

Hedding Camp Meeting Association

v.

Town of Epping

Docket No. 5367-88

DECISION

This appeal was filed, pursuant to RSA 76:16-a, claiming the assessment was excessive due to an improper application of RSA 72:23 III (religious exemption) and due to overvaluation of the non-exempt portion of the property pursuant to RSA 75:1.

At the initial hearing, the Town declined to appear and testify, but consistent with our rule, TAX 102.03(g), the Town was not defaulted.

The Board during its deliberation was unable to determine from the assessment record cards exactly on what basis the assessments and exemptions were calculated. Thus, by an order of the Board, the hearing was reopened on June 26, 1991, to receive evidence on the assessment and exemption calculations. The Town was represented by Kathryn S. Williams, Esq., Scott Bartlett of M.M.C., Inc. and E. Russell Bailey, Epping Administrative Assistant. The Taxpayer was represented, as it was at the earlier hearing, by Gordon B. Snyder, Esq. and David W. Hamilton, Trustee of the Association.

The property under appeal consists of 284.4 acres improved with 119 seasonal cottages, five community buildings, roads, water and septic facilities and various recreational facilities (such as a swimming pool, ball field, picnic areas, etc.). It was uncontested that the 119 cottages were separately owned, and the owners were separately taxed for the cottages.

Despite the property being one parcel, the Town calculated the assessment with two subtotals and identifications, Map 8, Lot 119 and Map 8, Lot 119-1A, with a total assessment of \$1,215,956. A summary of the assessment subtotals and components, as listed on copies of the assessment record cards, follows:

Map 8, Lot 119-1A

<u>Acreage</u>	<u>Appraised value</u>	<u>% exempted</u>	<u>Assessment</u>
234 (current use)	10,840	0	10,840
9.83 (cottage sites)	539,529	0	
539,500(rounded)			
40.57 (other non current use land)	99,397	0	
99,400(rounded)			
<u>0</u> (site improvements)	168,900	0	<u>168,900</u>
284.4			818,640

Map 8, Lot 119

<u>Land/Building</u>	<u>Appraised value</u>	<u>% exempted</u>	<u>Assessment</u>
6 acres	263,900	14	226,610
Epworth Chambers	56,300	14	48,418
Wesley Chambers	54,900	6	51,700
Studio	20,200	4	19,488
Haverhill House	51,100	0	51,100
Chapel	<u>154,900</u>	100	<u>0</u>
	601,300		397,416

Thus the total valuation under appeal is \$1,216,056 (land, \$1,045,250; buildings, \$170,806) as enumerated on cards "Lot 119" and "Lot 119-1A."

The Taxpayers stated the purpose of the Hedding Camp Meeting Association (hereafter Assoc.) was to "foster and advance the highest spiritual interests through sponsoring and promoting Camp Meetings, other religious assemblies, and such education, social and recreational life as may be deemed consonant there with and contributory thereto. . . ." They stated the Assoc. conducted religious training and bible classes approximately 6 months of the year with a large annual meeting in August.

The Taxpayer's arguments fall into two general areas:

- 1) the Taxpayers agreed that the land valued on card 119-1A does not

qualify for religious exemption but argued its ad valorem assessment was excessive because:

a) the total acreage included six acres already assessed and partially exempted on card 119;

b) M.M.C.'s estimation of the 119 camp sites as analogous to mobile home park sites of 3,600 square feet each is not reasonable given the close proximity of the cottages to each other;

c) M.M.C.'s use of \$54,886 per acre for the site area, being the same base price as used for house lots fronting on roads, is unreasonable given the distance of the cottage sites from any road.

2) the Assoc.'s five buildings and the six supporting acres should be exempt from taxation because:

a) they meet the provisions of RSA 72:23, III;

b) they were exempted by the Town prior to the 1988 revaluation;

c) several N.H. Supreme Court cases and Board of Tax and Land Appeal cases have held that similar types of property are exempt.

On the taxable portions of the land, the Town argued the non-current-use land was used similarly to that of a campground or mobile home park and was thus similarly appraised.

The Town pro rated the exemption on the five association buildings and the six supporting acres based on either the time used or area occupied for religious uses.

The Town also attempted to raise the issue in its memorandum of law of whether the Assoc. qualifies as a "religion" as envisioned by RSA 72:23, III. While this argument exceeds the scope of the Board's order for the reopened hearing, it is a significant threshold issue to be ruled on.

Non Exempt Property

Both parties agreed that there was a duplicative assessing of six acres but could not agree whether the current use acreage or the non-current-use acreage should be reduced to make the correction. Based on the evidence and the Board's knowledge of the administration and recording requirements of current use land, the Board finds that the non-current-use acreage should be reduced from a total of 50.4 acres to 44.4 acres.

