lected by such supplier on those purchases. Stanley A. Anderson, Inc. is a lathing and plastering contractor engaging in real property construction activities in Wisconsin and Illinois and has its office and warehouse at Janesville, Wisconsin. From at least August 8, 1969, taxpayer purchased building materials from the U.S. Gypsum Company by telephoning the orders to Gypsum's Milwaukee sales office. With rare exception, Gypsum shipped the material to Wisconsin where the taxpayer took possession of it.

On August 29, 1969, Stanley A. Anderson, Inc. gave Gypsum a contractor's exemption certificate for its Memorial Mall contract at Sheboygan, Wisconsin and on September 2, 1969, it gave Gypsum a contractor's exemption certificate for its Watertown Memorial Hospital Center contract at Watertown, Wisconsin. From August 8, 1969 through 1974, the taxpayer did not give Gypsum any other Wisconsin sales and use tax exemption certificate. From January 1, 1970 through December 31, 1974, Gypsum did not charge taxpayer any sales or use tax on any purchases of building materials. Gypsum did not charge taxpayer sales or use tax on non-exempt Wisconsin purchases because the taxpayer's account had been mistakenly entered into Gypsum's computer system as "nontaxable" probably on the basis of one of the Wisconsin exemption certificates.

In January 1970, taxpayer completed work on the Sheboygan Memorial Mall, but did not advise Gypsum of that fact and that the exemption certificate for that contract had lapsed. In October 1970, taxpayer finished its work on the Watertown Memorial Hospital Center in Watertown. Sometime thereafter, Mr. Bruce A. Anderson, taxpayer's president, had a conversation with Mr. Funk, a district sales representative of Gypsum, in which he told Mr. Funk that his exemptions were over and that at least a third of a bill he had recently received should be taxed. Mr. Anderson testified that he also told other Gypsum sales representatives that Gypsum was not charging taxpayer sales tax. Mr. Anderson did not otherwise advise Gypsum that its Wisconsin exemption certificates were no longer applicable to its purchases and that all purchases of material for use in Wisconsin should be taxed.

Taxpayer purchased the following amounts of building materials from Gypsum in the following years:

1970	$ 6,611
1971	7,921
1972	12,943
1973	50,109
1974	5,637

These materials were not used in the two construction projects covered by the two Wisconsin exemption certificates and were not used in construction projects in Illinois. Gypsum did not bill taxpayer for any sales or use tax on these sales and did not report the gross receipts from such sales to the department in the measure of the sales tax. Stanley A. Anderson, Inc. did not receive from Gypsum a receipt with the tax separately stated from Gypsum relative to such purchases. In addition, taxpayer did not report these purchases to the department and pay a use tax on them nor has the taxpayer paid any sales or use tax to anyone on these purchases.

In 1974 and 1975, the department conducted a field audit of the books and records of both the taxpayer and Gypsum. The information received through the two field audits was coordinated while both were pending, and the department assessed a use tax against the taxpayer rather than a sales tax against Gypsum. The portion of the department's assessment based on taxpayer's non-exempt purchases from Gypsum of building materials used in Wisconsin is the only portion of the assessment which the taxpayer appealed.

The Commission held that during the period from 1970 to 1974, taxpayer's storage, use, or other consumption of building materials in Wisconsin purchased from Gypsum in a sale in Wisconsin and subject to the Wisconsin sales tax was subject to the use tax within the intent and meaning of s. 77.53 (1), Wis. Stats. The tax relative to such sales and use was not paid to the state, nor did the taxpayer show it had a receipt with the tax separately stated from Gypsum relative to such purchases within the meaning and intent of s. 77.53 (2), Wis. Stats. The gross receipts from the sale of such building materials were not reported to the department in the measure of the sales tax of Gypsum within the meaning and intent of s. 77.56 (1), Wis. Stats. The Commission upheld the department's assessment of use tax against the taxpayer rather than the sales tax against Gypsum.

The taxpayer has appealed this decision to the Circuit Court.

Astra Plating, Inc. vs. Wisconsin Department of Revenue (Circuit Court of Dane County, December 10, 1981). This is an appeal of a decision of the Tax Appeals Commission (see WTB #20) upholding an assessment made by the department of additional franchise, sales and use taxes against Astra Plating, Inc. The issue involved is whether the taxpayer is entitled, under s. 77.54 (6) (a), Wis. Stats., to the manufacturing exemption as defined in s. 77.51 (27), Wis. Stats. During the tax years in question, Astra was a Wisconsin corporation whose principal business activity was acquiring physically damaged automobile bumpers (known in the trade as "cores"), using its own machinery to produce a bumper capable of use, and selling the finished product.

