# Springfield Rescue Mission v. Board of Assessors of Springfield

Appeals Court of Massachusetts

February 5, 2021, Entered

19-P-1629

**Reporter**
2021 Mass. App. Unpub. LEXIS 83 * | 99 Mass. App. Ct. 1110 | 163 N.E.3d 1022 | 2021 WL 401304

**Judges:** Vuono, Kinder & Shin, JJ. [*1]

## Opinion

*MEMORANDUM AND ORDER PURSUANT TO RULE 23.0*

The plaintiff, Springfield Rescue Mission (Mission), sought an abatement from property taxes imposed by the board of assessors (assessors) of the city of Springfield (city) in the amount of $238,613.62 for fiscal year 2016. After the assessors declined to abate the tax, the Mission appealed to the Appellate Tax Board (board) pursuant to G. L. c. 59, §§ 64 and 65. The board ruled in favor of the Mission and granted the abatement in full. The assessors then brought this appeal. We affirm.[1]

*Background*. We summarize the facts, which are all supported by substantial evidence, from the board's detailed findings of fact and report. The Mission is a religious organization that has tended to and served "the spiritual and physical needs of the less fortunate in the City of Springfield . . . since 1892" and, according to the records of the Massachusetts Secretary of State, was incorporated as a "church corporation" in 1954. For many years, the Mission owned and occupied property located at 15 and 19 Bliss Street (the Bliss Street property) where it conducted its religious activities and operated a homeless shelter. The Mission had never been assessed nor paid [*2] real estate taxes on the Bliss Street property.

In 2015, the city required the Mission to vacate the Bliss Street property and relocate to a new facility in order to accommodate the construction of a casino by MGM. The move was "involuntary," and the city assured the Mission that it would be relocated "at no cost." The details of the relocation plan were set forth in a purchase and sale agreement executed on May 21, 2013, between the Mission and a subsidiary of MGM, Blue Tarp Redevelopment, LLC (Blue Tarp). Among other things, the Mission agreed to transfer ownership of the Bliss Street property to Blue Tarp in exchange for suitable property to be acquired by Blue Tarp. Blue Tarp agreed to "construct a new rescue mission" at the new location that would allow the Mission "to functionally operate in a manner similar" to its operation at the Bliss Street property. The construction was to be paid for by Blue Tarp "in accordance with mutually agreed upon conditions and specifications."

Ultimately, Blue Tarp purchased a property located at 10 Mill Street (the Mill Street property), the site of a former Cadillac dealership, for $2.3 million. The deed to the Mill Street property, which identified [*3] Blue Tarp as the owner, was recorded in the Hampden County registry of deeds (registry) on December 1, 2014. Thereafter, on December 30, 2014, Blue Tarp executed a deed to the Mill Street property in favor of the Mission. About a week later, on January 7, 2015, the Mission executed a deed to the Bliss Street property in favor of Blue Tarp. In accordance with the agreement, both deeds were delivered to an escrow agent and held in escrow pending Blue Tarp's completion of construction at the Mill Street property and its securing of the necessary permits.[2] The deeds subsequently were recorded in the registry on October 30, 2015.

Meanwhile, with regard to fiscal year 2016, preliminary tax bills for the Mill Street property were issued for the first and second quarters to Blue Tarp ("the assessed owner") in the amount of $12,588.62 each. The bills were due on August 3, 2015, and November 2, 2015, respectively, and were paid by or on behalf of Blue Tarp. Each preliminary bill represented one quarter of the tax assessed for the preceding fiscal year, 2015, when the Mill Street property was a vacant former car dealership.

The city then issued its third and fourth quarter "actual tax bills" to [*4] the Mission in the amount of $106,718.19 each for a total of $213,436.38.[3] The bills were mailed on December 29, 2015, and March 31, 2016, and were due on February 1, 2016, and May 1, 2016, respectively.[4] The "actual tax bills" were based on an assessed value of $6,181,700 as of January 1, 2015, the date that governed the valuation of the property for fiscal year 2016.

The Mission timely paid the bills after securing a loan and, as we have noted, subsequently sought an abatement, which the assessors denied. In its appeal to the board, the Mission challenged the assessed value of the property, which had been purchased for only $2.3 million in December 2014, but as of January 1, 2015, one month later, was valued at over six million dollars. The Mission's representatives[5] argued that the renovations had not been completed by January 1, 2015, and, as a result, the assessment was excessive. In addition, from what we can discern from the record, the Mission also argued that because it was not the assessed owner on January 1, 2015, it was not responsible for the tax bills. Although the board agreed with the Mission's arguments, it also raised a more fundamental issue, namely, whether the Mill [*5] Street property qualified for the exemption under G. L. c. 59, § 5, Clause Eleventh ("Clause Eleventh") as property used for religious worship or instruction.[6] Thereafter, the board concluded that the exemption applied and reversed the decision of the assessors denying the abatement. The assessors filed a motion for reconsideration on the grounds that the Mission's application for abatement did not rely on the exemption and the property did not meet the statutory requirements for the exemption. The board allowed the motion and then scheduled a further hearing to address the exemption issue.

