The Catholic Lawyer

Volume 19
Number 4 *Volume 19, Autumn 1973, Number 4*

Article 8

March 2017

What Happened to the Church in Richmond

Nicholas A. Spinella

WHAT HAPPENED TO THE CHURCH IN RICHMOND

NICHOLAS A. SPINELLA, ESQ.*

Over the past several years in Virginia there has been some public support in favor of levying a service charge on tax exempt real estate in order to reimburse localities for police and fire protection and refuse collection. Accordingly, the recently revised Constitution of Virginia included the following section:

> The General Assembly may, by general law authorize any county, city, town or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

Pursuant to this provision of the new Constitution our General Assembly did enact a statute effective July 1, 1972, permitting localities to impose service charges upon the owners of tax exempt real estate but excluding church property which was exempt from real estate taxation and used wholly and exclusively for religious worship. The statute limited the service charge to a maximum of 40% of the real estate tax rate and provided a little understood statutory formula for computing the service charge whereby the service charge was based on the assessed fair market value of the real estate rather than by the value of services rendered for police and fire protection and refuse collection.

In an effort to cooperate with a reasonable charge for services and with assurance that churches would not be assessed with a service charge, the Diocese of Richmond did not oppose the Constitutional revision or the enabling act of the General Assembly, nor did any other church groups or charitable organizations in the State object. Our Diocese did not oppose the act because it assumed that the service charge would be both reasonable and equitably applied.

As the state capitol, the City of Richmond has located within its boundary much valuable real estate owned by the state government and, therefore, our City Council immediately enacted a city ordinance levying the maximum service charge allowed by the statute amounting to 40% of the city real estate tax. In August of 1972 the Assessor of Real Estate advised the Diocese and other tax exempt property owners as to the amount of service charge each would pay under the terms of the ordinance. Much to our amazement, the simple little service charge emerged as a

*Partner, Spinella, Spinella, Owings, Richmond, Virginia.

substantial and unreasonable real estate tax on our school properties, convents, cemeteries and other buildings.

While actual church buildings and rectories were exempted, nothing else escaped. As an example of the unreasonableness of the service charges as levied in Richmond, an elementary school assessed at $500,000.00 was assessed with a service charge of $4,000.00—our school properties alone in the city were levied with more than $25,000.00 in service charges for the first year. But the worst was yet to come.

We immediately set up appointments with the Mayor of the City, the City Manager, City Assessor and City Attorney in that order. Our problem became worse with each conference. The Mayor assured us that the service charge was needed by the City and would be paid by all tax exempt property owners, therefore, we should not complain. The City Manager echoed the Mayor's remarks, but the City Assessor advised us for the first time that while Sunday school classrooms, educational facilities, auditoriums, cafeterias, and gymnasiums connected with other denominations were exempted under the "religious worship" exclusion, because our schools were full time accredited educational institutions, they were not wholly and exclusively used for religious worship and, therefore, we pay the service charge, they do not. The City Attorney confirmed that this was the manner in which he had interpreted the ordinance.

Armed with this unfair, inequitable and unconstitutional application of the ordinance to our properties, we consulted George Reed here at the Office of General Counsel and later retained Bill Ball to prepare a brief on the obvious constitutional question involved, organized our troops and marched on City Hall demanding exemption of our properties from the so-called service charge or else—the or else being clearly enunciated as Court action to declare the state statute and the city ordinance unconstitutional.

I am happy to report that this sad tale did have a happy ending. Our Catholic concern and leadership drew support finally from other tax exempt property owners and City Council finally, on November 13, 1972, amended the ordinance to exclude all properties other than state owned properties, and with the valuable assistance of my associate diocesan attorney, Joe Gartlan, who happens to occupy a seat in the Virginia Senate, the legislature at its 1973 session also limited the enabling act to state owned property, thereby exempting all religious and charitable owners of real estate.

Due to limitations of time, I have necessarily summarized in a general way our activity on this matter, however, there are available copies of selected news articles and statements which will give you a better appreciation of the manner in which we accomplished our service charge exemption before City Council.

The caveat I leave with you regarding this matter is simply this—a service charge for police and fire protection on tax exempt property sounds

eminently fair and equitable—it sounds like a charge by the locality for services rendered—don't believe it—our Richmond experience proved that a service charge is a disguised real estate tax. When your legislature and local governing body begin to suggest and discuss the need for a service charge, don't sit back and consent in silence—organize immediately and fight. We finally did in Richmond, but it was almost too late.