

COMMONWEALTH OF MASSACHUSETTS

APPELLATE TAX BOARD

**ROMAN CATHOLIC BISHOP OF
SPRINGFIELD**

**BOARD OF ASSESSORS OF THE
v. CITY OF EASTHAMPTON**

Docket Nos. F326584,
F329254, F332144 & F334804

Promulgated:
January 31, 2020

These are appeals heard under the formal procedure pursuant to G.L. c. 58A, § 7, G.L. c. 59, §§ 64 and 65, and G.L. c. 59, § 5B, from the refusal of the Board of Assessors of the City of Easthampton ("assessors" or "appellee") to abate taxes on certain real estate located at 35 Pleasant Street in the City of Easthampton ("subject property"), owned by and assessed to the Roman Catholic Bishop of Springfield ("RCB" or "appellant") for fiscal years 2015 through 2018 ("fiscal years at issue").

Chairman Hammond heard these appeals and was joined in the original decisions for the appellant in Docket Nos. F326584, F329254, F332144, and F334804 by Commissioners Scharaffa, Rose, Good, and Elliott, and in the revised decision for the appellee in Docket Nos. F326584 and F334084 by Commissioners Rose, Good, Elliott, and Metzger.

These findings of fact and report are made pursuant to a request by the appellee under G.L. c. 58A, § 13 and 831 CMR 1.32.

John J. Egan, Esq. for the appellant.

Lori Stewart, principal assessor, for the appellee.

FINDINGS OF FACT AND REPORT

On the basis of jurisdictional documents, an agreed statement of facts with attached exhibits, and memoranda from both the appellant and the appellee, the Appellate Tax Board ("Board") made the following findings of fact.

I. The Subject Property and the Parties' Contentions

The RCB is a corporation sole¹ and the legal entity by which the Roman Catholic Diocese of Springfield ("Diocese") holds legal title to all real and personal property for its religious mission throughout the Diocese.

In 2010, the Catholic community in Easthampton underwent a pastoral planning process that resulted in combining three parishes into a new parish called Our Lady of the Valley. This new merged parish put some of the former churches to uses other than as worship sites, including the subject property, which was formerly the Notre Dame Church.

¹ See St. 1898, c. 368, which states in pertinent part as follows: "The present Roman Catholic [B]ishop of the diocese of Springfield and his successors in office shall be and are hereby made a body politic and corporation sole, under the name of the Roman Catholic Bishop of Springfield."

During all times relevant to these appeals, the subject property was used for the storage of sacred objects or other property used for worship or religious purposes. This property was taken from other churches or chapels, inventoried, photographed, and stored at the subject property for use by other churches, chapels, or entities for worship or religious purposes. Photographs attached to the agreed statement of facts depict the subject property and various objects stored within its premises, such as pews, statues, crucifixes, vestments, and candelabras.

The appellant contends that the property is exempt under G.L. c. 59, § 5, Eleventh ("Clause Eleventh"), relying primarily on the case of *Shrine of Our Lady of La Salette Inc. v. Assessors of Attleboro*, 476 Mass. 690 (2017), for the proposition that property used for storage in connection with a house of worship is exempt property. The appellant also contends that the subject property is exempt under G.L. c. 59, § 5, Third ("Clause Third") as real property owned and occupied by an organization for the purposes for which it is organized.

The appellee agrees that the subject property is being used to store articles from area churches or chapels, but contends that the subject property is not exempt because nothing stored there is being used directly for religious worship at the subject property.

II. Jurisdiction

On January 1, 2014, January 1, 2015, January 1, 2016, and January 1, 2017, the relevant dates of valuation and assessment for the fiscal years at issue, the appellant was the assessed owner of the subject property. The following table contains the assessed valuation and assessment amounts for each of the fiscal years at issue:

Docket No./ Fiscal Year	Assessed Valuation	Tax rate/ Tax	CPA @3%	Total Assessment
F326584/ FY2015	\$567,310	\$15.15/ \$8,594.75	--	\$ 8,594.75
F329254/ FY2016	\$854,100	\$15.59/ \$13,315.42	\$399.46	\$13,714.88
F332144/ FY2017	\$854,100	\$16.21/ \$13,844.96	\$415.35	\$14,260.31
F334804/ FY2018	\$884,300	\$16.00/ \$14,148.80	\$424.46	\$14,573.26

According to bill detail forms and affidavits from the Easthampton Collector of Taxes, due dates and payment dates for each of the fiscal years at issue were as follows:

Docket No./Fiscal Year	F326584/ FY2015	F329254/ FY2016	F332144/ FY2017	F334804/ FY2018
Preliminary Tax 1 st Installment Due	--	--	08/01/16	08/01/17
Preliminary Tax 1 st Installment Paid	--	--	07/26/16	07/11/17
Preliminary Tax 2 nd Installment Due	--	--	11/01/16	11/01/17
Preliminary Tax 2 nd Installment Paid	--	--	10/18/16	10/24/17
Actual Tax 1 st Installment Due	02/02/15	02/01/16	02/01/17	02/01/18
Actual Tax 1 st Installment Paid	01/29/15	01/20/16	01/10/17	01/25/18
Actual Tax 2 nd Installment Due	05/01/15	05/02/16	05/01/17	05/01/18
Actual Tax 2 nd Installment Paid	07/02/15	04/12/16	04/27/17	05/07/18