The following six statutory requirements must be met to qualify for the exemption: (1) production by machinery; (2) of a new article; (3) with a different form; (4) with a different use; (5) with a different name; and (6) by a process popularly regarded as manufacturing (s. 77.51 (27), Wis. Stats.). The Tax Appeals Commission found that the first five elements were satisfied but that Astra had not met the burden of proof in establishing that the process is popularly regarded as manufacturing.

The determination as to whether a process is popularly regarded as manufacturing must be made with reference to opinions of persons conversant with the subject matter involved, rather than the view taken by the "man on the street" (Bailey-Bohrman, supra., 93 Wis. 2d at 611; H. Samuels Co. v. Department of Revenue, 70 Wis. 2d 1076, 1085-6 (1975)). The president of Astra testified that the process was referred to as "re-manufacturing". He stated that the objective of his operation was to meet the same manufacturing specifications as the original bumper manufacturer, and that the finished product competed for

sales with that of original equipment manufacturers.

The Circuit Court held that there was no direct evidence that the process was popularly regarded as manufacturing. Wisconsin Administrative Code, sections Tax 11.39 (3) and (4), which provide examples of manufacturers and non-manufacturers, list "automobile and auto parts rebuilders" as non-manufacturers. The "cores" from which the new bumpers were processed were damaged bumpers and, as such, Astra, Inc. is a rebuilder, not a manufacturer, of automobile parts.

The taxpayer has appealed this decision to the Court of Appeals.

Brantwood Publications, Inc. and R. W. Morey Company, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, December 30, 1981). The issues involved in this case are as follows:

1. Whether the taxpayers' lease and purchase of a composer or typesetting machine and a computer intended to produce mailing labels are exempt from Wisconsin sales and use tax under the provisions of ss. 77.51 (27) and 77.54 (6) (a), Wis. Stats.

2. Whether the taxpayers' purchase of materials and supplies for a composer, photographs, color separations and other supplies are exempt from Wisconsin use tax under the provisions of ss. 77.51 (27) and 77.54 (2), Wis. Stats.

3. Whether the taxpayers' purchase of such machines and supplies is exempt from the sales and use tax under the provisions of ss. 77.52 (2) (a) 11 and 77.54 (25), Wis. Stats.

Since at least April 1, 1972, R. W. Morey Co., Inc. was engaged in publishing five horticultural magazines and had its principal offices in Elm Grove, Wisconsin. On September 30, 1974, Brantwood Publications, Inc. was incorporated by the shareholders of R. W. Morey Co., Inc. to continue publishing said magazines, while the latter held title and ownership of the publishing rights and equipment used by Brantwood Publications, Inc. On December 1, 1975, both taxpayers moved their principal offices to New Berlin, Wisconsin.

In the conduct of their business of publishing magazines, the taxpayers perform, in house, the initial prepwork, including the writing and editing of articles, photographic layout, format design, advertisement solicitation and, in general, create the images and content that appear in the final publication. The taxpayers' publication process begins with the composing operation and concludes with the printing and binding of the finished product; five magazines are distributed to subscribers throughout the United States and Canada. During the period involved in this case, Brantwood and R. W. Morey contracted out the final stages of the publication of their magazines, namely the actual printing and binding process.

The large majority of taxpayers' advertisers and subscribers are located outside the State of Wisconsin. The taxpayers purchased materials and supplies used in the preparation work of the original pages of the magazines, such as paper, ink, paste, etc. During the period involved, Brantwood and R. W. Morey purchased a computer which was to be used to produce mailing labels to be placed on the taxpayers' magazines, but, because of difficulties in programming, it was never utilized. The taxpayers leased a composer or typesetter machine, which it used in the operation of its business.

The materials and supplies involved in this case relate to the preparatory or "prep-work" stage, which precedes the actual printing of the magazines and include the initial typesetting, assembling, designing, pasting-up, combining with words and creation of the page "make-up", all of which was done "in-house" by the taxpayers. All of the materials and supplies involved herein were cut, cropped, pasted, taped, partially deleted, marked up, written upon, etc., and had no further use or function once they had been processed by the taxpayers. The taxpayers at the hearing before the Tax Appeals Commission, did not offer any evidence or proof that the publishing process was popularly regarded as manufacturing. During the period involved herein, the taxpayers were not printers.

