

**Franklin Home for the Aged  
d/b/a The Peabody Home**

**v.**

**City of Franklin**

**Docket No.: 5744-89**

**DECISION**

The Board of Tax and Land Appeals, having held a hearing in Concord to determine the eligibility of the Appellant for a charitable exemption in the above captioned matter (under the provisions of RSA 72:23), makes the following findings of fact and rulings or law.

- (1)The Franklin Home for the Aged (hereinafter Peabody Home) is a non-profit organization which has been serving the City of Franklin and surrounding area for more than fifty (50) years providing retirement living and nursing care at a reduced rate (20% lower than its nearest competitor). The Peabody Home does not receive Medicaid or Medicare. It serves those clients who may have income too high to qualify for Medicaid, but not sufficient income to pay the present rates at the "for profit" nursing homes.
- (2)The Peabody Home is run as a not for profit organization, federally exempt from taxes (under Section 501(c)(3) of the Internal Revenue Code of 1954).
- (3)On June 28, 1938, seven benefactors met to adopt articles of association of Franklin Home for the Aged Association. "The object for which the corporation is organized is the establishment and maintenance of a home for the aged at Franklin, N.H., and to

receive and carry out the bequests made by Anna G. Blodgett, Mary A. Rowell, Clara E. Rowell, Elizabeth T. Shepard and such other persons who may bequeath or give property for the support of elderly people of Franklin and the towns in the neighborhood of Franklin, if proper provision is made for such purposes. Said corporation is also formed for the general charitable purpose of assisting and aiding worthy aged people in Franklin, and if funds are available, in the towns in the neighborhood of Franklin."

(4)The Peabody Home has an endowment of over \$800,000, which generates income of approximately \$55,000 annually. Directors of the organization meet each year to vote how much will be used to subsidize the overhead and expense of caring for the elderly residents.

(5)The home charges fees to cover costs and administration. Directors have voted to continue services in some cases where the resident is unable to pay. One resident was subsidized for as much as \$14,000.

(6)The property includes approximately 1 1/4 acres of land located at 24 Peabody Place, Franklin, N.H., on which is situated one dwelling and annex containing ten rooms for nursing patients and ten rooms for retirees. Also, there is a kitchen, dining room and business office, and eleven rooms for semi-nursing patients. One four bay garage is used for storage of equipment and furniture in connection with the building and dwelling. All real estate is used to admit and care for guests without regard to race, color or place of national origin from Franklin and surrounding areas.

To qualify for an RSA 72:23 V charitable exemption, two criteria must be met.

(1)Charitable entity. The organization that owns the property must:

- (a)have a charitable purpose;
- (b)be obligated to provide the charitable service;
- (c)provide the service to the general public or an indefinite group; and
- (d)have no income or profit accruing to the members of the organization.

(2)Use and occupancy. The entity must:

- (a)use the property to fulfill the entity's charitable purpose; and
- (b)show that the property's use is sufficiently intense to qualify as under

the use-and-occupancy test.

Senior Citizens Housing Development Corporation of Claremont v. City of Claremont, 122 N.H. 1104 (1982); Wentworth Home v. Portsmouth, 108 N.H. 514 (1968); Nature Conservancy of New Hampshire v. Nelson, 107 N.H. 366 (1966); Society of Cincinnati v. Exeter, 92 N.H. 348 (1943).

The Taxpayer and its use of the property certainly meets these criteria.

The Taxpayer provides a record, consistent and unblemished of more than fifty years, of exemplary, quality charitable health care and residential maintenance to Franklin residents and surrounding area clients at below cost rates and lower than area Medicaid and Medicare facilities can offer.

This enviable record is the combined result of hundreds of volunteer hours by young and old in the community as well as wages and salaries for employees, staff and the Director which are significantly lower than market compensation for the same and similar services in four area (for profit) nursing facilities.

The Board, therefore, rules that the Franklin Home for the Aged continues to qualify for the 100% property tax exemption they have received from the day of its inception more than fifty years ago.

With respect to the Appellant's request for findings of fact and rulings of law the Board of Tax and Land Appeals Grants: 1 through 7.  
SO ORDERED.

BOARD OF TAX AND LAND APPEALS

George Twigg, III, Chairman

Ignatius MacLellan, Esq., Member

Michele E. LeBrun, Member

#### CERTIFICATION

I hereby certify a copy of the foregoing decision has been mailed this date, postage prepaid, to Stanley H. Robinson, Esq., Representative for the Taxpayer; and Paul T. Fitzgerald, Esq., Representative for the City.

Dated: August 20, 1992  
Valerie B. Lanigan, Clerk

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**Franklin Home for the Aged  
d/b/a Peabody Home  
v.  
City of Franklin**

**Docket No. 5744-89**

**ORDER**

The Board of Tax and Land Appeals received a motion for rehearing from the City of Franklin on September 4, 1992, relative to a decision in the above captioned matter which found in favor of the appellant, Franklin Home for the Aged (Peabody Home). The board's decision restored the Charitable exemption, which Franklin Home for the Aged (Peabody Home) has received from the City for more than fifty years.

The City alleges that the appellant Peabody Home failed to show that they were under "an obligation to provide a charitable service."

The Board hereby denies the City's motion for rehearing.

The Peabody Home is duly registered with the N.H. Secretary of State's office as a charitable private foundation, incorporated in New Hampshire.

The Articles of association of the Peabody Home state clearly, "the object for which the corporation is organized is the establishment and maintenance of a home for the aged at Franklin, N.H. and to receive and carry out the requests made by Emma G. Blodgett, Mary A. Rowell, Clara E. Rowell, Eliza T. Shepard and such other persons who may bequeath or give property for the support of elderly people of Franklin and the towns in the neighborhood of Franklin, if proper provision is made for such purpose. Said corporation is also formed for the general charitable purpose of assisting and aiding worthy aged people in Franklin and if funds are available, in the towns in the neighborhood of Franklin, all fees and proceeds from endowments are applied to reduce costs of operation."

The Franklin Home for the Aged has been widely recognized for their ability to deliver quality health care services for half a century to its

elderly enrollees at a cost below all neighboring medicare/medicaid facilities, and all "for profit" institutions of similar size.

The Franklin Home has an unblemished, distinguished and enviable record which constitutes "a community resource unexcelled and rarely equaled."

RSA 72:23 declares charitable to mean, "a corporation, society or organization established and administered by its charter, or otherwise, to perform some services of public good or welfare for the benefit of the general public, or a substantial and indefinite segment of the general public, with no pecuniary profit or benefit to its officers or members, or those of any related organization."

The board has ruled and reiterates that the Franklin Home for the Aged is a charitable entity by any and every standard . . . de jure and de facto.  
SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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George Twigg, III, Chairman

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Ignatius MacLellan, Esq., Member

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Michele E. LeBrun, Member

CERTIFICATION

I certify that copies of the within Order have this date been mailed, postage prepaid, to Stanley H. Robinson, Esq., counsel for Franklin Home for the Aged d/b/a The Peabody Home, taxpayer; and Paul T. Fitzgerald, Esq., counsel for the Chairman, Board of Assessors.

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Melanie J. Ekstrom, Deputy Clerk

Date: September 18, 1992

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