

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

GREAT SOCIALIST PEOPLE’S	)	
LIBYAN ARAB JAMAHIRIYA	)	
	)	
	)	Case Number: 1:07cv497
Plaintiff,	)	Judge T.S. Ellis III
	)	Magistrate Judge Theresa C. Buchanan
vs.	)	
	)	
ARLINGTON COUNTY, VIRGINIA, <u>et al.</u>	)	
	)	
Defendants.	)	

**PLAINTIFF LIBYAN GOVERNMENT’S  
MOTION FOR SUMMARY JUDGMENT  
ON ITS DECLARATORY JUDGMENT CLAIM**

Plaintiff Great Socialist People’s Libyan Arab Jamahiriya, by and through its attorneys, J.P. Szymkowicz, John T. Szymkowicz and the Law Firm of Szymkowicz & Szymkowicz, LLP, respectfully requests that this Honorable Court grant its motion for summary judgment on its declaratory judgment claim pursuant to F. R. Civ. P. 56, 22 U.S.C. § 2201 et seq. and Local Civil Rule 56 for the following reasons:

**LISTING OF UNDISPUTED FACTS**

**Properties at Issue – Arlington County**

1. This matter concerns the following three condominium units in Arlington County with distinct tax reference numbers located in the Carlyle House Condominium, 5300 Columbia Pike, Arlington, Virginia 22204:

Unit 501	RPC#: 28-004-130, ACCT#: 06 28004130 00 1
Unit 515	RPC#: 28-004-143, ACCT#: 06 28004143 00 1
Unit 702	RPC#: 28-004-157, ACCT#: 06 28004157 00 1

**Property at Issue – Fairfax County**

2. This matter concerns the following condominium unit in Fairfax County with distinct tax reference numbers located in the Rotunda Condominium, 8370 Greensboro Drive, Fairfax, Virginia 22204:

Unit 914      Map Reference Number: 0293 17040914  
Stub Number: 404563857  
Deed Book and Page Number: 05466 0873

**Parties**

3. Plaintiff Great Socialist People’s Libyan Arab Jamahiriya [hereinafter the “Libyan Government”] is a “foreign state” that conducts its diplomatic relations with the United States of America through its Embassy located in the Watergate complex in Washington, DC.

4. Defendant Arlington County, Virginia [hereinafter “Defendant Arlington County”] is the local governmental entity that has real estate taxing authority over the condominium units located in the Carlyle House Condominium.

5. Defendant Fairfax County, Virginia [hereinafter “Defendant Fairfax County”] is the local governmental entity that has real estate taxing authority over the condominium units located in the Rotunda Condominium.

**Libyan Government’s Use of Properties at Issue**

6. At all relevant times, these condominium units were owned by the Libyan Government for the use of “diplomatic agents” as their “private residences” as these

terms are defined in Article 1 (d) and (e) and Article 30, Paragraph 1 of the Vienna Convention.<sup>1</sup>

7. At all relevant times, the Libyan Government did not charge its “diplomatic agents” rent to live in these condominium units.<sup>2</sup>

8. At all relevant times, the Libyan Government does not rent these condominium units to third parties.<sup>3</sup>

9. During all relevant times, there may have been times when a personnel change at the Embassy has rendered one or more of these condominium units temporarily vacant, but, in such cases, the Libyan Government intended to fill these vacancies with other “diplomatic agents” once these individuals assumed their diplomatic positions in the United States.<sup>4</sup>

#### **Defendants’ Tax Liens**

10. Despite Plaintiff Libyan Government’s use of the properties at issue as the “private residences” of “diplomatic agents,” both Defendant Arlington County and Defendant Fairfax County have issued real estate tax bills and asserted real estate tax liens on these properties.

#### **Vienna Convention on Diplomatic Relations of April 18, 1961, 23 U.S.T. 3227**

11. The Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), hereinafter “the Vienna Convention,” entered into force with respect to the United States on December 13, 1972.

---

<sup>1</sup> See Paragraph 8 of Ambassador Ali Aujali’s Affidavit that was attached to the Plaintiff Libyan Government’s Complaint as Exhibit 1. This Affidavit is also re-attached to the instant motion for convenience of the Court and the parties as Exhibit 1.

<sup>2</sup> Id. at Paragraph 9.

<sup>3</sup> Id. at Paragraph 10.

<sup>4</sup> Id. at Paragraph 11.

12. The Vienna Convention entered into force with respect to the Libyan Government on June 7, 1977.

## ARGUMENT

### **I. SUMMARY JUDGMENT IS PROPER SINCE "THE PLEADINGS, DEPOSITIONS, ANSWERS TO INTERROGATORIES, AND ADMISSIONS ON FILE, TOGETHER WITH THE AFFIDAVITS, IF ANY, SHOW THAT THERE IS NO GENUINE ISSUE AS TO ANY MATERIAL FACT AND THAT THE LIBYAN GOVERNMENT IS ENTITLED TO A JUDGMENT AS A MATTER OF LAW."**

Summary judgment is proper in the instant case since "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that Plaintiff Libyan Government is entitled to a judgment as a matter of law." F. R. Civ. P. 56. See also Synergistic International, LLC v. Korman, 470 F.3d 162, 170 (4<sup>th</sup> Cir. 2006). The properties at issue are clearly "private residences" of "diplomatic agents." Therefore, these properties are immune from taxation by Arlington County and Fairfax County pursuant to the Diplomatic Relations Act and the Vienna Convention on Diplomatic Relations of April 18, 1961.

