

BOARD OF TAX APPEALS
STATE OF LOUISIANA
LOCAL TAX DIVISION

WORLD WAR II THEATRE, INC.

Petitioner

versus

DOCKET NO. L01363

NORMAN WHITE, CHIEF FINANCIAL OFFICER
AND DIRECTOR OF FINANCE,
CITY OF NEW ORLEANS;
ERROLL G. WILLIAMS, ASSESSOR, ORLEANS PARISH;
AND LAWRENCE E. CHEHARDY,
CHAIRMAN, LOUISIANA TAX COMMISSION

Respondents

JUDGMENT

On February 27, 2025, this matter came before the Board for status conference by Zoom on remand from the Fourth Circuit, with Local Tax Judge Cade R. Cole¹ presiding. Appearing before the Board were Cheryl M. Kornick and Tyler Trew, attorneys for World War II Theatre, Inc. ("WWII Theatre"), Reese F. Williamson, attorney for Erroll G. Williams, Assessor, Orleans Parish ("Assessor"), James Roquemore, attorney for Norman White, in his Capacity as the Director of the Department of Finance of the City of New Orleans ("City"). Counsel for Intervenor Orleans Parish School Board ("School Board") and Lawrence E. Chehardy, then Chairman, Louisiana Tax Commission ("LTC") did not appear after being served with notice of the time, date, and place of the Status Conference. During the Status Conference, counsel for all parties present stipulated that the matter could be decided on the record with the addition of WWII Theatre' IRS Form 990 for the period of July 1, 2021 through June 30, 2022 ("FY 22 990") and the Assessor's Appellant Brief,

¹ On March 10, 2025, Justice Cole resigned from the Board of Tax Appeals after being elected to the Louisiana Supreme Court and was appointed ad hoc Local Tax Judge in this matter by Order of the Louisiana Supreme Court on March 11, 2025.

WWII Theatre's Appellee Brief, and the Assessor's Appellant Reply Brief. Said briefs were filed by Joint Stipulation with the Board on February 28, 2025, whereupon the matter was deemed submitted. The Board now issues Judgment in accordance with the attached Written Reasons:

IT IS ORDERED, ADJUDGED AND DECREED that Judgment is hereby rendered in favor of WWII Theatre and against the Assessor, the School Board, the City, and the LTC, declaring that for tax year 2022 all real and personal property owned by WWII Theatre located at 1000 Magazine St. in the City of New Orleans, is exempt from all Orleans Parish ad valorem or property taxes pursuant to La. Const. art. VII, §21(B).


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that City of New Orleans 2022 Original Business Personal Property Tax Bill No. 102102511P in the amount of \$183,596.99 and City of New Orleans 2022 Original Real Estate Tax Bill No. 102103307 in the amount of \$370,425.44 (collectively, "the Assessments") are invalid as the property subject to the Assessments is exempt from all Orleans Parish ad valorem or property taxation for tax year 2022 pursuant to La. Const. art. VII, §21(B).

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the City of New Orleans shall refund to WWII Theatre all payments of the Assessments made under protest for the tax year 2022 along with interest as allowed by law. Specifically, the City will refund \$183,596.99 plus interest pursuant to La. R.S. 47:2134 at the actual rate earned on the money paid under protest in the escrow account during the period from the date such funds were received by the collecting officer or officers to the date of the refund for City of New Orleans 2022 Original Business Personal Property Tax Bill No. 102102511P. The amount of interest through December 31, 2023, is \$2,974.27, for a total amount due of \$186,571.26. The City will also refund \$370,425.44 plus interest pursuant to La. R.S. 47:2134 at the actual rate earned on the money paid under protest in the escrow account during the period from the date

such funds were received by the collecting officer or officers to the date of the refund for City of New Orleans 2022 Original Real Estate Tax Bill No. 102103307. That total amount of interest through December 31, 2023, is \$6,000.89, for a total of \$376,426.33.

BATON ROUGE, LOUISIANA, THIS 12TH DAY OF MAY, 2025.

FOR THE BOARD:



JUSTICE CADE R. COLE
LOCAL TAX JUDGE AD HOC
LOUISIANA BOARD OF TAX APPEALS

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Respondents

WRITTEN REASONS FOR JUDGMENT

On February 27, 2025, this matter came before the Board for status conference by Zoom on remand from the Fourth Circuit, with Local Tax Judge Cade R. Cole¹ presiding. Appearing before the Board were Cheryl M. Kornick and Tyler Trew, attorneys for World War II Theatre, Inc. (“WWII Theatre”), Reese F. Williamson, attorney for Erroll G. Williams, Assessor, Orleans Parish (“Assessor”), James Roquemore, attorney for Norman White, in his Capacity as the Director of the Department of Finance of the City of New Orleans (“City”). Counsel for Intervenor Orleans Parish School Board (“School Board”) and Lawrence E. Chehardy, then Chairman, Louisiana Tax Commission (“LTC”) did not appear after being served with notice of the time, date, and place of the Status Conference. During the Status Conference, counsel for all parties present stipulated that the matter could be decided on the record with the addition of WWII Theatre’ IRS Form 990 for the period of July 1, 2021 through June 30, 2022 (“FY 22 990”) and the Assessor’s Appellant Brief,

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WWII Theatre's Appellee Brief, and the Assessor's Appellant Reply Brief. Said briefs were filed by Joint Stipulation with the Board on February 28, 2025, whereupon the matter was deemed submitted. The Board now issues the foregoing Judgment for the following reasons.