The following table contains abatement application and petition filing dates for each of the fiscal years at issue:

Docket No./ Fiscal Year	Abatement Application Filed	Abatement Application Denied	Petition Filed
F326584/ FY2015	02/03/15 ²	03/11/15	05/27/15
F329254/ FY2016	01/28/16	02/24/16	04/27/16
F332144/ FY2017	01/24/17	02/22/17	03/02/17
F334804/ FY2018	01/18/18	02/28/18	03/26/18

The appellant also timely filed the requisite Forms 3ABC. Based upon the above, the Board found that it had jurisdiction over the appeals for fiscal years 2016 and 2017 under the provisions of G.L. c. 59, §§ 64 and 65.

The Board ruled, however, that the appellant's late payment for fiscal years 2015 and 2018³ deprived the Board of jurisdiction under G.L. c. 59, §§ 64 and 65 over the appeals for these fiscal years. The final installment of the fiscal year 2015 tax bill was due on May 1, 2015 but was not paid until July 2, 2015. Similarly, the final installment of the fiscal year 2018 tax bill was due on May 1, 2018 but was not paid until May 7, 2018. Accordingly, the

² For fiscal year 2015, the due date for payment of the first installment of the actual tax bill without incurring interest, and therefore, the due date of abatement applications, was February 6, 2015. See St. 2015, c. 10, § 62 (extending the due dates for fiscal year 2015 because of a severe blizzard on the initial due date). See, e.g., *BRE/ESA 2005 Portfolio, LLC v. Assessors of Woburn*, Mass. ATB Findings of Fact and Reports 2018-160, 162, n.1.

³ There is no evidence to support a finding that the appellant met the three-year average provision of G.L. c. 59, § 64.

Board issued a revised decision dismissing the appeals for fiscal years 2015 and 2018 for lack of jurisdiction.

III. The Board's Findings and Conclusion

Based upon all the evidence of record, the Board found that even though the subject property was no longer used directly as a worship site, its dominant purpose was connected with religious worship. As discussed further in the Opinion, nothing in Clause Eleventh requires that the stored items be used directly on the subject property for religious worship; rather it requires only that they be used in connection with religious worship. Accordingly, the Board found that the subject property was exempt property under Clause Eleventh. Similarly, the Board found that the appellant occupied the subject property for the purposes for which it was organized, as required by Clause Third, and so the subject property also qualified for the exemption under Clause Third.

The Board thus concluded that the subject property was exempt for fiscal years 2016 and 2017, but that the Board lacked jurisdiction over the fiscal years 2015 and 2018 appeals. Consequently, the Board issued decisions for the appellant in Docket Nos. F329254 and F332144 and revised decisions for the appellee in Docket Nos. F326584 and F334084.

OPINION

I. Jurisdiction

A person aggrieved by the refusal of a board of assessors to abate a tax on real estate may, within three months after the date of the assessors' decision on an application for abatement, file an appeal with the Board. G.L. c. 59, §§ 64 and 65. General Laws c. 59, § 64 further provides that "tax shall not be abated unless the full amount of said tax due, including all preliminary and actual installments, has been paid without the incurring of any interest charges on any part of said tax pursuant to section 23D, 57, or 57C of chapter fifty-nine of the General Laws."⁴ For fiscal years 2015 and 2018, the appellant did not timely pay the full amount of tax due, thereby incurring interest and depriving the Board of jurisdiction under the provisions of G.L. c. 59, §§ 64 and 65. See *Columbia Pontiac Co. v. Assessors of Boston*, 395 Mass. 1010, 1011 (1985) ("payment of the full amount of the tax due without incurring interest charges is a condition precedent to the board's jurisdiction over an abatement appeal."). Accordingly, the Board issued revised decisions for the appellee in Docket Nos. F326584 and F334084.

⁴ The statute was amended, effective November 7, 2016, to add the phrase "including all preliminary and actual installments." See St. 2016, c. 218, §§ 149-151.

II. The Subject Property Is Exempt Under G.L. c. 59, § 5, Eleventh

The provisions of Clause Eleventh exempt from taxation

houses of religious worship owned by, or held in trust for the use of, any religious organization, and the pews and furniture and each parsonage so owned, or held in irrevocable trust, for the exclusive benefit of the religious organizations . . . but such exemption shall not, except as herein provided, extend to any portion of any such house of religious worship appropriated for purposes other than religious worship or instruction.

G.L. c. 59, § 5, Eleventh. The parties here do not dispute that the appellant is a religious organization that owns the subject property. They only dispute that the subject property is being used directly for religious worship.

