

**Trinity Baptist Church**

v.

**City of Concord**

**Docket No.: 22564-06EX**

**ORDER**

This Order responds to the “City’s” May 8, 2008 Motion for Reconsideration (the “Motion”) of the board’s April 8, 2008 “Decision”. After review of the Motion and the Taxpayer’s May 20, 2008 “Objection” to the Motion, the Motion is denied. The board’s May 19, 2008 suspension order is hereby removed.

This appeal related to two properties in the City of Concord at 66 Clinton Street and 72 Clinton Street. The board granted the “Taxpayer” a full religious exemption on the 66 Clinton Street property but denied any exemption for the 72 Clinton Street property.

In the Motion, the City contends the board erred in the Decision by granting the exemption for 66 Clinton Street. We disagree. In the Decision, the board found the property at 66 Clinton Street meets the requirements for a religious exemption because it is owned, used and occupied for religious training or for other religious purposes.

First, the City asserts the board’s summation of the City’s position is inaccurate. The board’s reiteration of the City’s position is found in the Decision at the bottom of page 1 where the board writes “[t]he City argued the denial of the religious exemption for the Properties was

proper because, even though the Taxpayer owned the Properties, they were not ‘used and occupied’ by the Taxpayer for religious training or other religious purposes on April 1, 2006.”

The board acknowledges the City’s mention of the Taxpayer’s “intermittent” use of the Property (see page 3 of the Decision) was not the City’s primary argument.

The board found 66 Clinton Street is so integrated with the mission of the Taxpayer it qualified as being “owned, used and occupied” by the Taxpayer for “other religious purposes”. For example, in the Decision at page 3 the board writes “while this dwelling may not be occupied by a single person or family for several years at a time, it is used continuously by a combination of local and outreach people who work full time in furthering the Taxpayer’s mission.” The City focused one of its arguments on the definition of a parsonage and considered the property at 66 Clinton Street to be a “home”. The board finds the use of 66 Clinton Street, while not a parsonage is substantially more than just as a residence and its use is materially different from other privately owned residences along Clinton Street. It is used and occupied solely by people involved with one of the Taxpayer’s primary objectives of “carrying on a vigorous missionary program around the world...” (Articles of Agreement, Taxpayer Exhibit No. 1). The Property was used by individuals who were either being trained in the church’s teachings and missionary goals or who were returning from their world-wide missionary work to share their missionary experiences with the congregation and prepare, financially and spiritually, for future missionary work.

Further, as the Taxpayer noted in its Objection, “...the principal purpose of 66 Clinton Street is not the ‘residential convenience of the occupants’ (*Alton Bay*, 109 N.H. at 50); it is a way in which the Taxpayer is able to attract participants in its ministry who would otherwise be unable to participate for lack of housing. It is therefore “for the principal benefit of the Taxpayer

and its religious functions.” *Appeal of Emissaries of Divine Light*, 140 N.H. 552,557 (1995).”

The board concurs.

The board finds the City’s reading of the statute to be too narrow. “A tax exemption statute is construed not with rigorous strictness but ‘to give full effect to the legislative intent of the statute,’ and, absent formal legislative history, intent must be gleaned from the plain language of the statute. *In re Estate of Martin*, 125 N.H. 690,691 (1984) (quotation omitted).” *Wolfeboro Camp School v. Town of Wolfeboro*, 138 N.H. 496, 499 (1994). As the court wrote in *St. Paul’s Church v. City of Concord*, 75 N.H. 420, 423 (1910), “[i]f the so-called rule of strict construction, as applied to statutes exempting certain property from taxation, is so strictly applied as to render the exempting language so narrow and restricted as to defeat the apparent legislative purpose, it is clear that too much sacredness is attached to a mere rule, and that it should be either abrogated or applied with more liberality and reason.”

For these reasons, this board finds the Decision is in accord with the intent of the statute, denies the City’s Motion and affirms its decision that 66 Clinton Street is entitled to a full religious exemption.

Pursuant to RSA 541:6, any appeal of this Order to the supreme court must be filed within thirty (30) days of the date on this Order.

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

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Paul B. Franklin, Chairman

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Michele E. LeBrun, Member

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Douglas S. Ricard, Member

**CERTIFICATION**

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Bryan K. Gould, Esq., Brown, Olson & Gould, P.C., 2 Delta Drive - Suite 301, Concord, NH 03301, counsel for the Taxpayer; Adele M. Fulton, Esq., Gardner, Fulton & Waugh, PLLC, 78 Bank Street, Lebanon, NH 03766, counsel for the City; and Chairman, Board of Assessors, City of Concord, 41 Green Street Concord, NH 03301.

Dated: 7/21/08

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Anne M. Stelmach, Clerk