The Commission held in favor of the department. Exemptions from tax are to be strictly construed against the granting of same. During the period involved herein, the taxpayers were not engaged in "manufacturing" as that term is defined in s. 77.51 (27), Wis. Stats. The taxpayers' composer or typesetting machine and computer were not used by a manufacturer in manufacturing and, therefore, such machines are not exempt from the sales and use tax under s. 77.54 (6) (a), Wis. Stats. The taxpayers' supplies used in its "prepwork" were not used in manufacturing a product for sale and, therefore, are not exempt from the use tax under s. 77.54 (2), Wis. Stats. Also the purchases of such machines and supplies were not the sale or use of printed advertising material and, therefore, are not exempt from the sales and use tax under ss. 77.52 (2) (a) 11 and 77.54 (25), Wis. Stats.

The taxpayer has appealed this decision to the Circuit Court.

Wisconsin Department of Revenue vs. Donna Brewer (Circuit Court of Dane County, January 8, 1982). Taxpayer, Donna Brewer, owned two businesses (a bowling alley and a motel) and held sales permits for both. On June 18, 1979 she surrendered both permits and closed both businesses. On June 20, 1979, taxpayer sold the bowling alley. On June 21, 1979, Brewer opened the motel for business. The department imposed a sales tax on the sale of the bowling alley. The Wisconsin Tax Appeals Commission held that the sale was exempt as an occasional sale (see WTB #21).

The department contended that the motel was not closed on June 20, 1979, because: "its sign was on display, its name was in the phone book, etc.". Brewer did not take steps to reactivate her sales permit until July after the sale, although she paid the sales tax on the sales made on and after June 21, 1979.

The Circuit Court held that the sale was exempt as an occasional sale.

The Court held that although the motel may have been required to have a seller's permit on June 21, 1979, there is no evidence that on June 20, 1979, the day of the sale,

taxpayer did any business at the motel or had any reason to pay a sales tax for that day. The Court found that from June 18, 1979, through June 30, 1979, taxpayer did no business and was therefore not subject to sales tax.

The department has not appealed this decision.

Wisconsin Department of Revenue vs. Family Hospital, Inc. (Wisconsin Supreme Court, January 5, 1982). This case involves a review of a decision of the Court of Appeals affirming a judgment of the Circuit Court for Dane County. The Circuit Court affirmed a decision of the Wisconsin Tax Appeals Commission which reversed a sales tax assessment made by the department on the gross receipts from a parking lot operated by the taxpayer, Family Hospital, Inc.

Family Hospital, Inc. is organized as a non-profit Wisconsin corporation exclusively for charitable, scientific and educational purposes and is engaged in the operation of a hospital in the Milwaukee area. The hospital operates a parking lot adjacent to its facilities used primarily by patients, employees and guests of the hospital. In September of 1976, the department assessed a sales tax in the amount of $305.89, plus interest of $66.93, on the parking lot receipts collected by Family Hospital for the period April 1, 1972 through March 31, 1976. The department contended that the parking lot income was taxable pursuant to s. 77.52 (2) (a) (9), Wis. Stats., which lists the provision of parking as a service subject to the Wisconsin sales tax. Family Hospital appealed the assessment, contending that according to the Department of Revenue's Technical Information Memorandum S-25.3, the receipts from hospital parking lots were exempt from the sales tax.

The issue in this case is whether the department is estopped from collecting the sales tax based upon the facts of this case.

Family Hospital argues that even if the parking lot receipts are not exempt from the sales tax under s. 77.54 (9a), Wis. Stats. (1977), the department should be estopped from imposing the sales tax in this case based upon Technical Information Memorandums S-25.2 and S-25.3 issued by the department during the time period involved.

A Technical Information Memorandum S-25.3 was issued by the Department of Revenue on September 2, 1975. It expressly replaced the Technical Information Memorandum S-25.2 issued earlier by the department. Although each memorandum was entitled "SUBJECT: GOVERNMENTAL UNITS", they both expressly indicated that the information contained in them applied to *"hospitals and other exempt entities"* (emphasis added) in the manner set out below:

> "Certain sales by the State of Wisconsin, governmental units within the state, *hospitals* and other exempt entities are subject to the 4% sales tax . . .
>
> *"The following lists should serve as guides to determine which items are taxable and exempt under the law:"* (emphasis supplied).
>
> The non-taxable receipts in each memorandum listed parking among the exemptions in the following manner:
>
> *"NONTAXABLE RECEIPTS"*
>
> ". . .
>
> "B. *Parking*, docking and *storage of motor vehicles, automobiles,* aircraft and boats." (emphasis supplied).

