

January 30, 2007

Jeffrey T. d'Ambly, Chief Appraiser  
Milton Board of Assessors  
525 Canton Ave.  
Milton, MA 02186

Re: Copeland Family Foundation  
Our File No. 2006-296

Dear Mr. d'Ambly:

I am writing in regard to your question whether certain real property of The Copeland Family Foundation ("Foundation") qualifies for a property tax exemption. Based on the information you provided to us, it is our understanding that the Foundation is a charitable entity that has funded and awarded grants for civic purposes throughout the Town of Milton. The Foundation owns a parcel of vacant land for which it has applied to the Milton assessors for an exemption from the property tax. The Foundation has no plans to develop this property and intends to leave it vacant.

You wrote that the Milton Board of Assessors is seeking direction as to the exempt status of the property. As you know, the requisites, which a charitable organization must satisfy in order to qualify for a tax exemption on real property, are set out in Chapter 59, Section 5, Clause Third of the General Laws. This provision allows an exemption from property tax assessment upon:

"real estate owned or held in trust for a charitable organization and occupied by it or its officers for the purposes for which it is organized or by another charitable organization or organizations or its or their officers for the purposes of such other charitable organization or organizations."

This statutory provision sets out three, discrete requisites, all of which must be satisfied in order for real property to qualify for exempt status. First, the organization must be a charity. Secondly, the charitable organization must own the property. And finally, the charitable organization or some other charitable organization must occupy the property for a charitable purpose.

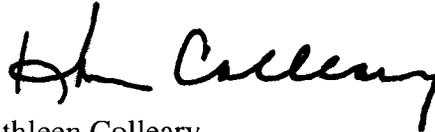
From the information provided, the Foundation may well have established its status as a qualifying charitable organization. In addition, the Foundation owns a parcel of vacant land in Milton. Accordingly, the only issue regarding exempt status relates to the occupancy requirement.

Even if the Foundation is considered a charitable organization, it still must show that the occupancy and use of the property it owns is in furtherance of its stated charitable purposes. See Boston Lodge, B.P.O.E. v. City of Boston, 217 Mass. 176 (1914); Salem Lyceum v. City of Salem, 154 Mass. 15 (1891). An organization that conducts charitable activities is not entitled to claim the charitable exemption if the dominant use of the organization's property is for purposes that are not a part of, or incidental to, the organization's charitable purposes. Id.

Vacant land that is not used for any charitable purpose, or is not ancillary to such use, is considered taxable, even if the organization is itself charitable. Nature Preserve, Inc. v. Board of Assessors of the Town of Pembroke, 2000 ATB Adv. Sh. 796 (2000). In your situation, you have indicated that the parcel consisted of vacant land when first purchased by the Foundation. Given this circumstance, if the parcel is to qualify as exempt, we think it incumbent upon the Foundation to demonstrate that the parcel is directly and actively used in the performance or support of its charitable activities. Absent such a showing, there would be no basis for charitable, tax-exempt status.

We hope that this information is helpful. If you have any additional questions concerning this matter, please do not hesitate to contact us.

Very truly yours,



Kathleen Colleary  
Chief, Bureau of Municipal Finance Law

KC/mcm