

**The Kingdom  
v.  
Town of Dublin**

**Docket Nos. 5041-88 and 5041-89**

**DECISION**

A hearing on the above captioned matter was held on May 4, 1990, and the two tax years were consolidated for hearing as a result of the Board granting the appellants motion to consolidate (April 3, 1990).

The Kingdom, a Maine Non-profit religious corporation with a principal office at Fairwood, Dublin, NH seeks a religious exemption from property tax for the tax years 1988 and 1989, pursuant to RSA 72:23, III, which provides as follows:

The following real estate and personnel property shall be exempt from taxation:

III. Houses of Public Worship, Parish Houses, Church Parsonages occupied by their pastors, convents, monasteries, buildings used principally for religious training or for other religious purposes, and lands thereto appertaining owned and occupied by any regularly recognized and constituted denomination, creed or sect, organized or incorporated in this State and the personal property used by them for the purposes for which they are established.

The present dispute involves the following issues:

- (1) Whether The Kingdom is "organized or incorporated" in New Hampshire;
- (2) The failure of the plaintiff to seek an exemption for its land holdings in 1988 and apportionment of value in 1989; and,
- (3) Whether the convention housing and sheltered care facility are used and occupied for religious purposes.

(4) Whether the home of the sheltered care facility administrator is used or occupied for religious purposes.

The properties for which a tax exemption is sought are identified in the Town of Dublin tax records as: Map 5, Lot 64; Map 1, Lot 8; and, Map 1, Lot 8b, located on Old Marlboro and Old Troy Roads with an aggregate value of approximately \$1.631 million. Based upon the application of the plaintiff, the following determinations of tax exemption were made by the town:

A. Housing

(1) Men's Dormitory - a 40% tax exemption is provided based upon the year round use of this building as a student dormitory (20 males). The balance of the building is used as housing during conventions.

(2) The Lodge (identified as the motel building by the Town) - this building is used exclusively as housing for convention attendees and no exemption was granted.

(3) Women's Dormitory and 3 staff apartments - the Board of Selectmen has granted a 50% exemption on this building based upon its use for staff apartments. The balance of the use as housing for convention attendees was not exempt.

(4) Dining Hall - again, the exemption granted by the Board of Selectmen (85%) reflects its use by year-round residence as a dining room and kitchen facility. The balance of the building is used for housing by convention attendees and is not exempt.

B. Sheltered Care Facility - In 1988 a 100% tax exemption was granted based upon the assumption that all residents were elderly, retired full-time workers. In 1988 a 57% or 50% exemption was provided inasmuch as three of the six residents in the facility are designated only as workers (as opposed to church members). The shelter is licensed for eight residents and, in December of 1988, a fee of \$450 per month was charged.

C. Administrator's Home - the Administrator of the Sheltered Care Facility lives in a home on Old Troy Road with his family in an area not physically integrated with The Kingdom property. Based upon this fact, the principal use of the home for secular purposes and the home was not necessary to promote the plaintiff's purposes, the property was not treated as exempt.

D. Land - no exemption was granted for the land owned by the plaintiff in 1988 as no request for same was made. In 1989, the value was apportioned between exempt and non-exempt uses.

E. The church, classrooms, parsonage, main house, - consisting of a student formitory (sic), dining room, kitchen, library and apartments for the dean and faculty, gymnasium ans (sic) staff home, are exempt and are not at issue here.

On the basis of testimony and documentary evidence presented at the hearing, the Board makes the following findings of fact and rulings of law:

1. Prior to the 1988 tax year, by agreement with the Town, the Kingdom paid taxes on all of its land at the Fairwood church enter in Dublin, New Hampshire (hereinafter "Fairwood"), and the Town granted all exemptions on buildings requested by the Kingdom.

2. The Kingdom did not apply for exemption of any land at Fairwood for the 1988 tax year, reasonably anticipating that all requested building exemptions would be granted for the 1988 tax year as had been the rule in prior tax years.