The Supreme Judicial Court recently interpreted the parameters of Clause Eleventh in the matter of ***Shrine of Our Lady of La Salette Inc. v. Assessors of Attleboro***, 476 Mass. 690, 698 (2017), and found that "[t]he board defined far too narrowly the scope of the religious exemption." The Board had determined that the taxpayer's welcome center was used only in part for religious worship and so it had granted only a partial exemption to the taxpayer under Clause Eleventh. ***Shrine of Our Lady of LaSalette v. Assessors of Attleboro***, Mass. ATB Findings of Fact and Reports 2015-454, 466, *affirmed in part and reversed in part*, 476 Mass. 690 (2017). Similarly, the Board had determined that the taxpayer's maintenance building - which was used to store various items, such as display items for the Festival of Lights in the off season,

gift shop inventory, and maintenance vehicles - was not used for religious worship and denied the exemption. *Id.* at 2015-465.

In reversing the Board's decision regarding the welcome center and maintenance building, the Supreme Judicial Court interpreted Clause Eleventh as recognizing "that a house of religious worship is more than the chapel used for prayer and the classrooms used for religious instruction." *Shrine of Our Lady of La Salette Inc.*, 476 Mass. at 696. Rather, the court ruled that the correct test to determine if property is exempt from taxation under Clause Eleventh is whether "the dominant purpose of the questioned portion of property is religious worship or instruction, or purposes connected with it." *Id.* at 691. Applying this test to the welcome center, the Court concluded that the dominant purpose was "'connected with' religious worship and instruction, and 'accompan[ies] and supplement[s]' the religious work of the Shrine." *Id.* at 699 (citations omitted). The Court also found that the dominant purpose of the maintenance building was "connected with the religious worship and instruction offered at the Shrine," and that "[i]n essence, the maintenance building is the equivalent for a larger church of the storage cellar or storage shed of a smaller church, and is similarly connected with the religious work of the Shrine." *Id.* See also *Springfield Rescue Mission v. Assessors of Springfield*, Mass. ATB Findings of Fact and Reports 2019-426, 455 (ruling that the property qualified for

the Clause Eleventh exemption because its dominant purpose was religious worship or instruction, or uses connected with religious worship or instruction, and that no part of the property had been appropriated for purposes other than religious worship or instruction within the meaning of Clause Eleventh).

Turning to the matters at hand, while the subject property itself is no longer the situs of religious worship, the objects stored there are directly connected with religious worship - for use by other churches, chapels, or entities for worship or religious purposes - and so the subject property's "dominant purpose" falls within Clause Eleventh and the analysis under ***Shrine of Our Lady of La Salette***. Accordingly, like the storage building determined to be exempt in ***Shrine of Our Lady of La Salette***, the subject property is being used directly for religious worship and qualifies for the exemption under Clause Eleventh.

III. The Subject Property Is Exempt Under G.L. c. 59, § 5, Third

The provisions of Clause Third exempt from taxation "real estate owned by or held in trust for a charitable organization and occupied by it or its officers for the purposes for which it is organized." G.L. c. 59, § 5, Third. The parties here do not dispute that the appellant is a charitable organization that owned the subject property, they dispute only how to construe occupancy of the subject property by the appellant.

In *New England Forestry Foundation, Inc. v. Assessors of Hawley*, 468 Mass. 138, 155 (2014), the Supreme Judicial Court found that the occupancy requisite is "something more than that which results from simple ownership and possession. It signifies an active appropriation to the immediate uses of the charitable cause for which the owner was organized." (quoting *Assessors of Boston v. Vincent Club*, 351 Mass. 10, 14 (1966)). Further, "so long as the property is immediately appropriated to a use that furthers the organization's purposes, the courts shall defer to the organization's officers and directors in determining the extent of property required and the specific uses of the land that will best promote those purposes. The decisions of the organization will be entitled to deference so long as the directors act in good faith and not unreasonably in determining how to occupy and use the property at issue." *Id.* at 155 (internal citation omitted) (citing *Assessors of Dover v. Dominican Fathers Province of St. Joseph*, 334 Mass. 530, 540-41 (1956)). The occupancy requirement "then, is best understood as the Legislature seeking to ensure that the land is not being held as a private landowner would hold it but that it is being held as an entity would hold it for the public good." *New England Forestry Foundation, Inc.*, 468 Mass. at 156.

In these matters, the appellant - a corporation sole and the legal entity by which the Diocese operates its religious mission - has actively appropriated the subject property for religious

purposes. Objects stored on the subject property are used by other churches, chapels, or entities for worship or religious purposes, which furthers the appellant's purposes. See G.L. c. 59, § 5, Third; *New England Forestry Foundation, Inc.*, 468 Mass. at 155.

CONCLUSION

Based upon the record in its entirety, the Board found and ruled that the subject property was exempt for fiscal years 2016 and 2017, but that the Board lacked jurisdiction over the fiscal years 2015 and 2018 appeals. Consequently, the Board issued decisions for the appellant in Docket Nos. F329254 and F332144 and revised decisions for the appellee in Docket Nos. F326584 and F334084.

THE APPELLATE TAX BOARD

By:



Thomas W. Hammond, Jr., Chairman

A true copy,

Attest:



Clerk of the Board