### **II. THE DIPLOMATIC RELATIONS ACT AND THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS PREVENT ARLINGTON AND FAIRFAX COUNTIES FROM TAXING THE LIBYAN GOVERNMENT'S PROPERTIES.**

The Diplomatic Relations Act, 22 U.S.C. § 254a and the Vienna Convention on Diplomatic Relations of April 18, 1961, 22 U.S.T. 3227, prevent Arlington and Fairfax Counties from taxing the Libyan Government's properties that are used, as the properties that are the subject of the instant lawsuit, as "private residences" of "diplomatic agents."

**The Diplomatic Relations Act, 22 U.S.C. § 254a and the  
Vienna Convention on Diplomatic Relations of April 18, 1961, 23 U.S.T. 3227**

The Diplomatic Relations Act, 22 U.S.C. § 254a (3) and (4), provides

As used in this Act,

(3) the term “mission” includes missions within the meaning of the Vienna Convention and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention; and

(4) the term “Vienna Convention” means the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227), entered into force with respect to the United States on December 13, 1972.

The preamble to the Vienna Convention states:

The States Parties to the present Convention,

Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents,

Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations,

Believing that an international convention on diplomatic intercourse, privileges and immunities would contribute to the development of friendly relations among nations, irrespective of their differing constitutional and social systems,

Realizing that the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States,

Affirming that the rules of customary international law should continue to govern questions not expressly regulated by the provisions of the present Convention,

Having agreed as follows: . . .

Article 1 (a) of the Vienna Convention defines the term “head of the mission” as “the person charged by the sending State with the duty of acting in that capacity.” Article 1 (d) of the Vienna Convention defines the term “members of the diplomatic staff” as “members of the staff of the mission having diplomatic rank.” Article 1 (e) of the Vienna Convention defines the term “diplomatic agent” as “the head of the mission or a member of the diplomatic staff of the mission.” Article 1 (i) of the Vienna Convention defines “premises of the mission” as “the buildings or parts of the buildings and land ancillary thereto, irrespective of ownership, used for the purposes of the mission including the residence of the head of the mission.”

Article 22 of the Vienna Convention states:

- (1) The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
- (2) The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
- (3) The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

Article 23 (1) of the Vienna Convention states:

The sending State and the head of the mission shall be exempt from all national, regional or municipal dues and taxes in respect of the premises of the mission, whether owned or leased, other than such as represent payment for specific services rendered.

Article 29 of the Vienna Convention states:

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving state shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

Article 30, Paragraph 1 of the Vienna Convention states:

The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

Since private residences of “diplomatic agents” “enjoy the same inviolability and protection as the premises of the mission,” the properties at issue are exempt from property taxes assessed by the Arlington County and Fairfax County Governments pursuant to Articles 22 and 23 (1) of the Vienna Convention.

### **CONCLUSION**

Plaintiff Great Socialist People’s Libyan Arab Jamahiriya respectfully requests that this Honorable Court enter an order granting its motion for summary judgment on its declaratory judgment claim directing Defendant Arlington County, Virginia and Defendant Fairfax County, Virginia to release any tax liens assessed against the properties listed within the instant complaint and declaring that these properties are tax-exempt pursuant to 22 U.S.C. § 2201 et seq., the Diplomatic Relations Act, 22 U.S.C. § 254a and the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227).

Respectfully submitted,

/s/ \_\_\_\_\_  
J.P. Szymkowicz (Virginia State Bar #39120)  
John T. Szymkowicz (not admitted in Virginia)  
SZYMKOWICZ & SZYMKOWICZ, LLP  
1220 19<sup>th</sup> Street, N.W., Suite 400  
Washington, DC 20036-2438  
(202) 862-8500 (voice)  
(202) 862-9825 (fax)  
jp@szymkowicz.com

Attorney for Plaintiff Great Socialist People’s  
Libyan Arab Jamahiriya

**Certificate of Service**

I hereby certify that on May 25, 2007, I mailed the foregoing Motion for Summary Judgment on Plaintiff Libyan Government's Declaratory Judgment Claim to:

Stephen MacIsaac, County Attorney  
2100 Clarendon Boulevard, Suite 403  
Arlington, Virginia 22201

Attorney for Defendant Arlington County, Virginia

via Certified 1<sup>st</sup> Class U.S. Mail, postage prepaid, return receipt requested #7006-2150-0000-7298-2960

and

David P. Bobzien, County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035

Attorney for Defendant Arlington County, Virginia

via Certified 1<sup>st</sup> Class U.S. Mail, postage prepaid, return receipt requested #7006-2150-0000-7298-2977

/s/ \_\_\_\_\_  
J.P. Szymkowicz (Virginia State Bar #39120)