3. After the Kingdom submitted its forms TE and A-9 of the 1988 tax year for the Fairwood property, the Town notified the Kingdom that it would not exempt certain of Petitioner's buildings.

4. By letter to the Town Selectmen dated January 10, 1989 (attached to the Kingdom's Petition for the 1988 tax year as Exhibit D), counsel for the Kingdom effectively and properly raised the Kingdom's request or application for tax exemption on the land immediately appurtenant to the buildings at Fairwood, for purposes of RSA 76:16 and :16-a.

5. The finding and ruling contained in request #4 above in no way causes undue prejudice to the Town.

6. The Kingdom conducts annual adult retreats at Fairwood consisting of a 3-day retreat in May and two 8-day retreats in March and September, as well as occasional retreats and an adult Bible School during other times of the year.

7. The adult retreats at Fairwood are attended by between 175 and 500 people, depending upon the time of year.

8. The Kingdom conducts annual youth retreats at Fairwood, each of one week in duration, during late June and early July, as well as weekend retreats during the winter.

9. The retreats are conducted in order to further the religious purposes and mission of the Kingdom to extend the Kingdom of God by preaching the Gospel of Jesus Christ, by strengthening and promoting Christian faith, by teaching the Bible, and by praying faithfully for the fulfillment of the Scriptures.

10. The agenda for the typical day of activities at retreats at Fairwood

begins before 9:00 a.m. and continues until after 8:00 p.m.

11. It would be difficult to arrange sufficient off-site housing in the vicinity of Fairwood to accommodate the approximately 175 to 500 people in attendance at the retreats.

12. Approximately 25% of the persons in attendance at the adult retreats at Fairwood are full-time, unsalaried volunteer Christian workers from the Kingdom's other church centers who could not afford off-site retreat housing.

13. The on-site retreat housing provided at Fairwood is essential to the ability of the unsalaried volunteer workers from the Kingdom's other church centers to attend the retreats at Fairwood.

14. It is essential to house the youth retreatants on-site in order to protect, supervise, and instruct them.

15. On-site retreat housing is essential to the purpose of the retreats at Fairwood, because the on-site housing provides a cloistered environment in which retreatants can isolate themselves from the secular world and concentrate on religious study, prayer, and fellowship.

16. Reverend Wakeman's testimony that on-site retreat housing is essential to the purpose of the retreats at Fairwood because the on-site housing provides a cloistered environment in which retreatants can isolate themselves from the secular world and concentrate on religious study, prayer, and fellowship, was reasonable, credible, and made in good faith.

17. Reverend Wakeman's testimony regarding the retreats, their religious purpose, the necessity of cloistering retreatants, and the necessity of on-site housing for unsalaried church workers and youth was reasonable, credible, and made in good faith.

18. Reverend Wakeman's determination that the retreat housing is necessary to promote the purposes of the retreats at Fairwood and therefore necessary to promote the Kingdom's religious purposes and mission was reasonable, credible, and made in good faith.

19. Through its Fairview Sheltered Care Facility, the Kingdom cares for its elderly, needy members, including former church workers, in accordance with the Kingdom's scriptural obligations and in furtherance of its religious purpose.

20. In admitting residents to its Fairview Sheltered Care Facility, because of spacial limitations, the Kingdom gives priority to those of its

retired members who are former church workers.

21. Once admitted to the Fairview Sheltered Care Facility, there is no difference in the way church members are treated, and the Kingdom fulfills the same scriptural and religious obligation to care for members who are and those who are not former church workers.

22. The Town concedes that that portion of the Fairview Sheltered Care Facility used to house and provide care to former church workers is exempt because used for the Kingdom's religious purposes.

23. Notwithstanding the fact that the Town has not granted an exemption for that portion of the Fairview Sheltered Care Facility used to house and provide care to church members who are not also former church workers, the provision of services to these members serves the same religious purpose as the provision of care to members who are former church workers.

