting public? I think not.

Currently the Milwaukee, Stevens Point, and other areas are undergoing a massive YMCA build out to construct mega-million-dollar facilities. But, while these facilities are purported to be utilized by the intended market, a significant number of members will *not* require tax advantaged **membership subsidies** (which is in-effect the *result* of a property-tax exemption) to take advantage of the membership services provided. The YMCA would like to protect this affluent market by requesting a **change of existing State law** to specifically accommodate *their* specialized needs. In order to provide services to children and instill Christian values, they are seeking an exemption not offered to **CHURCHES!** Furthermore, to suggest they provide services more important than the majority of other United Way recipients whereby they are requiring specialized tax treatment is questionable at best.

Although today this may seem to be a harmless piece of legislation, the potential to grow unfettered may turn out to be akin to the rampant casino growth, which has occurred throughout the State. To remove the local assessor as decision maker and arbiter will open the door to loss of control and revenue for street repairs, police & fire protection, schools, snow removal and a host of other services that are provided to communities as part of our property tax assessment. As more and more 'competitive' services are offered, for-profit businesses will become a non-entity and the Y umbrella could potentially encompass golf courses, water parks, corporate retreats, the newest and best technology on the market and the list goes on. Of course all of this will be on a tax-exempt basis, thereby passing the burden of taxes on to others not receiving the specialized tax treatment currently being lobbied for.



This is an issue of responsibility and fairness. As a national organization, the YMCA does not have the same local ties that instill responsibility and would have far too much potential for corrupt behavior. Everyday we are exposed to the struggle that municipalities face in making ends meet and keeping tax levies down. Let's not be fooled by the effort to play upon our sympathies.

For 15+ years I have been hesitant to confront an institution as venerable as Mom and apple pie. But this blatant attempt to circumvent and distort existing state law demands attention and questions. Questions such as: Of the annual United Way fund disbursement (in EC \$80,000.00+) what is the total amount of **facility utilization that occurs over the course of a subsidized memberships term?** What percent of Y members meet a 'means test' that would entitle them to receive tax subsidized services? How many children actually utilize the services of a personal trainer or the facilities of Nautilus, group exercise or adult basketball leagues? Does the Y price their product to create a '**profit**', which is then utilized elsewhere within the growth of the organization?

Until September of 2000 the EC Y had a tiered membership, which was off-limits to youth. There has been a statewide initiative to discontinue this practice, which has been in existence for decades. Conveniently this occurred only months before the concerted effort that was begun to gain preferential tax treatment. Is there any connection perceived? Where did the money come from to hire the most expensive and effective lobbying firm in Madison? How about for the creation and distribution of the beautiful well-designed brochure recently received? Who exactly is the '**well-financed special interest group**'-a charge the recent mailing levies at the opponents of the proposed tax exemption?

The local Y is an extremely admirable organization that in the majority of cases earns the right of tax exemption. But, if the Y should stray from its stated charitable mission, its tax status should receive input locally, be discussed locally, and decided locally. The only way to ensure such local control is to keep current law as it is, and I encourage Chippewa Valley taxpayers to contact their legislators and ask them to stop the Y bill before it's too late.

Sincerely,

Jeff Sauter
President & General Manager
Eau Claire Athletic Club

TO ECAC MEMBERS AND OTHERS THAT HAVE CONCERNS ABOUT RISING PROPERTY TAXES

The commentary that is attached to this notice requires action to be taken regarding the 'hot-button' issue of rising property taxes.

As the article states, once local control is given up regarding any law, mandate or other function that impacts our daily life, we lose a little bit of the ability of having our voice heard. For example you have a better chance of dealing with a pot-hole issue by dealing with city-county authorities that travel the same roads as yourself. If pot-hole fixing was legislated out of Madison, you'd have less control. The same goes for Washington D.C. vs Madison.

If the attached commentary makes sense and raises concerns that can be extrapolated to other items, NOW IS THE TIME TO ACT! This bill (AB250) is expected to pass with no opposition due to the fact that legislators are not looking at long-term implications. Once of which could be that other 'pet causes' will have a precedent set, allowing easier passage with even *less* rationale. Call or write the listed Representatives/Senators and voice your thoughts today!