The Town's methodology and value of \$168,900 for the site improvements for the 119 cottage sites is reasonable. This estimate does not value any

land, but

rather the water, sewer and access facilities serving the 119 sites. Based on the mostly seasonal use of the sites, the average value per site of \$1,419 is a reasonable estimate of those facilities contributory value to the property.¹

The Town further argued that the 9.83 acres around the camp sites is similar in nature to the land area of campgrounds and mobile home parks. The Town determined the 9.83 acres by assuming 3,600 square feet for each cottage times the 119 cottages. The 9.83 acres was then multiplied by \$54,886 per acre -this being the basic first acre price of residential lots as assessed in Epping. The Town's comparison and analysis is flawed. First, the evidence was clear that these cottages had far less than 3,600 square feet that could be reasonably attributed to them as a separate site. In fact, many of the cottages nearly touch, they are situated so close. Second, the contributory value of these clustered sites approximately one third of a mile from a public highway and accessed by a gravel drive/road is not parallel either to residential lot values fronting on a public road or to operating commercial campgrounds or mobile home parks. The site's congested nature and the unique use of the property causes serious doubt that it would have similar value or utility as a campground or mobile home park if it were sold.

Therefore, the Board rules it is reasonable to value all the non-current-use land (44.4 acres), which encompasses the sites of the cottages and the balance of the land minimally improved for recreation, at \$4,000 per acre or \$177,600. Such valuation recognizes that the land is cleared, improved and accessed to a greater degree than the surrounding undeveloped acreage.

Exempt Property

Based upon the Assoc.'s stated purpose, its affiliation with the United Methodist Church and the dissolution provision for the real estate as all contained in the Assoc.'s Constitution (Exhibit TP-5), the Board rules the Assoc. qualifies as a religious organization under RSA 72:23 III. For the Town to raise the argument that the Taxpayer is not a regularly recognized religion

¹ The Town's consistent methodology of appraising these site improvements similar to those of campgrounds and mobile home parks is some evidence of proportionality. See Bedford Development Company v. Town of Bedford, 122 N.H. 187, 189-90 (1982).

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contradictory as the Town has granted religious exemptions for the chapel and portions of the other four association buildings.

The Board has extensively reviewed this century's history of the statutes and case law dealing with religious, educational and charitable exemptions to discern legislative intent or trends in the statutes now in place. One trend is clearly apparent - the legislature and the court intended to narrow the definition of organizations entitled to the exemptions, especially for religious organizations. See RSA 72:23 III.

Prior to 1913 many religious and charitable organizations were chartered and exempted from taxation by special acts of the legislature. In 1913, general statutes (Laws 1913 ch. 115) were enacted to provide a "uniform scheme for tax exemptions," Hedding &c Association v. Epping, 88 N.H. 321, 322 (1937), in which religious and charitable organizations and purposes were lumped together. These statutes continued with slight modifications until 1957 when Laws 1957 ch. 202, which were the result of a special legislative committee created in 1954, were passed creating partially what is now RSA 72:23. Both that committee and subsequently the Supreme Court stated the new law "imposed more rigid requirements for an exemption than those of the prior statute." Alton Bay Camp Meeting Association v. Alton, 109 N.H. 44, 47, 48 (1968).

Despite the narrowing intent of the 1957 laws, it is interesting to note that the Supreme Court in Alton Bay Camp decided the association's property could receive both religious and charitable exemptions in the same tax year. See Id. In that case, the town had exempted the tabernacle, chapel, religious bookstore and ministers residence under RSA 72:23 III, and the court went on to exempt several other association buildings under RSA 72:23 V as these buildings were found by the court to fulfill the association's charitable purpose. It appears from that decision that the court was continuing the concept of the earlier laws of lumping together the religious and charitable purposes of one organization. It was not until 1977, St. Paul's School v. City of Concord, 117 N.H. 243, 248 (1977) and later in 1982, Appeal of C.H.R.I.S.T., Inc., 122 N.H. 982, 983 (1982),

that the court emphatically stated that "the legislature did not intend . . . to allow organizations to claim multiple exemptions under separate provisions of the tax exemption statute" Id.

With this historical perspective in mind, the Board rules that the Assoc.'s buildings and lands are not eligible for religious and charitable exemptions as was granted the Alton Bay Camp Meeting Association in 1968. The Assoc. has applied for a religious exemption, and it is only under the provisions of RSA 72:23 III that any exemptions can be granted in this instance.

The Town is correct in stating that only property used primarily for religious purposes is exempt. The property in question is five association buildings and the supporting six acres. The Board finds that all the buildings, except the chapel, have a mix of secular and religious uses.

The Board rules that an apportionment of the assessment between secular (taxable) and religious (exempt) uses is reasonable.

"A division of value between the two uses should be made if such exist," Alton Bay Camp Meeting Assoc. v. Town of Alton, 109 N.H. 44, 50 (1968). Also, See Franciscan Fathers v. Town of Pittsfield, 97 N.H. 396 (1952).

