



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

February 17, 1939

Honorable L. R. Thompson
County Auditor
Abilene, Texas

Dear Sir:

Opinion No. 0-352
Re: Exemption of lodge build-
ings from taxation

We are in receipt of your letter of February 14 requesting our opinion as to whether lodge owned buildings used exclusively for lodge purposes are exempt from state and county ad valorem taxes, and whether lodge owned buildings which are used in part for lodge purposes, and in part for rentals are subject to taxation.

Article 8, Sec. 2 of the State Constitution provides that the Legislature may, by general laws, exempt from taxation "institutions of purely public charity".

This has been interpreted to mean that the building must be used exclusively for, and owned by an institution of, charity in order to claim the exemption provided in said Article 8, Sec. 2, of the Constitution, and Article 7150, Sec. 7, of the Revised Civil Statutes. *Morris vs. Masons*, 5 S.W. 519 (Sup. Ct.).

Hence we are able to answer your second question by saying that even though the lodge confines its activities wholly to matters of public charity, yet if a part of the building is rented to a person not so engaged, the exemption cannot be claimed.

In *Masonic Temple Association vs. Amarillo Independent School District*, 14 S.W. (2d) 128; *Ben. & Pro. Order of Elks vs. Houston*, 44 S.W. (2d) 488; *Houston vs. Scottish Rite Ben. Ass'n.*, 230 S.W. 978, 233 S.W. 551; and *Morris vs. Masons*, supra, it was held that if the lodge or other institution engaged in any other activities than those of charity, its building would not be a subject of exemption within the above constitutional provision.

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Description of the buildings as being owned by lodges and used for lodge purposes is, therefore, not sufficient upon which to base an opinion. The question is whether such buildings are used exclusively and owned by institutions of public charity. That question is one of fact.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

GRL:FG

APPROVED:

George C. Mason
ATTORNEY GENERAL OF TEXAS