Rep. Rob Kreibich
P.O. Box 8952
State Capitol
Madison, WI 53708
800 362-9472

Sen. Rod Moen
P.O. Box 7882
State Capitol
Madison, WI 53708
877 763-6636

Rep. Larry Balow
P.O. Box 8952
State Capitol
Madison, WI 53708
715 832-0808

Doonesbury BY GARRY TRUDEAU



Mallard Fillmore BY BRUCE TINSLEY



YMCA's tax status should be decided locally

By Jeff Sauter

A recent mailing crossed my desk that I believe is a pressing public issue involving a popular institution, the Wisconsin YMCA. The mailing contains innuendo and skewed information that incorrectly portrays YMCAs as an endangered species.

Current state law allows a YMCA to remain tax exempt for providing services directly tied to its benevolent mission. For example, on IRS form 990, the Eau Claire YMCA states its mission to be "a benevolent, charitable and reformatory association for the improvement of the spiritual, social and physical condi-

It Seems to Me

tion of youth." When an entity begins to stray from its mission and provide services that other tax-paying entities provide, the local tax assessor has the ability to levy a property tax assessment on the portion of services he or she deems appropriate. The Wisconsin YMCAs would like to change this by specifically excluding themselves from existing state law.

In effect, the Y's are placing themselves in higher regard than churches and the majority of other United Way agencies that

in many ways serve the same market.

To remove the local assessor as decision maker and arbiter will open the door to loss of control and revenue for street repairs, police and fire protection, schools, snow removal and a host of other services that are funded through property taxes.

This proposed request to change state law could allow the "Y" umbrella to potentially encompass golf courses, water parks, corporate retreats and other programs and services, all tax-exempt.

Here are some questions that need to be answered:

- Of the annual United Way

fund disbursement (in Eau Claire the amount is \$80,000-plus), what is the total amount of facility utilization that occurs over the course of a subsidized membership's term?

■ What percentage of "Y" members meet a "means test" that would entitle them to tax-subsidized services?

■ How many children actually use the services of a personal trainer or the facilities of Nautilus, group exercise or adult basketball leagues?

■ Until September 2000 the Eau Claire YMCA had a tiered membership, which was off limits to youth. There has been a statewide initiative to discont-

ue this practice, which has been in existence for decades.

Conveniently this occurred only months before the concerted effort that was begun to gain preferential tax treatment. Is there any connection perceived?

The local Y is an extremely admirable organization that in the majority of cases earns the right of tax exemption. But if the "Y" should stray from its stated charitable mission, its tax status should receive input locally, be discussed locally and decided locally. The national Y does not have local interests at heart as they view their organizational growth, and the potential for abuse need not be offered.

The only way to ensure such local control is to keep current law as it is, and I encourage Chippewa Valley taxpayers to contact their legislators and ask them to stop the YMCA bill before it's too late.

Sauter is president and general manager of the Eau Claire Athletic Club.



Chairman Lehman, other committee members, Rep. Gard and other hearing attendees. It is my privilege to share with you my belief in the YMCA as one of the premier service organizations in our state. We are strong, we are

viable, we are growing, and we are under attack. *In fact our city Assessor ASKED US TO REAPPLY FOR OUR TAX EXEMPTION... AFTER FOUR MONTHS OF NOT HEARING AN ANSWER - I CALLED HIS OFFICE & HIS RESPONSE WAS THAT WE ARE REAPPEARED BUT THEY ARE WATCHING WHAT HAPPENS TO MILWAUKEE.*
I appreciate the complexity of the issues you face in trying to pass a fiscally responsible budget, trying to balance the interests of the states' population *Now.*

with the special interests of groups and specific municipalities. I am confident that this process, while it is not without its faults, most often produces good results.

That being said, it is my firm belief that to place the YMCA on the tax roles would greatly reduce our ability to provide the services that our community has benefited from. Consider that some communities that don't have YMCA's have actually developed there own community centers...potentially costing the tax base millions in up front capital dollars followed by annual tax support in the range of 45 to 65 % of their operational budget. These are not only not taxed; they are tax supported; ~~yet~~ some would say that the Y's should be taxed.

Consider also that the City of Sturgeon Bay has actually paid the YMCA to run its swimming pool since 1988 and will continue to help support a new YMCA pool for a number of years after the City pool is no longer operational. The YMCA could provide more benefit, less expensively to the citizens than could the municipality.

Let me shift gears.

Years ago a little boy went away to Y camp. As he grew, his desire to become part of camp did too. He wanted to be a counselor. Finally, after graduating from middle school, he was selected to participate in the leadership-training program. During the following years his mother was diagnosed with cancer. His father, devastated at the prospect of losing his wife, turned to the bottle, drowning his sorrows in alcohol. His mother, the cancer survivor, drank to be with her husband. Years passed. At one weekend leadership training program a speaker came to talk about alcoholism. It was then that the young teen realized what had been happening. The family he was growing up in had love; it also had a lot of disease. His mother eventually died of her illness, and alcoholism is still something the family deals with.