Therefore, the Board rules the following apportionment:

1) Epworth Chambers: 30% exempt for the maintenance shop and storage area in support of the religious uses of the buildings and for the Sunday use of the building for Sunday School and bible study. Taxable value: 56,300 x .70 = 39,410.

2) Wesley Chambers: 50% exempt for the minister's apartment, library and Sunday School and thrift shop. Taxable value: 54,900 x .50 = 27,450.

3) Studio: 75% exempt as used for weekly bible study, ladies auxiliary meetings, association committee meetings, choir rehearsal and Sunday School. Taxable value: 20,200 x .25 = 5,050.

4) Haverhill House: 25% exempt for partial use as a Sunday School and the associations office. Taxable value: 51,100 x .75 = 38,325.

5) Chapel: 100% exempt.

The value of the six acres supporting these buildings is apportioned based on

the average of the building exemption or 56% exempt. The taxable land value is \$116,116 (263,900 x .44).

In summary, the Board rules the proper assessment is as follows:

Map 8, Lot 119-1A

<u>Acreage</u>	<u>Appraised value</u>	<u>% exempted</u>	<u>Assessment</u>
234 (current use)	10,840	0	10,840
44.4	177,600	0	177,600
<u>0</u> (site improvements)	168,900	0	<u>168,900</u>
284.4 (Total)			357,340

Map 8, Lot 119

<u>Land/Building</u>	<u>Appraised value</u>	<u>% exempted</u>	<u>Assessment</u>
6 acres appertaining	263,900	56	116,116
Epworth Chambers	56,300	30	39,410
Wesley Chambers	54,900	50	27,450
Studio	20,200	75	5,050
Haverhill House	51,100	25	38,325
Chapel	<u>154,900</u>	100	<u>0</u>
		(Total)	226,351

Therefore, if the taxes have been paid, the amount paid on the value in excess of \$583,691 shall be refunded with interest at six percent per annum from date paid to refund date.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Paul B. Franklin, Member

Ignatius MacLellan, Member

Michele E. LeBrun, Member

Date: September 25, 1991

I certify that copies of the within Decision have this date been mailed, postage prepaid, to Gordon B. Snyder, Esq., counsel for Hedding Camp Meeting Association, taxpayer; and the Chairman, Selectmen of Epping.

Brenda L. Tibbetts, Clerk

Date: September 25, 1991

0009

Hedding Camp Meeting Association

v.

Town of Epping

Docket No. 5367-88

ORDER Re: Taxpayer's Motion for Rehearing or other Relief

On October 15, 1991 the Board of Tax and Land Appeals (hereafter Board) received a motion for rehearing from Hedding Camp Meeting Association (hereafter Taxpayer). A rehearing is requested (although the Taxpayer aptly presented its arguments in the motion that would presumably be raised at a rehearing) to argue two alternative methods in apportioning the value of the six acres appertaining to the Taxpayer's partially exempt five buildings, a) a method based on the square footage of the buildings and b) a method based on the past practice of allocating three acres to the chapel and three acres to the other buildings.

On October 25, 1991, the Board received an objection to the Motion from the Town of Epping stating that a full hearing had occurred and the Taxpayer was not raising any issues not previously considered.

The Board denies the Taxpayer's motion for rehearing for the following reasons:

The Board grants rehearings only if there is an offer of evidence that existed but was unavailable at the time of the original hearing (See Tax 201.05(d)) or if the Board's decision was based upon a gross error of fact or misapplication of law. None of these conditions exist in this case.

Prior to the issuance of its decision, the Board held two hearings in an attempt to receive as much evidence as possible in arriving at a proper decision. Neither party challenged the six acres size of the land appertaining to the buildings in question. Nor did either party submit any maps or testimony as to the layout or proximity of the buildings. No evidence was

submitted as to allocation of the land to the buildings, except for the allocation done by the

Department of Revenue Administration at the time of a revaluation in 1976, as noted in a Board of Taxation decision in 1977.

With such limited evidence as to the appropriateness of the size of the appertaining land and no evidence as to the juxtaposition of the buildings, the Board's decision to apportion the land assessment as it did is reasonable and fair.

A cite from the 1977 Board of Taxation's denial for a rehearing for the same property is deja vu. "We have no evidence that Taxpayer could not have done then what it wants to do now. We do not pass on the merits of Taxpayer's arguments, we only say it is now too late to present them."

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Member

Ignatius MacLellan, Member

Michele E. LeBrun, Member

Date:

I certify that copies of the within Order have this date been mailed, postage prepaid, to Gordon B. Snyder, Esq., counsel for Hedding Camp Meeting Association, taxpayer; and the Chairman, Selectmen of Epping.

Brenda L. Tibbetts, Clerk

Date:

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