Following the second hearing, the board issued its report. As the board explained, the relevant date for purposes of determining whether the exemption under Clause Eleventh applies is July 1, 2015. Therefore, the Mission had to have owned the property as of July 1, 2015 in order to qualify for the Clause Eleventh exemption. The Board found that Blue Tarp and the Mission both intended to transfer their respective properties to each other when they executed the deeds on December 30, 2014 and January 7, 2015, respectively, and delivered them to the escrow agent. The board reasoned that "a transfer of an executed deed to an escrow agent pending completion of conditions effects a passage of title as of the date of the transfer to the escrow agent where the parties intend that title passes." Consequently, the board "[found] and rule[d] that the Mission was the owner of the [Mill Street] property within the meaning of Clause Eleventh as of the July 1, 2015 qualification date." As such, the Mill Street property was exempt from real estate tax under Clause Eleventh. **[*7]**

In reaching its conclusion, the board rejected the assessors' argument that the Mission did not own the property as of July 1, 2015, because the deed identifying the Mission as the owner was not recorded until October 30, 2015. According to the board, "the owner of the property for purposes of qualifying for the exemptions under the clauses of G. L. c. 59, § 5, including Clause Eleventh, is the holder of legal title to the property." The board reasoned that "[b]ecause the Mission held legal title on July 1, 2015, the later recording of the deed [was of] no consequence." Moreover, the board observed, there is nothing in § 5 or Clause Eleventh that references record title as opposed to "actual, legal ownership."

In addition, the board was not persuaded by the assessors' alternative argument that because the Mission had not filed a "list, statements, and affidavit" as required pursuant to G. L. c. 59, § 29 ("Form 3ABC"), the Mill Street property was ineligible for an exemption under Clause Eleventh. The board found that the Mission had never filed or been required to file a Form 3ABC in prior years, and, in any event, a Form 3ABC was a prerequisite to obtaining a charitable exemption under Clause Third and not under Clause **[*8]** Eleventh.[7]

Lastly, the board concluded that the assessors' reliance on G. L. c. 183, § 4, which governs the effect of unrecorded deeds, was misplaced, if only because in this case the assessors had "actual knowledge" of the deed to the Mission prior to issuing the actual tax bill for fiscal year 2016 to the Mission.[8]

*Discussion*. "In reviewing a decision of the board, we will not reverse or modify if the decision 'is based on substantial evidence and a correct application of the law.'" *Jewish Geriatric Servs.* v. *Assessors of Longmeadow*, 61 Mass. App. Ct. 73, 76, 807 N.E.2d 194 (2004), quoting *Erving Paper Mills Corp.* v. *Commissioner of Revenue*, 49 Mass. App. Ct. 14, 17, 725 N.E.2d 577 (2000). "We recognize the board's expertise in tax matters and give some deference to its decisions, and, in mixed questions of fact and law, we deem the evidence insufficient only where 'a contrary conclusion is not merely a possible but a necessary inference from the findings.'" *Jewish Geriatric Servs., supra*,

quoting *Erving Paper Mills Corp., supra*. The Mission, as the party claiming the exemption, has the burden of proof. See *Jewish Geriatric Servs., supra* at 77.

For purposes of this appeal, the assessors do not contest the board's finding that the Mission is a religious organization exempt under Clause Eleventh. They argue instead that the Mission cannot claim a religious exemption because it was not the record owner of the Mill **[*9]** Street property on July 1, 2015. They also argue that based on the various contingencies contained within the purchase and sale agreement, it is a "necessary inference" that the parties did not intend to transfer ownership until the deeds were recorded in the registry.

The assessors are correct that the Mission was not the record owner of the Mill Street property on July 1, 2015. However, that fact is not dispositive here because there was substantial evidence to support the board's determination that the Mission was the legal owner of the Mill Street property on July 1, 2015. Initially, the board did not err in concluding that record ownership was not determinative as to whether the Mission was entitled to an exemption under Clause Eleventh. In arguing otherwise, the assessors rely on G. L. c. 59, § 11, which provides that the "person appearing of record . . . shall be held to be the true owner" of the real estate that is being assessed. But as the board observed, Clause Eleventh does not contain the same language and makes no reference to record ownership, either expressly or implicitly. See *Phillips* v. *Equity Residential Mgt., L.L.C.*, 478 Mass. 251, 259, 85 N.E.3d 12 (2017), quoting *Brady* v. *Brady*, 380 Mass. 480, 484, 404 N.E.2d 75 (1980) ("statutory expression of one thing is an implied exclusion of other things omitted from the statute"). **[*10]** And as the board further observed, the recording of a deed is not necessary to validly transfer legal title. See *Jacobs* v. *Jacobs*, 321 Mass. 350, 350-351, 73 N.E.2d 477 (1947).[9]