Without the influence of the leadership-training program this young man might have not amounted to much. At 24 he became an executive, at 27 president of the rotary, and for 10 years served on his communities Hospital Board. The YMCA made a difference. In fact, at a time when all other religion was failing him, the Milwaukee YMCA Camp Minikani Ragger's program kept him close to God. Years later, his development as a man was aided when he turned to the YMCA's four core values for guidance....honesty, caring, respect and responsibility.

This story is so important to me, because it is my story. I am a YMCA professional because of what I was given.....not with any expectation of return, just because that was, and still is the mission of the Y.

As the Executive Director of the Kettle Moraine YMCA I am proud to report that we have ~~over 1,100~~⁹⁸² scholarship members of our total ~~7,700~~⁷⁷⁵⁷ members. 1 w 8

Individuals are never turned away due to financial circumstances. Over \$140,000 is raised each year to support this effort. You heard how we honored our existing seniors by 'grandfathering' them if they needed help, and many took advantage of this.

Assets for Youth, a community wide initiative developed to unleash the positive power of youth in our community was developed by the YMCA with an annual expense budget of just over \$50,000. Based on focus groups with over 300 mid and high school youth the four key areas of focus are:

1. Youth positive promotion
2. Increased youth volunteerism opportunities (and the positive promotion to people that youth can volunteer and would like to be asked
3. Development of a youth and police dialog
4. Initiation of STAND (Students Taking Action Not Drugs)

The YMCA opens its doors free of charge for special education classes in our warming water therapy pool. The YMCA has collaborated with a Lutheran church in the establishment of a child care center that has filled to capacity in 6 months. The infant and toddler program has over 50 parents and their babies on the waiting list. It is almost to the point that prior to conception, you have to get on the waiting list for care. The YMCA is studying the feasibility, with company sponsorships, of opening three more infant/toddler center within the next year.

Quite frankly, without a strong bottom line, these works would not be done, we could not afford to engage in them.

Here's where you come in. Support of this bill will not enable us to do any more than we are already doing. No, this bill is protective in nature. I urge you to consider why cities like Hartford build their own centers, why cities like Sturgeon Bay pay the YMCA to operate their pool, and why for-profit health clubs want you to tax the Y. Support of this bill just solidifies that you believe we should remain exempt, something it seems to me is very concerning to them. I agree, there is unfair competition going on here.....the for-profits are cherry picking, skimming the profits off the top of what the YMCA's barrel of services is.

I am happy it is profitable, but really, who benefits – the owner. With the YMCA, the community benefits. Tax the YMCA, even in part, and you will impact your community adversely. Support this bill, assure your constituents that the YMCA will remain the positive force in this state we can all be proud of. Thank you for your attention and giving me the opportunity to share my views with you.

Page 5, Jaws T. Lange TESTIMONY

Testimony of Eileen Mershart and Elaine Maly

Regarding

AB 250

Before The

Assembly Ways & Means Committee

May 9, 2001

Mr. Chairman and other members of the Committee, we are pleased to appear before you today as you discuss Assembly Bill 250; legislation that would amend sections 70.11(10) and 70.11(12) (a) of the statutes.

We are Eileen Mershart, Executive Director of the YWCA of Madison, and Elaine Maly, Chief Development and Marketing Officer for the YWCA of Greater Milwaukee.

We are appearing on behalf of the eight Young Women's Christian Associations (YWCAs) located throughout Wisconsin. In addition to our organizations in Madison and Milwaukee, we have active YWCAs in LaCrosse, Green Bay, Racine, Janesville, Waukesha, and Wausau.

As you have already heard, this legislation would change the tax status of the Young Men's Christian Associations (YMCAs) by removing them from section 70.11 (10) of the statutes and inserting them in section 70.11 (12) (a) of the statutes.

While you will hear from many different people today representing many different organizations, we are unique among your speakers because we represent the *only* other organizations that are affected by section 70.11 (10) of the statutes. That section of the statutes currently refers *only* to YMCAs and YWCAs. We were paired together in section 70.11 (10) of the statutes because we were thought of as brother and sister organizations. When originally placed in that section of the statutes, our two organizations were quite different from the organizations we know today as YMCAs and YWCAs. We were given the property tax exemption in section 70.11 (10) primarily to protect our summer camp properties and the programs that operated on those properties.

