

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

INTERNATIONAL CHURCH OF)	
FOURSQUARE GOSPEL,)	
dba FAITH CHAPEL,)	
)	DOCKET NO.: SPT-2004-1
Appellant,)	
)	
-vs-)	FACTUAL BACKGROUND,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	<u>FOR JUDICIAL REVIEW</u>
)	
Respondent.)	

The above-entitled appeal was heard in Billings on October 27, 2004, in accordance with an order of the State Tax Appeal Board of the State of Montana (the Board). The notice of the hearing was duly given as required by law.

The Appellant, International Church of Foursquare Gospel, (hereinafter Faith Chapel) represented by Bart Coslet, administrator, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by Management Analyst Tracy A. Lame, presented testimony in opposition to the appeal. Testimony and exhibits were presented. The duty of this Board is to determine whether the property qualifies for an exemption, based on a preponderance of the evidence. Faith Chapel is the appellant in this proceeding and, therefore, has the burden of proof.

Based on the evidence and testimony, the Board finds that the decision of the Department of Revenue is reversed.

STATEMENT OF ISSUE

The issue before this Board is to determine if the subject property qualifies for tax-exempt status as land reasonably necessary for the convenient use of a religious facility.

FACTUAL BACKGROUND

1. Due, proper and sufficient notice was given of this matter and the hearing hereon. All parties were afforded opportunity to present evidence, oral and documentary.

2. The Appellant is the owner of the property which is the subject of this appeal and which is described as follows:

3.0 acres of a parking lot totaling 6.3459 acres in Tract 3, C/S 3106, County of Yellowstone, State of Montana. (Application number 0301804.)

3. The application for property tax exemption was received by the DOR on March 3, 2004. (Application #0301804).

4. A partial exemption was granted on June 13, 2004 on the 140,000 square feet, or 3.214 acres, that was paved, plus "a little more."

5. A letter was sent to Faith Chapel on June 13, 2004, stating that the reason for the partial exemption was that: "... remainder of the property (3.00) acres to remain as

taxable, as this does not meet the use requirements of 15-6-201 (1) (b) MCA - adjacent land reasonably necessary for convenient use of the buildings."

6. The denied portion of primarily unpaved land appeared, to the DOR, to be excess land not reasonably necessary for the convenient use of the church buildings.

TAXPAYER'S CONTENTIONS

Faith Chapel, a foursquare gospel denomination, is a church on the west end of Billings, at the corner of Shiloh Road and Broadwater Avenue. Faith Chapel has about 4,000 people, on average, in attendance during its four weekend service offerings. At Christmas and Easter, attendance tops 7,000 for those services. The 6:00 p.m. Saturday night service sees the lightest attendance, while the 11:00 a.m. Sunday morning service is "absolutely bulging."

The Faith Chapel facilities are approximately 83,000 square feet in size, located 16.9 acres. It has 845 paved parking spaces and 150-200 gravel parking spaces.

Mr. Coslet stated that they applied for exemption on 6.346 acres. 3.46 acres were approved for exemption and exemption on the remaining three acres was denied. The denial included 18 feet of paved Shiloh Road entrance.

Mr. Coslet presented a series of photographs (Taxpayer's Exhibit 2) showing the various parking areas for the church. Photograph number one shows the graveled parking area plus the 18 feet of paving which was denied in the exemption application. This area is completely filled in with cars when the church hosts large events. There was one event, when the Governor spoke at the church, when all of the parking spaces were inadequate to handle attendees.

Mr. Coslet stated that the parking on 16.9 acres of land that includes two acres of buildings is reasonably necessary for the convenient use of the buildings, considering the size of the facilities and the sheer number of people that attend Faith Chapel. By way of comparison, Mr. Coslet stated that the average church in the United States has 100-200 members. If the average church were held to the standard that Faith Chapel is requesting, they would be limited to about .35 to .7 of an acre, including the building. No church could reasonably operate within those parameters.

The taxpayer argued that the usage requirement of 15-6-201 (1) (b), MCA, is met by the fact that, without the use of the subject property, it would not be able to achieve its exempt purpose: convenient use of the buildings for actual religious worship.

DOR'S CONTENTIONS

The DOR's position is that this property must qualify for exemption under 15-6-201 (1) (b), MCA. The applicable portion of the statute is "The following categories of property are exempt from taxation . . . (b) buildings, with land that they occupy 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 adjacent land reasonably necessary for the convenient use of the buildings. (emphasis supplied). The denied portion was deemed to be excess land that was not reasonably necessary for the convenient use of the buildings.

Ms. Lame stated that case law was also consulted in the DOR's decision regarding this property. She cited cases deemed applicable to the present case: *Cruse v. Fischel*, 55 Mont. 258, in which the Montana Supreme Court held that tax exemption statutes are to be construed strictly for taxation and against exemption, and two prior decisions of this Board: *Fellowship Baptist Church of Bozeman, Inc.*, SPT-1987-15, and *Church of Christ v. Department of Revenue*, SPT-1984-22.

The *Church of Christ* case involved a church in Gallatin County. This Board held that only the portion of land used

by the church building could be exempted from taxation. A maintenance building and parking for church buses were situated on the excess land in this case.

The *Fellowship Baptist Church of Bozeman, Inc.*, appeal involved vacant land that did not qualify for exemption because it did not meet the use requirement of the exemption statute.

Ms. Lame stated that she had to reconcile the above two State Tax Appeal Board decisions and the Montana Supreme Court case cited above to make her final determination in this case.

In conclusion, the DOR's position is that the subject property does not meet the use requirement set forth in the exemption statute, 15-6-201 (1) (b), MCA, because the three acres were deemed to be excess land not reasonably necessary for convenient use of the church buildings. An overflow parking area, used once or twice a year, is not reasonably necessary for the primary use of the church buildings.

BOARD DISCUSSION

The Board finds that the DOR acted improperly in denying the request for exemption. Mr. Coslet has satisfactorily demonstrated that the subject property is reasonably necessary for the convenient use of the

facilities as a whole and, therefore, did demonstrate that the use requirement of Section 15-6-201 (1) (b), MCA, has been met. The record indicates that the sheer size of the facilities and the large numbers of church attendees during the four weekend services necessitates the usage of all of the designated parking areas for the convenient use of the buildings.

CONCLUSIONS OF LAW

1. The State Tax Appeal Board has jurisdiction over this matter. **§15-2-301, MCA.**

2. **§15-6-201, MCA. Exempt categories.** (1) The following categories of property are exempt from taxation: ". . . (b) property used exclusively for . . . "adjacent land reasonably necessary for convenient use of the buildings."

3. The appeal of the Appellant is hereby granted and the decision of the Department of Revenue is reversed.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be removed from the tax rolls of Yellowstone County by the local Department of Revenue office. The appeal of the Appellant is granted, and the decision of the DOR denying exemption on the subject property for tax year 2004 is reversed.

Dated this 20th day of January, 2005.

BY ORDER OF THE
STATE TAX APPEAL BOARD

(S E A L)

GREGORY A. THORNQUIST, Chairman

JERE ANN NELSON, Member

JOE R. ROBERTS, 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 20th day of January, 2005, 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:

Bart Coslet
Administrator
Faith Chapel
P.O. Box 20674
Billings, Montana 59104

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

Tracy Lame
Management Analyst
Department of Revenue
Property Tax Division
Helena, Montana 59620

DONNA EUBANK
Paralegal