

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

OPEN DOOR BAPTIST CHURCH,)	
)	DOCKET NO.: SPT-1996-1
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF)	<u>OPINION and ORDER</u>
REVENUE OF THE STATE)	
OF MONTANA,)	
)	
Respondent.)	

The above-entitled appeal came on regularly for hearing on the 12th day of May, 1997, in the City of Missoula, Montana. The taxpayer, represented by Pastor John Haveman, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Appraisal Specialist Virgil Byford, presented testimony in opposition thereto.

The taxpayer is seeking tax exemption on a 30' X 130' portion of land and an associated 8' X 12' storage shed, both of which are located on property described as Lot 38 in Block 78 of the Daly Addition #2 Addition to the City of Missoula. The 1996 appraised value set by the DOR is \$400 for the storage shed and \$1,600 for the land.

TAXPAYER'S CONTENTIONS

Pastor Haveman testified that the Open Door Baptist Church operates from buildings comprising a total of 3,100 square feet (2,500 square feet for the church building itself and 600 square feet for a mobile home which houses Sunday school and nursery facilities). Pastor Haveman contends that the subject storage shed is very necessary for the convenient use of the property ("There's no other place to store it [the items stored in the subject storage shed] . . . only 3,100 square feet for 50 people with Sunday school classes and nursery and kitchen and eating facilities . . . if I could not store things out there, I'd have to put them in another room in our church and that would be very inconvenient." John Haveman testimony, State Tax Appeal Board hearing, May 12, 1997). Pastor Haveman testified that the church stores such items as a lawn mower, extra chairs, an old door, an old stove, lawn care items, and lumber in its storage shed. He stated that he does not store his personal belongings in the storage shed. There is no residential use of the property. In summary, his argument for tax exemption for the subject storage shed is based upon the necessity of the use of the shed for the convenient operation of the church.

DOR CONTENTIONS

For the DOR, Mr. Byford testimony was that, on or about

February 20, 1996, an application for exemption was submitted by the Open Door Baptist Church for Lot 38 in Block 78 of the Daly Addition #2 and a portion of vacated Schilling Street in Missoula. The church property includes a 12' X 50' 1972 Buddy mobile home, the subject 8' X 12' storage shed, and a 40' X 130' church building which sits on the vacated portion of Schilling Street. After corresponding with Pastor Haveman, Mr. Byford stated that he issued a ruling granting an exemption to the mobile home and denying exemption to the storage shed. Mr. Byford argued that the mobile home was granted exemption and the storage shed was denied exemption because church-owned property must generally qualify under Section 15-6-201 (1)(b), MCA, which provides:

- (1) The following categories of property are exempt from taxation:
 - . . . (b) buildings, with land they occupy and furnishings in the buildings, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings; . . .

Mr. Byford contended that the above statute requires both an ownership and a use test. The mobile home is used for church offices and Sunday School classrooms and, thus, qualifies for tax exemption under 15-6-201 (1) (b), according to Mr. Byford. The storage shed is used for the storage of wood, chairs, and other items and, therefore, does not meet the use requirements of the

exemption statute, which specifies that the property must be used for actual religious worship.

In summary, the DOR reason for denial of exemption of the storage shed property stems from the fact that it's a separate building from the church buildings that are used for actual religious worship.

In order for church-owned property to receive an exemption, Mr. Byford's position is that it must meet both a use test and an ownership test under 15-6-201 (1) (b). The DOR does not dispute that the church owns the property; however, it does not believe that the use of the building for the storage of wood, chairs and miscellaneous items meets the statutory requirement that a church-owned building be used for actual religious worship or as a residence of the clergy in order to gain tax exemption.

DISCUSSION

The Board finds that the taxpayer has satisfactorily demonstrated that the subject storage shed is necessary for the convenient use of the church operation. The size of the buildings from which the church conducts its operation leads this Board to the conclusion that the use to which the storage shed is put constitutes a necessary aspect of the church's operation. Mr. Byford testified that if the church's storage area was somehow attached to the church buildings, or was located in a basement,

there would be no argument against exemption of the total property. The mere fact that the storage area is located a short distance behind one of the church buildings does not negate its necessity to the overall church function. It is the opinion of this Board that the shed is used exclusively for storage of items necessary for the operation of the church.

Based upon the evidence and testimony presented at the hearing before this Board, the Board finds that the taxpayer presented sufficient evidence to support the position that the property qualified for exempt status under §15-6-201(1)(b) MCA and therefore sustained the burden on appeal.

For the foregoing reasons, the Board concludes that the appeal shall be granted.

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property removed from the tax rolls of Missoula County. This opinion constitutes the Board's Findings and Conclusions herein.

DATED this 9th of June, 1997.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. MCKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

LINDA L. VAUGHEY, 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 9th day of June, 1997, a true and correct copy of the foregoing Order has been served on the parties hereto by depositing a copy thereof in the U.S. Mails, postage prepaid, addressed to the parties as follows:

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