As the representatives of the YMCAs will testify today, their organizations are quite different from the organizations which were in existence when this section of the statutes was enacted into law. So too are we different. However, we are also very similar to the YWCAs of many years ago in that we still exist to serve the needs of women, children, families and our communities. We are non-profit institutions, with none of our members receiving profit from our operations.

With this history in mind, we appear before you today to ask that if the tax status of the YMCAs is changed, our tax status also be changed. We hope that our request is as logical to you as it is to us.

It makes no sense to us to take one of the two entities that are covered by section 70.11 (10) of the statutes and grant it a broader tax exemption while leaving the other (us) with a lesser exemption.

It is our understanding that legislative supporters of our position have asked the Legislative Fiscal Bureau to determine if such a change would have any fiscal impact on the state and that the response from the Legislative Fiscal Bureau is that granting us the same status as the YMCAs would have *no* fiscal impact.

In summary, we appear before you today to ask you to treat the YWCAs in a fair and equitable manner when considering this legislation. Therefore, we ask that we be given the same status as YMCAs in section 70.11 (12) (a) of the statutes...just as we were given equal status to the YMCAs in section 70.11 (10) of the statutes. Anything less would be discriminatory and unfair.

Thank you for your consideration and for the wonderful support you have given our organizations throughout the years. You have our commitment to continue to serve our communities in a manner which will enhance the quality of life in Wisconsin.

We would be happy to answer any questions from the Committee.



SPORTS • FITNESS • FRIENDS

500 South Center Avenue • Merrill, Wisconsin 54452
(715) 536-2481

To the
Assembly Ways and Means Committee
May 9, 2001

From Paul Kienitz
Riverside Athletic Club
Merrill, Wisconsin

I'm Paul Kienitz and I own the Riverside Athletic Club in Merrill, Wisconsin. Thanks for the opportunity to testify today against AB 250. I'd like to make it clear that I'm NOT here to oppose the YMCAs. In many cases, they do great work. I do want to oppose the expanded exemption they're seeking and today I'll share some of my concerns about the property tax implications of their legislation.

Under current law, local assessors can fully or partially assess property taxes on YMCAs based on the use of their facilities. If they're primarily used in pursuit of their exemption, they aren't assessable. If they're running competitive businesses, they can be taxed on those portions of their operations. That makes sense.

As a club owner, I'm already subject to a property tax whammy. The nature of my business requires me to maintain a large, well-maintained space. I pay much more than other businesses in my community, such as manufacturers and retailers with similar or larger spaces, as a result. Our gross doesn't come near these other operations, yet I pay a disproportionately high amount based upon the size and condition of my building. Ouch. But this especially hurts when you compare my nearest Y competitor in Wausau, which offers about 80,000 square feet and grosses much greater program revenue than I do, yet it pays **absolutely no property taxes**.

YMCAs pay no taxes of any kind. They get "free" money through interest-free loans. They aren't subject to fair labor standard laws, so they can save on wages by trading memberships for free work, which they call "volunteer." They receive funding from the United Way and other donors. Any time they want to add onto their facilities or build new ones, they run fund drives. They get cut rates on postage. They frequently receive prime land for little or no money from the communities in which they locate. And they make a lot of money off of fitness memberships and their other program revenue.

Partial taxation of some YMCAs won't level out the competitive advantage YMCAs have, but that's not the point anyway. It will stop the tax shifting from the commercial portion of some YMCA's onto other taxpayers, so our communities will benefit.

If current law does prevail, some YMCAs, those that operate commercial enterprises such as multi-million dollar adult fitness facilities, may pay some taxes. Will that destroy YMCAs? No, not any more than it destroys any other taxpayers. And YMCAs, more than most operations, are well able to pay their fair share of taxes. Last year, nationally,



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they reported revenue of \$3.5 billion. That's enough revenue to place them in the same league as Fortune 500 companies.

If faced with paying their fair share of property taxes in the communities where they operate commercial operations, I imagine they'll do what any other business or homeowner taxpayer would do—review their budgets and trim where necessary. If the Y's stay true to their original mission, they'll cut the nonbenevolent portions of their operations. They'll cut operating costs such as advertising or training, both of which they spend much greater sums on than most of us are able to.

Please don't listen to **inflammatory** claims that the Ys will have to cut vital programming for children if they are forced to pay taxes. The YMCAs initially received their exemptions to deliver services to underprivileged youth. If they stick to that mission, they will still receive their exemption. The Ys seem to want it both ways. In their literature they claim that this legislation would have no fiscal effect. They also say that forcing them to pay taxes would be devastating. How can both be true?

