

Commonwealth Court of Pennsylvania.

WESLEY UNITED METHODIST CHURCH v. DAUPHIN COUNTY BOARD OF ASSESSMENT APPEALS, Appellant.

Decided: March 04, 2004

The Dauphin County Board of Assessment Appeals (Board) appeals from an order of the Court of Common Pleas of Dauphin County that granted the appeal of Wesley United Methodist Church (Church) and held that two parcels on which are located the parking lot used by the Church are exempt from real estate taxation.

The Board states the question as whether the parking lot owned and used by the Church for its worshipers to park their vehicles is an “actual place of regularly stated religious worship” warranting exemption from real estate taxation.

The Church counter-states the question as whether Section 204(a)(1) of the Assessment Law, 72 P.S. § 5020-204(a)(1), exempts a parking lot annexed to a church when the lot is “reasonably necessary” for the successful operation of the church and to sustain its existence.

The Church is located at the corner of Witherspoon Avenue and Union Street in Middletown, Pennsylvania. A parking lot immediately adjacent is actually made up of two tax parcels. On July 30, 2001, the Church filed an application with the Board seeking to have the parcels declared exempt from taxation, which the Board denied after a hearing on the application.

The Church filed an appeal, and the trial court held a hearing de novo on February 24, 2003. Samuel Hummert, a member of the Church since 1955 and current chair of the trustee committee, testified that the Church has been in existence for over 150 years. It is located in a residential area, and years ago most members lived within a block or two and walked to church. Now, however, the members are aging, and most live away from the Church. He testified that in the 1980s the membership steadily declined to 300-400, with about 200 attending services. In 1989 the Church purchased the two parcels for a church parking lot, and after that membership increased to more than 700 and attendance increased to around 350. He stated that the Church regards the lot as a necessity.

Reverend Wakely referred to other churches that had parking lots which were exempt from taxation. In lieu of testimony on that issue, counsel for the Board represented that where newer churches are required by zoning codes to provide a specified number of parking spaces based upon the number of seats in the sanctuary, the Board grants the exemptions for such parking areas on the theory that the churches could not exist without them.

The trial court observed that much has changed in the reality of Pennsylvania's small towns since 1959, with churches built decades ago in the heart of residential neighborhoods finding their members living in places far removed, as confirmed by testimony from the Church's witnesses. The court noted the Board's practice of granting tax exemption to the entire parcel on which a church and parking facilities are located if the parking is required by local zoning ordinance and

concluded that there was little equitable or legal sense to denying exemption in this case solely because the Church is older and was constructed when no ordinance required off-street parking. Determining that the Church's parking lot had been shown to be reasonably necessary for the occupancy and enjoyment of the Church, the trial court granted the appeal.<sup>1</sup>

Additionally, the Church points out the Board's admitted practice of regarding parking areas as being "necessary for the occupancy and enjoyment" of church property in those cases where a church is required to provide off-street parking by ordinance.

Witnesses familiar with the Church's history and its operations testified that membership shifted from a majority residing within one or two blocks to a majority residing at a distance, that virtually no on-street parking is available around the Church and that membership and attendance and revenues were in serious decline before the parking lot was established but turned around afterward. Based upon the Church's history, the trial court in short credited the testimony that the Church could not exist without the parking lot.

As may readily be seen, although similar circumstances might be shown in some other cases, they would not exist in most. As a result, the Court's holding is not to be construed as a general tax exemption for church parking lots.

AND NOW, this 4th day of March 2004, the order of the Court of Common Pleas of Dauphin County is affirmed.