

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

AMERICAN INDIAN SACRED SOCIETY OF THE FOUR DIRECTIONS,)	
)	
)	DOCKET NO.: SPT-2012-7
)	
Appellant,)	
)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE OF THE STATE OF MONTANA,)	ORDER and OPPORTUNITY
)	FOR JUDICIAL REVIEW
)	
Respondent.)	

Statement of Case

The American Indian Sacred Society of the Four Directions (Taxpayer) appealed a decision of the Department of Revenue (DOR) revoking its religious property tax exemption for 2012. The matter was heard on the record with Roger Sunpath, Presiding Elder, representing the Taxpayer and Michelle Crepeau, Special Assistant Attorney General, representing the DOR.

The Board having fully considered the testimony, exhibits, and all matters presented, finds and concludes the following:

Issue

The issue in the case is whether the DOR properly revoked the Taxpayer's tax exemption.

Evidence Presented

1. The property at issue is a tract of bare land in Lakeside, Flathead County, with the legal description S07, T26 N, R20 W, TR 6BBBA in NW4, ASSR # 0000978808. Taxpayer's Assessment Notice dated 6/19/2012.
2. In 2009, the Taxpayer was granted a property tax exemption for a mobile home and approximately 16,000 square feet of land under §15-6-201(1)(b), MCA, which exempts from taxation buildings and land used by a church for religious purposes. Affidavit of Linda Sather, DOR Management Analyst.
3. There are no other structures on the subject property.
4. In 2011, the DOR received a Mobile/Manufactured Home Movement Declaration stating that the mobile home on Taxpayer's land had been sold to a third party and removed from the premises. Mobile/Manufactured Home Movement Declaration, April 15, 2011.
5. On April 4, 2012, Nina Woolard of the DOR sent Taxpayer a letter stating that due to the removal of the mobile home, the property no longer qualified for a religious exemption. The letter stated that if there were new construction or another mobile home put on the property, Taxpayer could reapply for the exemption. An application was enclosed. Letter from N. Woolard, April 4, 2012.
6. On May 4, 2012, Taxpayer responded and requested reconsideration of the decision, stating that the revocation of the exemption placed a hardship on the church which ministers to those in need and does not have any wealth. The trailer was removed because it was found to have mold in it which made Taxpayer's employees ill. Further, the letter stated that their construction plans for a permanent structure had been halted until the exemption was restored. Letter from R. Sunpath, May 4, 2012.

7. An assessment notice was issued on June 19, 2012 by the DOR, showing the appraised value of the property for 2012 as \$95,341. An explanation of appeal rights was included with the notice. 2012 Assessment Notice, June 19, 2012.

8. Taxpayer appealed the denial to this Board and although the request for reconsideration predated the final, appealable decision of the DOR, the appeal was accepted for consideration.

Principles of Law

1. The State Tax Appeal Board has jurisdiction of this matter under §15-2-201(1)(d), MCA.

2. Property exempt from taxation is defined as “buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, . . . , together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings. . .but may not exceed 15 acres for a church or 1 acre for a clergy residence. . .” §15-6-201(1)(b), MCA.

3. The granting of property tax exemptions is “a matter of grace” and not a right, and so the legislative language is to be strictly and narrowly construed. *Gary Drilling Co. v. Dept. of Revenue*, 250 Mont. 313, 318, 820 P.2d 428, 432 (1991); *BA Props. v. Gov't of the United States V.I.*, 299 F.3d 207, 210 (2002).

Finding of Fact, Conclusions of Law and Holding

The issue presented is whether the DOR properly revoked the Taxpayer's tax exemption when the mobile home was removed from the property. The language of the statute is clear that the religious exemption is granted for the buildings and furnishings of a church and as much land as is necessary for the use of the buildings. Further, we find no inconsistencies in

the evidence. When the mobile home was removed from the premises, the property became vacant land and was therefore appraised as tract land, in the same manner as any other vacant land. The statutory exemption is primarily for the buildings, with the land included only to the extent necessary for the use of the buildings. Even then, the amount of land that can qualify is limited by the statute. Without any buildings, used either for religious activities or a clergy residence, vacant land cannot qualify for the exemption.

Unfortunately, the impact of such a rule on the Taxpayer will require the church to pay property taxes. There are no provisions in the code for temporarily vacant land or continuing the exemption if the removal of the building was required by a misfortune such as fire or flood damaging the building. The Legislature has defined the grounds for the exemption with specificity, as it has the authority to do. The decision of the Department of Revenue is affirmed.

ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the Taxpayer's appeal is denied.

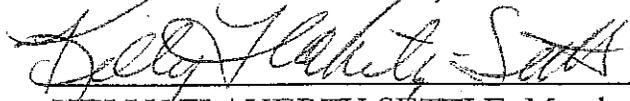
Dated this 14th day of January, 2013.

BY ORDER OF THE
STATE TAX APPEAL BOARD


KAREN E. POWELL, Chairwoman

(SEAL)


SAMANTHA SANCHEZ, Member


KELLY FLAHERTY-SETTLE, Member

Notice: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this ____ day of January, 2013, the foregoing Order of the Board was served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

American Indian Sacred Society
of the Four Directions
P.O. Box 462
Inkom, Idaho 83245

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail

Michele Crepeau
Office of Legal Affairs
Department of Revenue
Mitchell Building
Helena, Montana 59620

U.S. Mail, Postage Prepaid
 Hand Delivered
 E-mail
 Interoffice



DONNA EUBANK
Paralegal