The truth is that while some Ys in the country pay taxes (in Oregon and Pittsburgh...), assessors are just beginning to review YMCA operations in Wisconsin. And under current law, local assessors can review YMCA operations and make a determination of whether they are operating a commercial business. Without that protection, YMCAs could veer off into any business they choose and still remain wholly tax-exempt. We could soon see tax-exempt YMCA golf courses and restaurants.

Please protect taxpayers and taxpaying businesses like mine from tax shifting by nonprofit businesses that operate competitively. Let the law work. Oppose AB 250. Thank you.

**To the Assembly Ways and Means Committee
May 9, 2001**

From Dave Calnin, owner of Premier Fitness

Hello. My name is David Calnin. In 1995, I decided to realize my dream of opening a health club. I put my life savings on the line. I pulled in favors, borrowed from banks, friends and family, and in January of 1996, I opened Premier Fitness in Saukville, Wisconsin. I was happy to earn the community improvement award from the Village of Saukville that year for taking a vacant building and turning it into a thriving business. After a couple of years, I married and my wife joined me in the business. We operated profitably for the next several years. Then came the YMCA.

When I heard that a YMCA would likely be coming to the area, I was honestly excited. I knew that the Y specialized in youth programs, and I was eager to work side-by-side with this new facility. I invited Patric Danahaer from the Saukville Y to lunch so I could speak to him of my interest in working directly with the Y. We had that lunch, but I never heard from the YMCA again. It soon became clear that the Y had no intention of working with me and actually intended to compete directly with me.

The Y started telling the community that it would be bringing many badly needed programs to the area like child-care, aerobics, spinning programs, cardio and weight lifting equipment, massage therapists, yoga programs and others. All of which I already offered.

The Y claimed that it did not compete with local businesses, yet one of my members, placing a contracting bid for the new YMCA, reported to me that the Y had all of my recent ads posted on their office wall. If they didn't intend to compete, why monitor my advertising?

I did research to find just how big an advantage this new tax free facility would have. I found that for every \$75 the Y spent I would need to spend over \$100.00 to compete. The Y pays no property tax for the building they occupy or for the equipment within it. They pay no sales tax on the equipment it purchases and no income tax. The Y gets reduced rates from the post office for its direct mail advertising. The Y can use volunteers to staff many areas but because of fair labor standards, I cannot, and the list goes on.

I still believed that my facility could survive because I was willing to fight for it. But last year after a taking a long look at my books, and a tearful discussion with my wife, we came to the painful realization that our life savings was gone and our business would need to close. The family we had intended on starting would have to wait.

I may be one of the first clubs in Wisconsin that these new multimillion dollar YMCA's have shut down, but I guarantee that I will not be the last. In the future you will see not only health clubs going out of business, but you will see day care centers, dance studios and martial arts programs closing, because these are all areas that the YMCA is entering into.

Many people come before you asking for money for important programs. My business paid taxes but was put out of business by a business that pays none. When relocating my business, I was sure to research a community that had no YMCA and had no plans for one. It becomes clear that the state is not only losing revenue from businesses like mine that closed, but also from other businesses that will not open in the future because a tax free YMCA is too difficult to compete with.

You have a difficult job determining who gets money and who doesn't. But if my figures are correct, the YMCA in my community would pay \$150,000 a year if it were taxed as my business was. That's one Y in one community. Imagine the lost revenue statewide. Thank You.

Sincerely,



David Calnin

①

Good Morning, I am

Chairman Leonard and committee members:

I am Steven Vincent and I

am here to speak on

behalf of the YMCA. I

am currently a member

of the YMCA of Dane

County. Because I

have a disability and

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live on a very low
income, the YMCA
has provided me a
scholarship for the past
five years. Without
this scholarship, I
would not have access
to the facilities and

③

programs which allow me to stay healthy and active. At the YMCA, I walk on the treadmill but I especially enjoy swimming laps. When I am out of town, I am even able to use the

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YMCA's throughout

I've even used the Y in Canada,
the country. I find a

YMCA family

wherever I go. Private

health clubs do not

offer scholarships to

serve low-income

people like myself.

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The YMCA's tax-exempt status needs to be preserved so that everyone continues to have access to healthy lifestyle programs, even those who can not afford to pay the full

(6)

membership fees.

~~Thank You!~~

Please confirm the YWCA's
tax-exempt status.

Thank you!

Steve Vincent

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