

DOCKET NO: HHB-CV-22-6074602-S

THE LEE MEMORIAL CHURCH OF
NORWICH, CONNECTICUT a/ka
LEE MEMORIAL UNITED METHODIST
CHURCH

v.

CITY OF NORWICH

SUPERIOR COURT

JUDICIAL DISTRICT OF
NEW BRITAIN

TAX AND ADMINISTRATIVE
APPEALS DIVISION

JUNE 5, 2024

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SUPERIOR COURT
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JUDICIAL DISTRICT OF
NEW BRITAIN

MEMORANDUM OF DECISION

The plaintiff, The Lee Memorial Church of Norwich, Connecticut a/ka Lee Memorial United Methodist Church (Lee Memorial), appeals the decision of the defendant, the City of Norwich, denying Lee Memorial a tax exemption under General Statutes § 12-81 (14) for that portion of Lee Memorial's property which is owned by Lee Memorial, but leased to an unaffiliated, for-profit company for use as a daycare facility (the subject property). Norwich argues that because Lee Memorial does not operate the daycare center, the subject property is not exempt from taxation under § 12-81 (14). By its plain terms, and as relevant to this appeal, § 12-81 (14) requires only that exempt property be owned by a religious organization and that it be used exclusively as a daycare facility. Section 12-81 (14) includes no additional requirement that the day care center also be operated by the religious organization. Because it is undisputed that the subject property is owned by Lee Memorial, that Lee Memorial is a religious organization, and that the subject property is exclusively used as a daycare facility, the court holds that the subject property is entitled to the tax exemption set forth in General Statutes § 12-81 (14). Therefore, the court sustains this appeal.

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Tracy A. Pignatello and A. Langhammer.
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6/5/24*

FACTS

This case was tried before the court on February 7, 2024. The court heard testimony from Daniel Gleny, Chairman of the Board of Trustees at Lee Memorial. The facts of this matter are not in dispute. Nevertheless, as the trier of fact; see *St. Joseph's Living Center, Inc. v. Windham*, 290 Conn. 695, 707, 966 A.2d 188 (2009) (hereinafter *St. Joseph's*); it is for the court to weigh the evidence and determine the credibility of witnesses. *Lydall, Inc. v. Ruschmeyer*, 282 Conn. 209, 236 n.20, 919 A.2d 421 (2007). With these principles in mind, the court makes the following findings of fact from the credible evidence presented at trial.

At all times relevant to this memorandum of decision, Lee Memorial was the owner of certain real property known as 294 Washington Street in Norwich, Connecticut (the church property). Since approximately 1958, Lee Memorial has operated a Methodist denomination church on the church property. Lee Memorial is a federally tax-exempt organization. For many years, Norwich has approved a tax exemption for Lee Memorial and the church property under General Statutes § 12-81 (12) and (13).

In June of 2021, Lee Memorial entered into a written lease agreement (the lease) with Creating Opportunities for Youth, LLC, d/b/a Little Learners (Little Learners) for the purpose of operating a for-profit, licensed daycare facility and school for children. Under the lease, Little Learners occupies a portion of the church property (the subject property) in order to provide daycare services and school to infants and children. The daycare facility is open five days a week (Monday-Friday) from 6:30 a.m. through 6:00 p.m. and two evenings per month to accommodate parent meetings and staff training. Little Learners is a separate business entity and is not affiliated with Lee Memorial (outside the lease terms). Services provided by Little Learners at the daycare facility are not limited to Lee Memorial parishioners or its members.

In January of 2022, Norwich informed Lee Memorial by letter that Norwich had approved a tax exemption for the church property, excepting that portion of the church property leased by Little Learners for use as a daycare facility (the subject property). At all times relevant to this memorandum of decision, Lee Memorial owned the entirety of the church property, including that portion designated herein as the subject property. At all times relevant to this memorandum of decision, the subject property was exclusively used as a daycare facility under the terms of the lease. Norwich assessed the subject property at \$230,720 (or \$329,600 at fair market value).

LEGAL STANDARD

“It is . . . well established that in taxation cases . . . provisions granting a tax exemption are to be construed strictly against the party claiming the exemption, who bears the burden of proving entitlement to it. . . . Exemptions, no matter how meritorious, are of grace. . . . [Therefore], [t]hey embrace only what is strictly within their terms. . . . We strictly construe such statutory exemptions because [e]xemption from taxation is the equivalent of an appropriation of public funds, because the burden of the tax is lifted from the back of the potential taxpayer who is exempted and shifted to the backs of others. . . . [I]t is also true, however, that such strict construction neither requires nor permits the contravention of the true intent and purpose of the statute as expressed in the language used. . . .” (Citations omitted; internal quotation marks omitted.) *St. Joseph’s*, supra, 290 Conn. 707; see also *Isaiah 61:1, Inc. v. Bridgeport*, 270 Conn. 69, 73-74, 851 A.2d 277 (2004).