In addition, the caption on each memorandum expressly indicated that it construed the provisions of s. 77.54 (9a), Wis. Stats. Thus, the Technical Information Memorandums demonstrate that at all times relevant to this dispute the department's published interpretation of the tax laws held that the hospital parking receipts were tax exempt.

The Supreme Court held that the action of the department in issuing the Technical Information Memorandums which expressly listed parking receipts as non-taxable fulfills the requirement of an action on the part of one against whom estoppel is asserted. The reliance of Family Hospital on these memorandums is self-evident from the fact that they did not collect a sales tax from those persons using the parking facility during the time period involved in this dispute. The detriment to Family Hospital is that they did not collect the tax because of their reliance on the Technical Information Memorandums and, thus, at this time are unable to collect the back taxes from the persons who used the parking facility and, therefore, the hospital would be required to make the payment out of their own funds. The requirement that the hospital pay back taxes on the parking receipts would be especially burdensome here where it is undisputed that the hospital's operation of the parking lot is *not for profit,* and is incidental to the providing of medical services and necessary in today's motorized society. The hospital does not have a surplus fund from which to pay the tax which otherwise would have been charged to those using the parking lot.

Family Hospital expressly stated that it relied upon the Technical Information Memorandums issued by the department and the record fails to demonstrate that at any time during the proceedings did the department dispute the fact that the Hospital relied upon these memorandums. The conclusion that Family Hospital relied upon the Technical Information Memorandums was further supported by the fact that the hospital did not collect a sales tax on the parking fee during the time period in question. Based on these facts, the Supreme Court held that the reliance of Family Hospital on the Technical Information Memorandums was adequately demonstrated in the record.

In addition, the Supreme Court held that the reliance of Family Hospital upon these Technical Information Memorandums issued by the department, was reasonable as these memorandums expressly applied to hospitals and other exempt entities. The reliance of the hospital on the Technical Information Memorandums is further justified because it is consistent with the fact that the State of Wisconsin imposes no sales tax on the sale of food by non-profit hospitals to its patients, employees and guests. The Court noted that Technical Information Memorandum S-25.3 expressly lists meals sold by hospitals as tax exempt.

Because the Court found that Family Hospital relied to its own detriment on the department's issuance of the Technical Information Memorandums S-25.2 and S-25.3, the Court held that the elements of equitable estoppel were clearly present

in this case and the doctrine should be invoked.

The Supreme Court also addressed the question of whether "justice requires the application of the doctrine of estoppel in this case". Imposing the sales tax upon Family Hospital in the case would require the payment of the tax out of the hospital's current funds as the hospital is unable to collect the back taxes from those who used the parking facility during the years in question. Such payment would unnecessarily drain the funds of a non-profit organization established solely for charitable, scientific and educational purposes at a time when such institutions are already plagued by rising hospital costs. In addition, the imposition of the sales tax would offend conceptions of justice and fair play.

The Technical Information Memorandums involved in this case were issued by the department as an official interpretation of the statutes for the purpose of aiding the taxpayer in his compliance with the tax laws. That being the case, allowing the department to collect the alleged past due taxes would be unfair.

Because of the Supreme Court's interest in guaranteeing that taxpayers receive fair play from the state's tax enforcement officials especially when placing a burden upon a hospital which operates exclusively for charitable, scientific and educational purposes, the Court held that justice requires the application of the doctrine of estoppel in this case. Thus, the department is estopped from collecting the sales tax due on the parking receipts involved in this case.

In light of the Supreme Court's holding that the department is estopped from collecting the sales tax on Family Hospital's parking receipts, it was not necessary for the Supreme Court to construe the exemption contained in s. 77.54 (9a), Wis. Stats. (1977).

Note: Since the Supreme Court's decision in this case was based on estoppel, rather than a construction of s. 77.54 (9a), the department's interpretation of s. 77.54 (9a) is not changed by the Court's decision. Sales of tangible personal property and taxable services by those "persons" enumerated in s. 77.54 (9a) (a) through (f) (non-profit organizations organized and operated exclusively for religious, charitable, scientific or educational purposes; counties, cities, etc.) continue to be taxable.