Nor did the board err in determining that the Mission was the legal owner of the Mill Street property as of July 1, 2015. For a deed to be effective, it must be delivered, "[b]ut it is not essential to the valid delivery of a deed, that the grantee be present, and that it be made to or accepted by him personally at the time." *Hatch* v. *Hatch*, 9 Mass. 307, 310 (1812). Rather, where delivery is made to a third party, such as an escrow agent, whether the deed was effective as of the date of delivery depends on the "lawful intentions of the parties." *Id.* Here, substantial evidence supports the board's determination of the parties' intent. The board made detailed findings explaining how the escrow arrangement benefited both parties and how the obligations the parties undertook would have made little sense had they not intended to transfer title upon delivery of the respective deeds into escrow. Based on its interpretation of the purchase and sale agreement, the conduct of the parties, and the promise that the relocation of the Mission would be at "no cost," the board reasonably concluded that Blue Tarp and the Mission **[*11]** intended to transfer legal title at the time the deeds were delivered to the escrow agent.

The assessors argue that, as a matter of administrative convenience, they should be permitted to rely solely on record ownership and that a contrary rule would impose on

them an "impossible burden." But again, we do not suggest that assessors must ascertain the existence of unrecorded deeds and whether escrow conditions have been satisfied in order to determine whether an exemption in G. L. c. 59, § 5, applies. Our decision is confined to Clause Eleventh and its application to the particular facts of this case. Cf. *Moscatiello* v. *Assessors of Boston*, 36 Mass. App. Ct. 622, 624-625, 634 N.E.2d 147 (1994) (analyzing residential exemption). And on those particular facts, the board properly determined here that record ownership was not dispositive for purposes of the Clause Eleventh exemption. Importantly, the evidence was more than adequate to support the board's conclusion that the city and the assessors knew the deed to the Mill Street property had been transferred to the Mission before the final actual tax bills for fiscal year 2016 were issued. Cf. *id.* at 625 ("Section 5C contemplates that the residential exemption is normally granted at the time the property is assessed, well before it can be known who will actually **[*12]** pay the tax"). This finding is particularly significant in light of the undisputed fact that the assessors also knew that the Mission had never been assessed property taxes before (or after) the city forced it to relocate; the city was well aware of the details of the relocation plan and promised the Mission that the relocation would be at "no cost"; and the assessors themselves "were monitoring the construction process," as they represented at the board hearing. Given all these circumstances, we conclude the board's decision was based on facts supported by substantial evidence and a correct application of the law.

*Decision of the Appellate Tax Board affirmed*.

By the Court (Vuono, Kinder & Shin, JJ.[10]),

Entered: February 5, 2021.

**Footnotes**

- [1]

  We acknowledge the receipt of an amicus brief filed in support of the assessors by the Massachusetts Association of Assessing Officers and the Massachusetts Municipal Lawyers Association.

- [2]

  The purchase and sale agreement provided that the parties would deliver the deeds to the escrow agent within thirty days after Blue Tarp took title to the Mill Street property. The escrow agent was then to hold the deeds until the closing.

- [3]

  Although the actual tax bills total $213,436.38, the full amount of the abatement is $238,613.62, which includes the amount of the preliminary tax bills.

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  Meanwhile, the Bliss Street property remained exempt from property taxes for fiscal year 2016.

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  The Mission did not have legal counsel. Ronald Willoughby, the Mission's Executive Director, and Fred Batchelder, a volunteer accountant, appeared on the Mission's behalf.

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  G. L. c. 59, § 5, states:

  "The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July 1 of each year . . .

  "Eleventh, . . . houses of religious worship owned by, or held in trust for the use of, any religious organization . . . , 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. The occasional or incidental use of such property by an organization exempt from taxation under the provisions of 26 USC Sec. 501(c)(3) of **[*6]** the Federal Internal Revenue Code shall not be deemed to be an appropriation for purposes other than religious worship or instruction."

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  The assessors filed a motion to dismiss on this ground, which the board denied. On appeal, they argue that the board erred in denying the motion. We conclude the motion was properly denied for the reasons articulated by the board.

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  At the hearing, in response to a question posed by a commissioner, one of the assessors explained that they receive copies of deeds from the registry twice a month. The assessors therefore had a copy of the deed transferring title to the Mill Street property from Blue Tarp to the Mission dated December 30, 2014, well before they sent the actual tax bills to the Mission on December 29, 2015 (third quarter) and March 31, 2016 (fourth quarter).

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  We acknowledge that in the majority of cases the record owner of real property is also the legal owner. In addition, we agree with the assessors that they may rely

on record title for purposes of ascertaining the owner of land or real property. However, we are not persuaded that in the particular circumstances of this case that the assessors were entitled to rely exclusively on the records of the registry. In so holding, we do not suggest that the assessors "must search for unrecorded deeds" or "unrecorded purchase and sale agreements." This case presents a unique set of facts that include the involuntary relocation of a religious organization and, as discussed above, the assessors — without searching — had knowledge of the relevant circumstances and copies of the deeds showing a transfer of ownership had occurred before the qualifying date of July 1, 2015.

- [10]

The panelists are listed in order of seniority.