

Kathleen G. Moody
v.
First Congregational Church and the Town of Wolfeboro

Docket No. 3648-87

DECISION

A hearing in this appeal was held, as scheduled, on February 22, 1989. The complainant represented herself. The Town was represented by Mark Puffer, Esq., Chester L. Spinney, Town Assessor, Edward W. Zulauf, Selectman, and H. E. Erickson, Selectmen. The defendant taxpayer was represented by Anne W. Vinnicombe, Chairman.

The complainant filed her challenge to the 1987 assessment of the defendant taxpayer pursuant to RSA 71-B:16 (supp.) which states in part:

The board may order a reassessment of taxes previously assessed or a new assessment to be used in the current year or in a subsequent tax year of any taxable property in the state:

- I. When a specific written complaint is filed with it, by a property owner, within 90 days of the date on which the last tax bill on the original warrant is sent by the collector of taxes of the taxing district, that a particular parcel of real estate or item of personal property not owned by him has been fraudulently, improperly, unequally or illegally assessed. The board shall consider only one complaint from a property owner for each parcel of land until such time as a reassessment has been made. The complainant shall pay a fee of \$10 for each specific particular parcel or specific item of personal property complained of. The board shall send notice by certified mail to the taxpayer against whose property the complain is made.

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The sole issue raised by the complainant in the above entitled case was the 1987 tax year. The complainant argued the Town could not properly evaluate the taxpayer's entitlement to an exemption without the A-9 form since it lists the status of the properties on which an exemption is sought.

The Town's position was the defendant taxpayer did not file because the Town, being under the misapprehension that the A-9 form need not be filed every year, had erroneously informed the taxpayer it did not need to file the A-9 form for the 1987 tax year. The Town stated it had corrected its mistake and was now requiring the A-9 forms. The Town argued that an exception to the requirement should be made under the good faith rule of Appeal of C.H.R.I.S.T., Inc., 122 N.H. 982, 985 (1982).

The Board rules as follows. The filing of the A-9 form is required by RSA 72:23-c (1987 supp.) which states:

Annual List. Every religious, education and charitable organization, Grange, and the Grand Army of the Republic, the United Spanish War Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, the American REd Cross and any other national veterans association shall annually, on or before April 15, file a list of all real estate and personal property owned by them on which exemption from taxation is claimed, upon a form prescribed and provided by the commissioner of revenue administration, with the selectmen or assessors of the place where such real estate and personal property are taxable. A copy of such list shall at the same time be filed with the commissioner, which shall be a public record. If any such organization or corporation shall wilfully neglect or refuse to file such list upon request therefor, the selectmen may deny the exemption. (Emphasis added.)

The Board finds as follows. The defendant taxpayer filed its A-9 form on November 2, 1987. The defendant taxpayer was late in filing its A-9 form due to erroneous information given it by the Town and through no fault of its own.

The Board therefore rules the Town did not abuse the discretion granted it under RSA 72:23-c (1987 supp.) in declining to deny the exemption.

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The subject property was on April 1, 1987, leased to Brewster Academy as a dormitory. If it were owned by Brewster it could qualify for an exemption up to \$150,000. On April 1, 1987, 70% of the living space was used by faculty and 30% by students.

The Board rules the subject property is taxable and should be assessed ($\$47,100 \times .3$) = \$14,130.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Anne S. Richmond, Esq., Chairman

George Twigg, III, Member

Peter J. Donahue, Member

(Mr. Franklin did not sit.)
Paul B. Franklin, Member

Date: October 16, 1989

I certify that copies of the within Decision have been mailed this date, postage prepaid, to Kathleen G. Moody, the complainant; to the First Congregational Church, the defendant taxpayer; and to Mark Puffer, Esq., Counsel for the Town of Wolfeboro.

Michele E. LeBrun, Clerk

Date: October 16, 1989

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