24. The testimony of Reverend Wakeman that the Fairview Sheltered Care Facility is needed for the provision of care to the elderly, needy former church workers and is necessary to fulfill the Kingdom's religious purposes, was reasonable, credible, and made in good faith.

25. The testimony of Reverend Wakeman that the Fairview Sheltered Care Facility is needed for the provision of care to the retired members who are not former church workers and is necessary to fulfill the Kingdom's religious purposes, was reasonable, credible, and made in good faith.

26. The Administrator of the Fairview Sheltered Care Facility is a full-time, volunteer, unsalaried Christian worker of the Kingdom.

27. The Administrator is required under State law for the operation of the Fairview Sheltered Care Facility and is necessary to its operation.

28. The Fairview Administrator is a Licensed Practical Nurse and is the individual to whom the staff of the facility refer medical emergencies.

29. As with the other unsalaried, volunteer workers, the Fairview Administrator could not financially afford off-site housing, and thus his on-site housing is necessary if he is to perform his function.

30. The Fairview Administrator's residence is on the same property as is the rest of the Kingdom's Fairwood church center.

31. The Fairview Administrator's residence must be used for housing unsalaried Fairwood workers because all of the Kingdom's residential staff facilities at Fairwood are fully utilized.

32. The Fairview Administrator's residence, fronting on Old Troy Road, serves as fully as a residence for an unsalaried, volunteer worker as does the other on-site residential staff housing at Fairwood.

33. Because the Town concedes that the portion of the Fairview Sheltered Care Facility used to provide care to former church workers is exempt as a building used for religious purposes, the critical function of the Administrator in overseeing that facility is also a religious function.

34. It is important to have the Administrator housed on-site because he is on call 24-hours a day and must tend to emergencies at the Fairview Sheltered Care Facility.

35. The Administrator's residence is used for a religious purpose, housing the Fairview Sheltered Care Facility's Administrator and his family.

36. The Fairview Administrator's residence is geographically integrated with the Kingdom's mission, purpose, philosophy, and activities.

37. The Town has allowed exemptions for all of the housing provided to the unsalaried, volunteer staff of Fairwood and Fairview except for the Sheltered Care Facility Administrator.

38. The Fairview Sheltered Care Facility Administrator is no less necessary to the purpose and mission of the Kingdom than the other unsalaried, volunteer workers at Fairwood.

39. For religious exemption purposes, there is no difference between the staff housing exempted by the Town and the staff residence of the Fairview Sheltered Care Facility Administrator.

40. Reverend Wakeman's testimony regarding the use and purpose of the property fronting on Old Troy Road, the extent of the Administrator's duties, the necessity of the Administrator, and the necessity of housing him on-site was reasonable, credible, and made in good faith.

41. Reverend Wakeman's determination that the property fronting on Old Troy Road is necessary to fulfill the Kingdom's religious purposes was reasonable, credible, and made in good faith.

42. Included in the buildings at Fairwood that have been exempted by the Town for the 1988 and 1989 tax years are rooms and facilities that do not contain any religious artifacts or special adaptations indicating that those rooms or facilities are used for religious purposes.

43. Rooms and facilities used for religious purposes at the Fairwood church center do not necessarily contain religious artifacts or special adaptations indicating religious uses.

44. None of the Kingdom's facilities at Fairwood are used for purposes unrelated to the Kingdom or its religious mission.

45. The 22 acres requested for exemption are immediately appurtenant to the buildings used for religious purposes by the Kingdom.

46. The testimony and determination of Reverend Wakeman that the 22 acres immediately appurtenant to the buildings are used and necessary for religious purposes was reasonable, credible, and made in good faith.

47. The Town concedes and the Board finds that the Kingdom is a regularly recognized and constituted religious organization with the meaning of RSA 72:23, III.

48. Because the Town does not dispute that the Kingdom was organized or incorporated in this state for the tax year 1988, the Kingdom's status as an entity organized or incorporated in this state is presumed for that tax year.

