

Androscoggin Valley Bread of Life Christian Center

v.

City of Berlin

Docket No.: 17735-98EX

DECISION

The "Taxpayer" appeals, pursuant to RSA 72:34-a, the "City's" January 21, 1999 denial of the Taxpayer's application for religious exemption as provided under RSA 72:23 III on the Taxpayer's church facility at 52 Gilbert Street in Berlin assessed at \$106,700 (the Property). The Taxpayer also owns but did not seek exemption on an abutting lot assessed at \$15,100. For the reasons stated below, the appeal for abatement is granted.

The Taxpayer has the burden of showing it was entitled to the statutory exemption for the year under appeal and the City erred in denying the application for religious exemption. See RSA 72:23-m; TAX 204.06. The Taxpayer carried this burden.

The Taxpayer argued it was entitled to the religious exemption because:

- (1) the church is incorporated under the laws of the State of New Hampshire and is recognized as tax exempt and as a church by the IRS;
- (2) the church has adopted by-laws incorporating a statement of faith;
- (3) the church is affiliated with the Gospel Crusade Ministerial Fellowship which has hundreds

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of churches throughout the world;

(4) the building is used solely for religious activities; and

(5) the garage is used for storage of items relating to the church and should be considered as part of the exemption.

The City argued its denial of the religious exemption was proper because:

(1) the church is not a regularly recognized and constituted denomination; and

(2) even if the board finds for the Taxpayer, the garage should not be exempted.

Board's Rulings

Based on the evidence, the board finds the "Bread of Life Christian Center" qualifies for a religious exemptions under RSA 72:23 III.

This appeal focuses on the provisions of RSA 72:23 III which states:

Houses of public worship, parish houses, church parsonages occupied by their pastors, convents, monasteries, building and the lands appertaining to them owned, used and occupied directly for religious training or for other religious purposes by any regularly recognized and constituted denomination, creed or sect, organized, incorporated or legally doing business in this state and the personal property used by them for the purposes for which they were established.

Specifically, the Town questions whether the ministry qualifies for the religious exemption because it is not a "regularly recognized and constituted denomination, creed or sect".

There is no question that the Bread of Life Christian Center is organized, incorporated and legally doing business in the State of New Hampshire. The Bread of Life Christian Center was incorporated under the name Androscoggin Valley Bread of Life Christian Center by the

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New Hampshire Secretary of State as a Chapter 292 nonprofit corporation on March 3, 1997 amended August 20, 1997, and is recognized by the Internal Revenue Service as a 501(c)(3) organization under the Internal Revenue Code as of September 24, 1997. Therefore, the only issue for the board to address is whether the Bread of Life Christian Center is a regularly recognized and constituted denomination, creed or sect. For the following reasons, the board finds the Bread of Life Christian Center is such and is entitled to an RSA 72:23 III religious exemption.

On the basis of the testimony of Rick Fenoff, Pastor of the church, and documentary evidence presented at the hearing, the board finds the following:

1) the Bread of Life Christian Center was organized exclusively for religious, charitable and educational purposes which includes regular religious services, bible study, prayer, tent meetings, visiting missionaries and gospel crusades; its statement of faith is included in the articles of agreement filed with the New Hampshire Secretary of State on August 20, 1997;

2) the Bread of Life Christian Center is used exclusively for its religious services, functions and activities "to provide fellowship, instruction and support according to the Holy Bible" and has adopted by-laws incorporating its statement of faith;

3) the Bread of Life Christian Center is affiliated with the Gospel Crusade Ministerial Fellowship, Inc.;

4) all of the assets and income of the Bread of Life Christian Center are used exclusively for the purposes established; and

5) upon dissolution of the Bread of Life Christian Center, all of its assets are transferred to its affiliation Gospel Crusade Ministerial Fellowship, Inc..

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The board finds qualifying for a religious exemptions is not limited to those churches affiliated with a regularly recognized church. The board finds the Bread of Life Christian Center is a bonafide church envisioned by RSA 72:23 III, is regularly recognized by the State of New Hampshire and the Internal Revenue Service, is self-recognized by its members and as such qualifies for the exemption. Further, the garage is used as an accessory storage building for the church supporting the religious purpose of the Property and, as such, should be exempted.

If the taxes on the Property have been paid, the amount paid shall be refunded with interest at six percent per annum from date paid to refund date. RSA 76:17-a.

A motion for rehearing, reconsideration or clarification (collectively "rehearing motion") of this decision must be filed within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; TAX 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; TAX 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule TAX 201.37(e). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally,

if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial.

SO ORDERED.

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BOARD OF TAX AND LAND APPEALS

Paul B. Franklin, Chairman

Michele E. LeBrun, Member

Douglas S. Ricard, Member

Certification

I hereby certify that a copy of the foregoing decision has this date been mailed, postage prepaid, to Zachary S. Gray, Esq., Counsel for Bread of Life Christian Center, Taxpayer; David C. Wiley of the Department of Revenue Administration, Agent for the City of Berlin; and Chairman, Board of Assessors, City of Berlin.

Date: September 23, 1999

Lynn M. Wheeler, Clerk

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