TIMs S-25.2 and S-25.3, which the Supreme Court used as a basis for invoking estoppel in this case, are no longer in effect. TIM S-25.2 was replaced by TIM S-25.3 on September 2, 1975. A notice dated January 3, 1978 was sent to all TIM subscribers stating that TIM S-25.3 should be withdrawn and that it was replaced by rule Tax 11.05. It should also be noted that rule Tax 11.17 entitled "Hospitals, clinics and medical professions", which became effective June 1, 1978, states in paragraph (4) (b) 2 that the sale of parking fees by hospitals is taxable. This rule replaced TIM S-22.1 which had the same title and was dated March 3, 1977. Part IV of TIM S-22.1 also stated that parking fees by hospitals are taxable.

Wisconsin Department of Revenue vs. Gene E. Greiling (Circuit Court of Dane County, October 16, 1981). Greiling operated a wholesale business, selling bedding and potted plants to retailers and commercial farmers. In connection with this business, and in order to control the environment for proper development of these plants for early season sale, Greiling purchased shaped metal tubing and polyethylene film from out-of-state retailers and used these materials to make protective enclosures for the plants. Because the enclosures are lightweight and easily assembled and disassembled, they also are used for temporary enclosures at the retail sale level.

The department issued a use tax assessment against Greiling based on the prices he paid for the tubing and film. Greiling challenged the assessment on the grounds that the purchases either were not subject to the tax or were otherwise exempt. He also claimed that even if the assessment could be considered proper, the imposition of statutory interest is unfair. The Wisconsin Tax Appeals Commission ruled that the property when assembled did not become a fixture and part of the realty and, therefore, the metal tubing and polyethylene film used therein was not subject to the tax under the provisions of s. 77.51 (4) (i), Wis. Stats. (see WTB #18).

The Circuit Court concluded that the Commission erroneously interpreted s. 77.51 (4) (i), Wis. Stats., when it determined that the section exempted Greiling's purchases from the use tax. The tubing and film constitute tangible personal property, and they were purchased by Greiling out-of-state for use or consumption in Wisconsin. As such, they are subject to use taxation under ss. 77.53 (1) and (2), Wis. Stats., unless found to qualify for one of the exemptions enumerated in s. 77.54, Wis. Stats.

Greiling contended that the purchases of the property in question are specifically exempt under the farming exemption in s. 77.54 (3) or (3m), Wis. Stats. The Circuit Court held that the type of apparatus considered a machine under the exemption statute is a motorized, electric or otherwise powered assemblage of parts, and, as such, the enclosures erected by Greiling from the tubing and film in question are not within the contemplation of the statute exempting certain "machines" from taxation.

Greiling also argued that he is entitled to an exemption under s. 77.54 (3m), Wis. Stats., which exempts from the use tax fertilizers and soil conditioners used exclusively in farming. The Circuit Court held that the statute is specific in its enumeration and includes neither the purchased materials nor the erected enclosures.

Finally, Greiling claims that the assessment of interest is unfair since he had no reasonable way of anticipating that the purchases in question would be subject to tax. The Circuit Court stated that the imposition of interest is mandatory.

Based on the foregoing, the Tax Appeals Commission's determination was set aside pursuant to s. 227.20 (5), Wis. Stats. The department's assessment of use tax and interest was reinstated.

The taxpayer has appealed this decision to the Court of Appeals.

Wisconsin Department of Revenue vs. Horne Directory, Inc. (Wisconsin Supreme Court, December 1, 1981). The issue in this case is whether a Wisconsin corporation which contracts to have telephone directories printed outside of Wisconsin and delivered directly to Wisconsin subscribers has stored, used

or otherwise consumed the directories in Wisconsin. (A summary of the Court of Appeals decision is in WTB #23.)

The Wisconsin Public Service Commission requires all Wisconsin telephone utilities to annually provide their subscribers with alphabetical telephone directories as part of their local telephone service. Instead of soliciting yellow page advertising and compiling and publishing these directories themselves, a number of telephone utilities have entered into contracts with taxpayer, Horne Directory, Inc. (Horne), under which Horne solicits advertising for the telephone book yellow pages and agrees to compile, publish and deliver the directories to the subscribers of the telephone companies. In payment, the revenues generated by the advertising are divided between the telephone companies and Horne.