The trial in this matter occurred on September 14, 2023. On December 13, 2023, we issued an Order with Written Reasons, finding that World War II Theatre, Inc. ("WWII Theatre"), a 501(c)(3) nonprofit corporation, operates the Higgins Hotel and Conference Center ("Hotel") in support of the charitable purpose of the National Word War II Museum ("Museum"). As such, we held that the assessment of ad valorem property tax on the Hotel for the 2022 Tax Year was invalid under La. Const. art. VII, §21(B). Except as modified herein, the written reasons previously rendered are adopted herein by reference.

After the trial, the Assessor discovered previously unavailable evidence in the form of WWII Theatre's IRS Form 990 for the period of July 1, 2021, through June 30, 2022 ("FY 22 990"). In our Order and Written Reasons, we noted that the Hotel had not generated a profit in three years. However, the FY 22 990 shows that the Hotel generated a profit in the amount of \$2,505,168 in fiscal year 2022. Also, in our Order and Written Reasons, we noted that about twenty-three percent (23%) of the Hotel's revenue was reported to the IRS as Unrelated Business Taxable Income ("UBTI") on previous Form 990s. However, the FY 22 990 shows that WWII Theatre reported total revenues from the Hotel in the amount of \$16,009,431.00, of which \$4,577,779.00 was UBTI, about twenty-eight percent (28%) of revenue. The Assessor moved for a new trial based on the FY 22 990.

During the hearing on the Motion for New Trial, we stated that the FY 22 990 presented a different set of facts than the facts presented at trial. We also stated that each tax year stands on its own, and that in a future year, if WWII Theatre were to abandon its Museum-related purposes and simply operate a commercial Hotel, that action would probably produce a different outcome. Nevertheless, we denied the

Assessor's Motion for New Trial, noting that the facts related to the tax year at issue demonstrated the taxpayer's entitlement to the 21(B) exemption.

The Board's denial of the Motion for New Trial was reversed on appeal by the Fourth Circuit. The Court of Appeal held that we erred in denying the Motion because the FY 22 990 "will likely reflect whether the commercial activities of the Hotel continue to relate to the Theatre's charitable exemption at a level that would qualify the Hotel for exemption from ad valorem tax." Further, the Fourth Circuit stated that the Form 990 "evidences an increase of unrelated business income to twenty-eight percent (28%) for the year 2022." This contrasted with testimony at trial stating that twenty-three (23%) of the Hotel's revenue was UBTI. Also, the Fourth Circuit noted that the relevant date for determining the ad valorem tax due on property in Orleans Parish is August first of the year prior to the taxing year. La. R.S. § 47:1703(B). Thus, the relevant date for purposes of the 2022 Tax Year fell within part of the period covered by the FY 22 990. Accordingly, the Court remanded this matter for consideration of the new evidence.

Having considered both the new evidence and the previously introduced evidence in light of the new Form 990, the Board's determination is unchanged. The new evidence shows that the proportion of Hotel UBTI was slightly higher than previously stated. This does not change the fact that the large majority of hotel revenue was related to the Museum's charitable purpose.

Moreover, the Board's finding that the Hotel was operated in support of the Museum's goal of developing a renowned historical and cultural institution is not changed by the fact that the Hotel eventually turned a profit. The Hotel still benefits the Museum through below market rates, academic symposia and cultural gatherings, and through provision of housing for veterans' trips and educational programs. Thus, while the FY 22 990 is a factor to consider in determining whether an exempt relationship exists between the Hotel's commercial activity and the

Museum's charitable purpose, that relationship is still adequately proven by the other evidence in the record.

For the foregoing reasons, the Board finds that the FY 22 990 does not change its ultimate conclusion. The weight of evidence shows that the Hotel supports the charitable purpose of the Museum both in actual operation and by its design. Accordingly, the Board again concludes that, for the 2022 Tax Year, the Hotel is protected from ad valorem property tax by La. Const. art. VII, §21(B).

Further, during the Status Conference, counsel for all parties stipulated that the Board's determination on remand should be issued as a new final Judgment. Therefore, in conjunction with these Written Reasons, the Board will issue a new Judgment containing the same decree previously rendered.

BATON ROUGE, LOUISIANA, MAY 12, 2025.

FOR THE BOARD:



**JUSTICE CADE R. COLE
LOCAL TAX JUDGE AD HOC
LOUISIANA BOARD OF TAX APPEALS**