# Exhibit 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

GREAT SOCIALIST PEOPLE’S )  
LIBYAN ARAB JAMAHIRIYA )  
 )  
Plaintiff, )  
 )  
vs. ) Case Number: \_\_\_\_\_  
 )  
ARLINGTON COUNTY, VIRGINIA, et al. )  
 )  
Defendants. )

**AFFIDAVIT OF AMBASSADOR AUJALI IN SUPPORT OF  
THE LIBYAN GOVERNMENT’S COMPLAINT**

I, Ali Aujali, being duly sworn state the following under oath and under the penalties of perjury that:

1. The statements contained in this Affidavit are made upon personal knowledge of the facts contained in each statement.
2. The statements contained in this Affidavit are true and correct to the best of my knowledge, information and belief.
3. The statements contained in this Affidavit set forth such facts as would be admissible in evidence.
4. I am over the age of eighteen and am competent to testify to the matters stated in this Affidavit.
5. I am the Great Socialist People’s Libyan Arab Jamahiriya’s Ambassador to the United States of America.
6. I conduct my official government affairs at the Embassy of the Libyan Arab Jamahiriya located in the Watergate office complex in Washington, DC.

7. I am familiar with the Libyan Government's ownership and use of the following properties that are the subject of the instant law suit: Carlyle House Condominium Units 501, 515 and 702, 5300 Columbia Pike, Arlington, Virginia 22204 and Rotunda Condominium Unit 914, 8370 Greensboro Drive, Fairfax, Virginia 22204.


8. These condominium units are owned by the Libyan Government for the use of "diplomatic agents" as their "private residences" as these terms are defined in Article 1 (d) and (e) and Article 30, Paragraph 1 of the Vienna Convention on Diplomatic Relations of April 18, 1961 (T.I.A.S. numbered 7502; 23 U.S.T. 3227).

9. The Libyan Government does not charge its "diplomatic agents" rent to live in these condominium units.

10. The Libyan Government does not rent these condominium units to third parties.

11. There may be times when a personnel change at the Embassy renders one or more of these condominium units temporarily vacant, but, in such case, the Libyan Government intends to fill these vacancies with other "diplomatic agents" once these individuals assume their diplomatic positions in the United States.

5/21/07  
Date

  
\_\_\_\_\_  
Ali Aujali

Ambassador of the Great Socialist  
People's Libyan Arab Jamahiriya



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

GREAT SOCIALIST PEOPLE’S )  
LIBYAN ARAB JAMAHIRIYA )  
 )  
 ) Plaintiff, ) Case Number: 1:07cv497  
 ) Judge T.S. Ellis III  
vs. ) Magistrate Judge Theresa C. Buchanan  
 )  
 )  
ARLINGTON COUNTY, VIRGINIA, et al. )  
 )  
 )  
Defendants. )

**ORDER GRANTING PLAINTIFF LIBYAN GOVERNMENT’S  
MOTION FOR SUMMARY JUDGMENT  
ON ITS DECLARATORY JUDGMENT CLAIM**

Upon consideration of Plaintiff Great Socialist People’s Libyan Arab Jamahiriya’s motion for summary judgment on its declaratory judgment claim and any response thereto, IT IS HEREBY ORDERED THAT Plaintiff Great Socialist People’s Libyan Arab Jamahiriya’s motion for summary judgment on its declaratory judgment claim is GRANTED. IT IS FURTHER ORDERED THAT Defendant Arlington County, Virginia and Defendant Fairfax County, Virginia must release any tax liens assessed against the following properties declaring that these properties are tax-exempt:

1. Carlyle House Condominium, 5300 Columbia Pike, Arlington, Virginia 22204:  
  
Unit 501      RPC#: 28-004-130, ACCT#: 06 28004130 00 1  
  
Unit 515      RPC#: 28-004-143, ACCT#: 06 28004143 00 1  
  
Unit 702      RPC#: 28-004-157, ACCT#: 06 28004157 00 1

2. Rotunda Condominium, 8370 Greensboro Drive, Fairfax, Virginia 22204:

Unit 914      Map Reference Number: 0293 17040914  
Stub Number: 404563857  
Deed Book and Page Number: 05466 0873

\_\_\_\_\_  
Date

\_\_\_\_\_  
T.S. Ellis, III  
United States District Judge

We ask for this:

/s/ \_\_\_\_\_  
J.P. Szymkowicz (V.S.B. #39120)  
SZYMKOWICZ & SZYMKOWICZ, LLP  
1220 19<sup>th</sup> Street, N.W., Suite 400  
Washington, DC 20036-2438  
(202) 862-8500 (voice)  
(202) 862-9825 (fax)  
jp@szymkowicz.com

Attorney for Plaintiff Great Socialist People's  
Libyan Arab Jamahiriya

Seen:

/s/ \_\_\_\_\_  
Stephen MacIsaac, County Attorney  
2100 Clarendon Boulevard, Suite 403  
Arlington, Virginia 22201

Attorney for Defendant Arlington County, Virginia

and

/s/ \_\_\_\_\_  
David P. Bobzien, County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035

Attorney for Defendant Arlington County, Virginia