Horne Directory, Inc. is a Wisconsin corporation. It contracts with an Illinois corporation, R. R. Donnelley and Sons Company, to print the various telephone directories. All of the directories are printed outside of Wisconsin. The printer delivers most of the directories to the U.S. Postal Service, U.P.S. or common carrier outside of Wisconsin for delivery directly to the telephone subscribers. The decision of the mode of shipment is made by the printer, not by Horne. Horne has no contact with or control over the directories after they have been delivered outside of Wisconsin to the U.S. Postal Service or common carrier. Aside from a small number of directories which are sent directly to Horne, Horne never has physical possession of the directories in Wisconsin.

The Department of Revenue made an assessment against Horne Directory, Inc., in the amount of $14,394.34, representing a claim for additional sales and use taxes, penalties and interest. The measure of the use tax was based on the charges by the printer to Horne for labor, materials, postage and transportation. The Tax Appeals Commission reversed the Department of Revenue. It found that Horne had no control over the directories in Wisconsin and held that Horne did not store, use or otherwise consume the directories in Wisconsin. The Supreme Court agreed with that conclusion.

The Circuit Court affirmed the Tax Appeals Commission but used a different rationale, which the Supreme Court rejected.

The Court of Appeals affirmed the Circuit Court decision, although it applied a different analysis and reached the same conclusion as the Tax Appeals Commission. The Court of Appeals held that the postal service and the common carriers, by statute, were the agents of the foreign printer and not of Horne, and that Horne, therefore, did not use the directories in Wisconsin. It also held that Horne was not subject to a sales tax because the directories were not sold to the telephone companies.

In affirming the Court of Appeals, the Supreme Court indicated that the sale of the directories from the printer to Horne and the lack of "use" of the directories by Horne do not allow for a tax to be imposed by Wisconsin against Horne.

Sister Mary Joanne Kollasch, et. al. and Sisters of St. Benedict, of Madison, Wisconsin vs. David W. Adamany, Secretary of the Department of Revenue (Wisconsin Supreme Court, December 1, 1981). (See WTB #22 for a summary of the Court of Appeals decision.) The taxpayers in this action for declaratory judgment are members of a monastic community or priory of Roman Catholic women known as the Sisters of St. Benedict of Madison, Wisconsin. The action was precipitated when the Department of Revenue advised the Sisters that they were required to pay the sales tax and were subject to statutory sanctions for failure to pay it in the past.

The Sisters follow the Rule of St. Benedict in their individual and collective lives. The Rule does not specify the type of work which its adherents should do. In modern times, the Sisters' work has emphasized schools, hospitals, orphanages, homes for unwed mothers, and similar work. More recently the order has been active in furthering ecumenism, or the bringing together in an atmosphere of dialogue and mutual respect people of other persuasions in accordance with the precepts of the Second Vatican Council started by Pope John XXIII and continued under Pope Paul VI. Such work has become the principal activity at the Sisters' facilities involved in this case.

The following are some of the facts taken from the uncontradicted testimony given at the hearing held in Dane County Circuit Court and from the exhibits which were received in evidence. The priory is incorporated under the name "Sisters of St. Benedict of Madison, Wisconsin" and is part of the Federation of St. Gertrude, a confederation of 15 autonomous religious communities. The Rule of St. Benedict consists of a prologue and 73 chapters which deal with the government of a monastery, ascetical principles, religious services, property, daily life, appointment of the head of the monastery, community life and similar matters. The Sisters direct the Court's attention especially to chapter 53, "on the reception of guests," which begins, "Let all guests who arrive be received like Christ for he is going to say, 'I came as a guest, and you received Me.' "

During the mid-60's the Sisters began offering weekend religious retreats at the Center. The Sisters ultimately decided that their ability to provide retreats and a central gathering place for those interested in furthering ecumenism was of greater worth to the community than was their school. As Sister Mary Joanne Kollasch, former principal of the school, said: "When I was out recruiting students . . . the other work so to speak was knocking at our door. . ." They closed the school, eventually named their facilities "St. Benedict Center", and began to develop retreats and conferences consistent with their purpose of furthering an ecumenical dialogue within the city. They also believed that the reception of guests at the Center was consistent with chapter 53 of the Rule of St. Benedict.

Sister Mary Joanne Kollasch, former Prioress of the Center, testified, as did others, that she is nowise engaged in "commercial" activity. Toward the end of broadening the base of people who made use of the Center, the Sisters sent letters to some businesses offering the use of the Center as a meeting place. The Sisters make the decision as to who will be accepted as guests. The Center has been used as a meeting place by government agencies, university groups, church groups, nonprofit organizations, and to a small