

The White Mountain School, St. Mary's-in-the-Mountains
v.
Town of Bethlehem

Docket Nos. 5674-88 and 7248-89

DECISION

These two appeals, having been consolidated for hearing, were held, as scheduled, on June 6, 1990. The Taxpayer was represented by Arthur Greene, Esq., and by John Loring, Business Manager. The Town was represented by Robert C. MacLean, Selectman, and Bruce J. Bean, Appraiser.

The Taxpayer appeals the denial of an educational exemption, pursuant to RSA 72:23 IV. The 1988 and 1989 assessments were, for Map 401, Lots 45-48, \$3,519,400 (land, \$443,650; buildings, \$3,075,750), and for Map 402, Lot 3, (land only), \$30,000.

Mr. Greene, on behalf of the Taxpayer, argued: "The White Mountain School (formerly St. Mary's-in-the Mountains) is entitled to an educational exemption under RSA 72:23 IV. The Town of Bethlehem has failed and refused to honor that request for an educational exemption and has assessed a real estate tax on all of the property of the White Mountain School. There is no issue as to valuation; only the right of the School to an exemption for its property. . . . (A)ll of the land and buildings owned by The White Mountain School are used and occupied by it for educational purposes. The only basis upon which to impose a tax under RSA 72:23 IV is to the extent the value of the

dormitories, dining rooms and kitchens exceed the assessed value of \$150,000."

Mr. Loring testified that the value of buildings that included both dormitory rooms and faculty quarters were pro rated based on their respective square footage in accordance with the New Hampshire Supreme Court's decision in the St. Paul case. He submitted that through detailed breakouts of value for the dormitories, dining rooms, and kitchens (Exhibit TP-3) the appropriate assessment for the 1988 and 1989 tax years should be \$733,800.

Mr. MacLean stated that the Town did not determine what was taxable versus tax-exempt property because the Department of Revenue Administration, which performed the revaluation for the Town of Bethlehem in 1988, had not calculated the apportionment for the Town.

Mr. Bean stated it was his opinion that some of the building values were understated but that the Town had declined to have him reappraise the school's property.

Robert Camp, appraiser for the Department of Revenue Administration, was called by the Board to testify. Mr. Camp stated that the senior staff of the Property Appraisal Division had met with and advised the Bethlehem selectmen at that time as to how to apportion the taxable versus tax-exempt property, but that they had stopped short of "actually pushing the pencil."

The Board rules that despite any agreement, verbal or written, that the Selectmen may enter into with any entity to assist them with the appraisal of property, the final responsibility of properly assessing property remains with the Selectmen.

Under RSA 74:1 and RSA 75:1 (Supp. 1975), the selectmen are charged with the duty to appraise all taxable property. Although they have the obligation to consider all evidence that might be submitted to them, the determination of the appraisals remains for them. Concord Natural Gas Co. v. Concord, 114 N.H. 54, 314 A.2d 679 (1974). "Town of Hudson v. The State of New Hampshire

Department of Revenue Administration, 118 N.H. 19, 381 A2d 1202.

The Board finds that the White Mountain School, St. Mary's-in-the-Mountains is an institution that is organized and operated for educational purposes and that it is incorporated in the State of New Hampshire. Further, the testimony and evidence clearly supports that all the buildings and land are intricately used for educational purposes.

The Board rules that the Taxpayer's method of allocating assessments of the taxable and tax-exempt portions of the dormitories and faculty quarters based on a pro ration of building square-foot reasonably follows the New Hampshire Supreme Court's rulings in the St. Paul's School v. City of Concord case.

Therefore, based on the 1988 assessments as accepted by the Selectmen and warranted to the tax collector, and based on the proper allocation of those assessments pursuant to RSA 72:23 IV, the Board rules that the correct assessment for the 1988 and 1989 tax years is \$733,800.

If the taxes have been paid, the amount paid on the value in excess of \$733,800 is to be refunded with interest at six percent per annum from date of payment to date of refund.

June 27, 1990

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III

Peter J. Donahue

Paul B. Franklin

I certify that copies of the within Decision have been mailed this date, postage prepaid, to John M. Loring, Business Manager, White Mountain School, to the Chairman, Board of Selectmen, Town of Bethlehem, and to Richard Young, Director, Property Appraisal Division, DRA.

June 27, 1990

Michele E. LeBrun, Clerk