General Statutes § 12-81(14) states, in relevant part,

“The following-described property shall be exempt from taxation:

(14) Property of religious organizations used for certain purposes. *Subject to the provisions of section 12-88, real property and its equipment owned by, or held in trust for, any religious organization and exclusively used as a school, a daycare facility, a Connecticut nonprofit camp or recreational facility for religious purposes, a parish house, an orphan asylum, a home for children, a thrift shop, the proceeds of which are used for charitable purposes, a reformatory or an infirmary or for two or more of such purposes.*” (Emphasis added.)

General Statutes § 12-88 states, in relevant part,

“Real property belonging to, or held in trust for, any organization mentioned in subdivision (7), (10), (11), (13), (14), (15), (16) or (18) of section 12-81, which real property is so held for one or more of the purposes stated in the applicable subdivision, and from which real property no rents, profits or income are derived, shall be exempt from taxation though not in actual use therefor by reason of the absence of suitable buildings and improvements thereon, if the construction of such buildings or improvements is in progress. The real property belonging to, or held in trust for, any such organization, not used exclusively for carrying out one or more of such purposes but leased, rented or otherwise used for other purposes, shall not be exempt. If a portion only of any lot or building belonging to, or held in trust for, any such organization is used exclusively for carrying out one or more of such purposes, such lot or building shall be so exempt only to the extent of the portion so used and the remaining portion shall be subject to taxation.” (Emphasis added.)

LEGAL ANALYSIS

It is the court’s “duty to ‘interpret statutes as they are written.... Courts cannot, by construction, read into statutes provisions which are not clearly stated.... The intent of the legislature is to be found not in what it meant to say but in what it did say... A statute does not

become ambiguous merely because the parties contend for different meanings.... Given an unambiguous statute, it is assumed that the words themselves express the intent of the legislature ... and there is no need to construe the statute.” (Citations omitted; internal quotation marks omitted.) *Glastonbury Co. v. Gillies*, 209 Conn. 175, 179-80, 550 A.2d 8, 10 (1988).

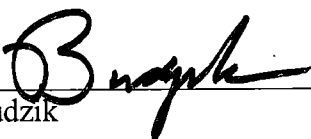
As relevant to this matter, by its plain terms, § 12-81 (14) set outs only three requirements: (1) compliance with any relevant terms of § 12-88; (2) that the exempt property be owned by a religious organization, and (3) that the exempt property be exclusively used as a daycare facility. It is undisputed, and the court does find, that Lee Memorial meets requirements (2) and (3). Section 12-81 (14) includes no additional requirement that the daycare facility located on the real property owned by the religious organization also be run by, or operated by that religious organization, or that the daycare facility cannot be run by an entity separate from the religious organization via a lease. The legislature chose not to include such requirements and the court is bound by that decision.

With respect to compliance with § 12-88, the court rules as follows. The second sentence of § 12-88 states that “real property belonging to . . . any such organization, not used exclusively for carrying out one or more of such purposes but leased, rented or otherwise used for other purposes” is not exempt under § 12-81 (14). Nevertheless, the court holds that the statutory phrases “any such organization” and “one or more of such purposes” as set forth in the second sentence of § 12-88 refer back to the first sentence in § 12-88 stating that “any organization mentioned in subdivision . . . (14) . . . of section 12-81, which real property is so held for one or more of the purposes stated in the applicable subdivision. . . .” Thus, as applied to the circumstances of this case, the “such organization” referred to in the second sentence of § 12-88 is Lee Memorial, which is plainly a religious organization under § 12-81 (14), and the “one or

more of such purposes stated in the applicable subdivision” is the daycare facility located on the subject property. A daycare facility is plainly “one or more of the purposes stated in” § 12-81 (14). It is also undisputed that the subject property is exclusively used as a daycare facility. Therefore, the exclusion included in the second sentence of § 12-88 for property “not used exclusively for” a purpose stated in § 12-81(14) is not applicable to the subject property because it is undisputed that the subject property *is* used exclusively for a purpose stated in § 12-81 (14), i.e., a daycare facility. Thus, the court holds, Lee Memorial does not run afoul of § 12-88’s provisions and is otherwise in compliance with § 12-81 (14).

CONCLUSION

For all the reasons set forth above, the court finds that the subject property is exempt from taxation under General Statutes § 12-81 (14). This appeal is sustained.


_____, J.
Budzik