

06-1553
Property Tax/Locally Assessed
Signed 08/27/2007

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,)		
	)	ORDER	
Petitioner,)		
	)	Appeal No.	06-1553
v.)		
	)	Parcel Nos.	#####-1
BOARD OF EQUALIZATION	)		#####-2
OF MILLARD COUNTY,	)	Tax Type:	Property Tax/Locally Assessed
STATE OF UTAH,	)	Tax Year:	2006
)		
Respondent.	)	Judge:	Johnson

This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.

Presiding:

Marc B. Johnson, Commissioner

Appearances:

For Petitioner: PETITIONER REPRESENTATIVE 1
 PETITIONER REPRESENTATIVE 2

For Respondent: RESPONDENT REPRESENTATIVE 1, Millard County Commissioner
 RESPONDENT REPRESENTATIVE 2, Millard County
 RESPONDENT REPRESENTATIVE 3, Millard County Assessor
 RESPONDENT REPRESENTATIVE 4, from the Millard County Assessor's
 Office
 RESPONDENT REPRESENTATIVE 5, from the Millard County Assessor's
 Office

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 April 5, 2007.

At issue is the fair market value of the two subject properties as of January 1, 2006. The subject properties are adjacent vacant lots located in CITY, Utah, and are 0.20 and 0.37 acres in size, respectively. At issue is whether the two properties qualify for the religious, charitable or educational exemption from sales tax. The County BOE determined that as of the lien date, the properties did not qualify for the exemption.

The federal government has determined that the Petitioner qualifies as a Section 501(c)(3) entity. The Petitioner further proffers that it is a non-profit, charitable organization. The Petitioner also states that since it acquired the properties and prior to the lien date, an old BUILDING 1 has been removed from the subject properties in anticipation of building a new BUILDING 2 on the site. Although a razing permit was granted, no building permit had been issued as of the lien date. In addition, the Petitioner has situated an old, large (X) on the property and has erected a sign announcing that a BUILDING 2 will be built on the site in the future. Given these circumstances, the Petitioner asks the Commission to find that the properties are exempt from taxation as of the lien date pursuant to the religious, charitable or educational exemption.

The County asks the Commission to find that the properties did not qualify for the exemption because adequate steps had not been taken as of the lien date to use the property exclusively for charitable purposes.

APPLICABLE LAW

Utah Code Ann. §59-2-1101(3)(d) provides an exemption from property taxes for “property owned by a nonprofit entity which is used exclusively for religious, charitable, or educational purposes[.]”

Utah Admin. Rule R884-24P-40, although it specifically refers to religious uses, provides guidance concerning the application of the charitable or educational exemption, as follows in pertinent part:

....

C. 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.

DISCUSSION

Both the statute and the rule are clear that property must be used for religious, charitable, or educational purposes. In this case the property is vacant with only an old (X) sitting on the land. This implement is there, not primarily as an exhibit, but rather to indicate a future use of the property once construction begins. Although Petitioner argues that removal of the prior structure and placing the (X) on the site constitutes construction, the Commission does not find this to be the case. Razing the old building is just that; it is not construction of a new building. The (X), which could be part of an exhibit in the new BUILDING 2; or might have been part of a limited exhibit, even on vacant land; did not serve that function as of the lien date. Furthermore, no building permit had been issued as of the lien date. The totality of Petitioner's evidence and argument established an intention for future educational or charitable use, but does not amount to actual use.

DECISION AND ORDER

Based upon the foregoing, the Tax Commission finds that the BOE. The property was not being used exclusively for a religious, charitable, or educational purpose as of the lien date, and therefore is not exempt from ad valorem taxation.

It is so ordered.

Appeal No. 06-1553

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.

BY ORDER OF THE UTAH STATE TAX COMMISSION.

DATED this _____ day of _____, 2007.

Pam Hendrickson
Commission Chair

R. Bruce Johnson
Commissioner

Marc B. Johnson
Commissioner

D'Arcy Dixon Pignanelli
Commissioner

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