

06-0006  
Property Tax/Locally Assessed  
Religious/Charitable Exemption  
Signed 08/14/2007

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BEFORE THE UTAH STATE TAX COMMISSION

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<p>PETITIONER,      Petitioner,  vs.  BOARD OF EQUALIZATION SALT LAKE COUNTY STATE OF UTAH,      Respondent.</p>	<p><b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER</b></p> <p>Appeal No. 06-0006</p> <p>Tax Type: Property Tax/Locally Assessed           Religious/Charitable Exemption</p> <p>Parcel No. ##### Tax Year: 2005</p> <p>Judge: Robinson</p>
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**Presiding:**

Pam Hendrickson, Commission Chair  
R. Spencer Robinson, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER REPRESENTATIVE, via telephone  
For Respondent: RESPONDENT REPRESENTATIVE, Deputy Salt Lake County  
Attorney

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on April 19, 2007. PETITIONER REPRESENTATIVE did not call or appear, but was contacted by telephone. He said he had forgotten about the hearing and requested a continuance. The County opposed the request. The request was denied.

Initially, PETITIONER REPRESENTATIVE declined being placed under oath before testifying. He then changed his mind and was placed under oath. The County agreed to allow the documents introduced at the Initial Hearing to be considered.

Based upon the evidence and testimony presented at the hearing, and information in the public record, the Tax Commission hereby makes its:

FINDINGS OF FACT

1. The subject property is a single-family residence located at ADDRESS, CITY, Salt Lake County, Utah. Petitioner is appealing Respondent's decision not to grant a charitable exemption to the subject property for the tax year 2005.

2. Petitioner is a Utah non-profit corporation. There is no evidence of it being granted status as a charitable organization by the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code.

3. Neither the documents Petitioner submitted, nor PETITIONER REPRESENTATIVES testimony, establish an exclusive use of the property.

4. PETITIONER REPRESENTATIVE said the property should receive the charitable exemption because Petitioner is not engaged in making a profit, the Lord Jesus Christ and God own the property, and the property is performing the function of restoring the family.

APPLICABLE LAW

R861-1A-28. Evidence in Adjudicative Proceedings Pursuant to Utah Code Ann. Sections 59-1-210, 76-8-502, 76-8-503, 63-46b-8.

A. Except as otherwise stated in this rule, formal proceedings shall be conducted in accordance with the Utah Rules of Evidence, and the degree of proof in a hearing before the commission shall be the same as in a judicial proceeding in the state courts of Utah.

Utah Code Ann. §59-1-604. Burden of proof -- Decision of court.

In proceedings of the district court under this part and on appeal therefrom, a preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the parties seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of

the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the commission, and shall grant other relief, invoke such other remedies, and issue such orders, in accordance with its decision, as appropriate.

Utah Code Sec. 59-2-1101(3). The following property is exempt from taxation:

.....  
(d) property owned by a nonprofit entity which is used exclusively for religious, charitable or educational purposes.

R884-24P-40. Exemption of Parsonages, Rectories, Monasteries, Homes and Residences Pursuant to Utah Code Annotated 59-2-1101(d) and Article XIII, Section 2 of the Utah Constitution.

A. Parsonages, rectories, monasteries, homes and residences if used exclusively for religious purposes, are exempt from property taxes if they meet all of the following requirements:

1. The land and building are owned by a religious organization which has qualified with the Internal Revenue Service as a Section 501(c)(3) organization and which organization continues to meet the requirements of that section.
2. The building is occupied only by persons whose full time efforts are devoted to the religious organization and the immediate families of such persons.
3. The religious organization, and not the individuals who occupy the premises, pay all payments, utilities, insurance, repairs, and all other costs and expenses related to the care and maintenance of the premises and facilities.

#### CONCLUSIONS OF LAW

1. Petitioner has the burden of proof. In order to prevail and receive the exemption, Petitioner must establish ownership by a non-profit entity and exclusive religious, charitable, or education use.

2. Exemptions are to be strictly construed against the taxpayer and in favor of the Tax Commission. Hales Sand & Gravel, Inc. v. Utah State Tax Comm'n, 842 P.2d 887, at 890-91 (Utah 1992).

3. Petitioner has not shown the property is used exclusively for religious, charitable or educational purposes. It has not shown it has qualified with the IRS as a 501(c)(3), that the occupants efforts are devoted full time it, and that it, rather than the occupants, pays all the expenses associated with the premises. Thus, the property is not exempt from taxation under 59-1-1101 and R884-24P-40.

#### DISCUSSION

At the conclusion of Petitioner's case, RESPONDENT REPRESENTATIVE asked the Commission to deny the appeal. He argued Petitioner had not met its burden of proof.

The property is owned by the PETITIONER. Records of the Utah Department of Commerce show an active, domestic, non-profit corporation with the name of PETITIONER. However, ownership by a non-profit entity is not sufficient for property to be exempt from taxation. In addition, the property must be used exclusively for religious, charitable, or educational purposes.

The documents provided by Petitioner make reference to the restoration of the family, as did PETITIONER REPRESENTATIVE in his testimony. While the Commission recognizes the importance of the family, this general reference does not establish exclusive use of the property for religious, charitable, or educational purposes. PETITIONER REPRESENTATIVE declined to provide documents in addition to those submitted, stating they were sacred.

Absent evidence establishing both ownership by a non-profit entity, and exclusive use for religious, charitable, or educational purposes, the property does not qualify for an exemption from property taxes.

#### DECISION AND ORDER

Appeal No. 06-0006

Based upon the foregoing, the Tax Commission finds that the subject property is not exempt from taxation. It is so ordered.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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R. Spencer Robinson  
Administrative Law Judge

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 \_\_\_\_\_, 2007.

Pam Hendrickson  
Commission Chair

R. Bruce Johnson  
Commissioner

Marc B. Johnson  
Commissioner

D'Arcy Dixon Pignanelli  
Commissioner

**Notice of Appeal Rights:** You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit pursuant to Utah Code Ann. §63-46b-13. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63-46b-13 et. seq.