

03-1067

TAX TYPE: LOCALLY ASSESSED PROPERTY EXEMPTION

TAX YEAR: 2003

DATE SIGNED: 10/2/2003

COMMISSIONERS: P. HENDRICKSON, P. DEPAULIS, M. JOHNSON

EXCUSED: B. JOHNSON

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,	)	<b>ORDER</b>	
CITY-1,	)		
	)		
Petitioner,	)	Appeal No.	03-1067
	)	Parcel No.	#####
v.	)		
	)	Tax Type:	Property Tax/Locally Assessed
BOARD OF EQUALIZATION OF	)		Exemption
COUNTY-1,	)	Tax Year:	2003
UTAH,	)		
	)	Judge:	Phan
Respondent.	)		

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: REPRESENTATIVE FOR PETITIONER, PRESIDENT

For Respondent: RESPONDENT, Deputy CITY-1 District Attorney

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on September 11, 2003. Respondent had denied the subject property exemption from property tax for tax year 2003. Petitioner timely and properly appealed the denial of exemption to the Utah State Tax Commission.

APPLICABLE LAW

The following property is exempt from taxation: (a) property exempt under the laws of the United States; (b) property of the state, school districts, and public libraries; (c) property of counties, cities, towns, special districts, and all other political subdivisions of the state . . . ; (d) property owned by a

nonprofit entity which is used exclusively for religious, charitable or education purposes; . . . (Utah Code Ann. Sec. 59-2-1101(2).)

Vacant land which is not actively used by the religious organization, is not deemed to be devoted exclusively to religious purposes, and is therefore not exempt from property taxes. 1. Vacant land which is held for future development or utilization by the religious organization is not deemed to be devoted exclusively to religious purposes and therefore not tax exempt. 2. Vacant land is tax exempt after construction commences or a building permit is issued for construction of a structure or other improvements used exclusively for religious purposes. (Utah Admin. Rule R884-24P-40 (C).)

#### DISCUSSION

The relevant facts in this matter were not in dispute. Petitioner had acquired the subject parcel, parcel number #####, during the year 2002. The subject parcel was a vacant parcel of land located adjacent to other property owned and used by Petitioner for religious and educational purposes. This other property was exempt from property tax pursuant to Utah Code Ann. 59-2-1101 as property owned by a nonprofit and used exclusively for religious or educational purposes. Petitioner had requested exemption for the subject property thinking it should be exempt on the same basis.

The subject property, however, had not been put to use by the lien date at issue in this matter, January 1, 2003, and in fact, as of the date of the hearing sat vacant. Petitioner's representative explained that Petitioner intended to use the property in connection with the church and school owned and operated by Petitioner on the adjacent property. However, even as of the date of the hearing, the use to which Petitioner would put the property had not been decided and no improvements had been made, nor had any building permits been issued for construction of improvements.

Respondent points to Utah Code Ann. Sec. 59-2-1101 which requires that the property be "used exclusively" for religious or educational purposes in order to qualify for the property tax exemption and to Utah Admin. Rule R884-24P-40 (C) which states that vacant land that is held for future development does not qualify as land "used exclusively" for religious or educational purposes.

#### DECISION AND ORDER

The statute and rule are clear in this matter. For tax year 2003, the subject property does not qualify for exemption from property tax under Utah Code Ann. Sec. 59-2-1101, as it was not "used exclusively" for religious or education purposes. A case with similar factual issues was heard and decided in a similar manner by the Tax Commission and then appealed to the Utah Supreme Court. In Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n and County Board of Equalization of Salt Lake County, 191 P.2d 556 (1996), the Utah Supreme Court affirmed the Tax Commission's decision denying the property tax exemption for two vacant parcels of property owned by the Episcopal

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Church. In that case, the Utah Supreme Court reviewed and upheld the Tax Commission's rule, Utah Admin. Rule R884-24P-40(C) concerning land held for future development.

Based on the foregoing, Petitioner's appeal in this matter is denied. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

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Jane Phan  
Administrative Law Judge

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BY ORDER OF THE UTAH STATE TAX COMMISSION.

The Commission has reviewed this case and the undersigned concur in this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Palmer DePaulis  
Commissioner

Marc B. Johnson  
Commissioner

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