49. As established by the testimony, by the Annual Return submitted as Exhibit I to Petitioner's Supplemental Memorandum of Law, and by the absence of any contention to the contrary by the Town, the Kingdom has duly registered as a foreign corporation with the State of New Hampshire, has received a Certificate of Authority, and therefore has incurred the rights, privileges, duties, restrictions, penalties, and liabilities of a domestic corporation as set forth in RSA 293-A:108, for the tax years 1988 and 1989.

50. With regard to the 1989 tax year, the Kingdom is a regularly recognized and constituted denomination, creed, or sect, organized or incorporated in this state within the meaning of RSA 72:23, III.

51. Because the Kingdom's failure, in its forms TE and A-9 for the 1988 tax year, to request a tax exemption for any of the Fairwood land was reasonably premised on anticipated building exemptions, some of which were later denied by the Town, justice requires that the Kingdom's January 10, 1989 letter to the Selectmen be treated as an application for tax exemption on that land, effective denial of which by the Town is now properly reviewable by the Board under RSA 76:16-a.

52. A room or facility without any religious artifacts or special adaptations indicating that the room or facility is used for religious purposes still qualifies for religious exemption under RSA 72:23, III, if the room or facility is used for religious purposes or other religious training.

53. That portion of the Kingdom's buildings at Fairwood which is used for housing retreatants is tax exempt because used for religious purposes under RSA 72:23, III.

54. The entire Fairview Sheltered Care Facility, including that portion used to house and care for the Kingdom's members who are not former workers, is tax exempt because used for religious purposes under RSA 72:23, III.

55. The building fronting on Old Troy Road that is used as a residence for the Fairview Sheltered Care Facility's Administrator and his family is tax exempt because used for religious purposes under RSA 72:23, III.

56. The 22 acres at Fairwood requested for exemption are tax exempt for tax years 1988 and 1989 as land appertaining to the exempt buildings under RSA 72:23, III.

Town of Dublin's Request for Rulings of Law

1. Granted.
2. Granted.
3. Granted.
4. Granted.
5. Denied.
6. Denied.
7. Denied.
8. Granted.
9. Denied.
10. Denied.
11. Denied.
12. Granted.

Town of Dublin's Request for Findings of Fact

1. Granted.
2. Granted.
3. Granted.
4. Granted.
5. Granted.
6. Granted.
7. Granted.
8. Granted.
9. Denied.
10. Granted.
11. Granted.

12. Granted.
13. Granted.
14. Granted.
15. Granted.
16. Denied.
16. Granted.
17. Granted.
18. Granted.
19. Granted.

Petitioner's Requests for Findings of Fact and Rulings of Law

1. Granted.
2. Granted.
3. Granted.
4. Granted.
5. Granted.
6. Granted.
7. Granted.
8. Granted.
9. Granted.
10. Granted.
11. Granted.
12. Granted.
13. Granted.
14. Granted.
15. Granted.
16. Granted.
17. Granted.
18. Granted.
19. Granted.
20. Granted.
21. Granted.
22. Granted.
23. Granted.
24. Granted.
25. Granted.
26. Granted.
27. Granted.
28. Granted.
29. Granted.
30. Granted.
31. Granted.
32. Granted.
33. Granted.
34. Granted.
35. Granted.
36. Granted.
37. Granted.
38. Granted.
39. Granted.
40. Granted.

41. Granted.
42. Granted.
43. Granted.
44. Granted.
45. Granted.
46. Granted.

Petitioners Request for Rulings of Law

1. Granted.
2. Granted.
3. Granted.
4. Granted.
5. Granted.
6. Granted.
7. Granted.
8. Granted.
9. Granted.
10. Granted.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Peter J. Donahue, Member

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Paul B. Franklin, Member

Date: May 2, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Joseph DiBrigida, Jr., Esq., counsel for The Kingdom, taxpayer; and Barton L. Mayer, Esq., counsel for the Chairman, Selectmen of Dublin.

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Michele E. LeBrun, Clerk

Date: May 2, 1991

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