

2001

Salt Lake County, a body politic v. Tax Commission of the State of Utah, ex rel. Good Shepherd Luthern Church : Brief of Respondent

Utah Supreme Court

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IN THE SUPREME COURT OF THE STATE OF UTAH

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BRIGHAM YOUNG UNIVERSITY
J. Reuben Clark Law School

SALT LAKE COUNTY, a body
politic,

Petitioner,

-v-

TAX COMMISSION OF THE STATE
OF UTAH, ex rel. GOOD
SHEPHERD LUTHERAN CHURCH,

Respondents.

CASE NO. 14142

BRIEF OF RESPONDENT, UTAH STATE

TAX COMMISSION

FILED

DEC 31 1975

Clk., Supreme Court, Utah

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IN THE SUPREME COURT
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SALT LAKE COUNTY, a body
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-v-

TAX COMMISSION OF THE
STATE OF UTAH, ex rel.
GOOD SHEPHERD LUTHERAN
CHURCH,

Respondents.

CASE NO. 14142

BRIEF OF RESPONDENT,
TAX COMMISSION OF THE STATE OF UTAH

RELIEF SOUGHT ON APPEAL

Respondent, State Tax Commission of Utah, seeks affirmation of its decision only insofar as necessary to establish that the decision of the Tax Commission was not arbitrary nor capricious but was, in fact, entered in accordance with Utah law. Respondent, Tax Commission, declines to argue the merits of the exemption from property taxes previously granted the said Good Shepherd Lutheran Church, and, as such, takes no issue with Appellant's Brief, and neither argues for nor against said exemption. Respondent, State Tax Commission of Utah, in this matter, takes a position similar

to amicus curiae, although a named party respondent.

FOREWORD

In this action, petitioner, Salt Lake County, challenges the exemption from ad valorem property taxes granted the personal residence of the full-time paid minister of the Good Shepherd Lutheran Church. This case is one of a series of many cases dealing with exemptions which have been uniformly granted to the residences of full-time paid ministers of the various religious denominations throughout the State of Utah. The facts set forth in many of the other cases demonstrate that the respective residences were actually used for:

- (1) The conduct of certain meetings (firesides, Bible study hours, planning and committee meetings, etc.);
- (2) Office space for the preparation of sermons; and
- (3) Other matters giving rise to exemption from ad valorem property taxes under the Utah Constitution and statutes.

Many of the other ministers' homes are near or adjacent to the building in which the religious services are conducted. The actual church buildings are not part of this action and have been previously granted exemption from property taxes, and said exemptions are not challenged by petitioner. The challenge by Salt Lake County to the exemption granted to the Good Shepherd Lutheran Church appears to be a challenge to all previously granted exemptions for full-time paid ministers' homes, and the Good Shepherd Lutheran Church fact

situation appears to be the most favorable exemption to be attacked by Salt Lake County. The result of the decision in this matter will have an impact upon other exemptions previously granted regarding the residences of other full-time paid ministers.

STATEMENT OF FACTS

References to the Transcript of Proceedings are designated (T) with page number following. References to Petitioner's Brief are designated (PB) with page number following.

The facts set forth in Petitioner's Brief are substantially correct. However, respondent wishes to emphasize the following factors:

- (1) The Good Shepherd Lutheran Church has title to and maintains the property in question for the convenience of its minister. (T-28)
- (2) Testimony by the pastor of the Good Shepherd Lutheran Church indicated that various religious meetings, such as, Bible fellowships and other occasional meetings, took place within the premises. (T-25)
- (3) The use of the property was exactly the same in 1972 as it was in 1973 when the Legislature interpreted the constitutional exemption from taxation by adopting Utah Code Annotated, Sections 59-2-30 and 59-2-31.
- (4) The home is a secondary office for the pastor. (T-28)
- (5) Neither petitioner nor any other party introduced any contrary evidence showing

that said property was not being
utilized for religious purposes.
(T-30)

Based upon the above-cited crucial factors,
the State Tax Commission held that, since the property in
question had been determined to be exempt in 1973 in a
previous hearing, and the use had not changed, then said
property was entitled to exemption in 1972 from ad valorem
property taxes under Article XIII, Section 2 of the Utah
Constitution, and Utah Code Annotated, Section 59-2-30 and
Section 59-2-31.

As indicated above, respondent, Utah State Tax
Commission, does not argue for or against the exemption from
property taxation for this particular property, but main-
tains that the decision rendered was in accordance with
Utah law; that all parties had adequate notice and opportunity
to be heard, and that based upon the evidence before it,
the Commission determined that said property was exempt from
ad valorem property taxation for the year 1972. Notice has
been given to the Good Shepherd Lutheran Church through Pas-
tor Jerome C. Trelstad to the effect that respondent, State
Tax Commission, only takes the position that it acted in ac-
cordance with Utah law. (See letter marked Exhibit A attached
hereto and by reference made a part hereof.)

ARGUMENT

POINT I

THE DECISION OF THE STATE TAX COMMISSION WAS
NOT ARBITRARY NOR CAPRICIOUS BUT WAS BASED

UPON SUBSTANTIAL EVIDENCE BEFORE THE
COMMISSION AND WAS ENTERED IN ACCORDANCE
WITH UTAH LAW.

The Utah Constitution, Article XIII, Section 11,
provides that the State Tax Commission shall administer
and supervise the tax laws of the State of Utah and shall
have such other powers as may be prescribed by the Legis-
lature.

Pursuant to said constitutional grant of author-
ity, the Legislature has adopted Utah Code Annotated, Section
59-5-46, which provides, in part:

"The powers and duties of the state
tax commission are as follows:

* * *

"(9) To have and exercise general supervision over the administration of the tax laws of the state, over assessors and over county boards in the performance of their duties as county boards of equalization and over other county officers in the performance of their duties in connection with assessment of property and collection of taxes, to the end that all assessments of property be made just and equal, at true value, and that the tax burden may be distributed without favor or discrimination." (Emphasis added.)

* * *

"(23) To perform such further duties as may be imposed upon it by law, and exercise all powers necessary in the performance of its duties."

Following any hearing and decision by a County Board of Equali-
zation, the Legislature has provided for an appeal process to
the Utah State Tax Commission by any person aggrieved or

dissatisfied with the decision of the County Board in relation to the determination of any exemption. Utah Code Annotated, Section 59-7-10, provides, in part:

"... Upon receipt of such notice of appeal and record, the state tax commission shall set a date for the hearing of the same and shall notify the taxpayer and the county auditor of the time and place so fixed. At the hearing on said appeal the tax commission may admit additional evidence and make such order as it deems just and proper, and make such correction or change in the assessment or order of the county board of equalization as it may deem proper. Every decision, order or assessment made by the tax commission upon such appeal shall be final and shall have the same force and effect as a similar order, decision or assessment made by the county board of equalization."

The above-cited section confers quasi-judicial duties and functions upon the State Tax Commission. (County Board of Equalization of Kane County v. State Tax Commission, 88 U. 219, 50 P. 2d 418, (1935) reh. den. 88 U. 228, 54 P. 2d 1214 (1936))

The decision of a state commission is not arbitrary nor capricious if the commission had before it substantial evidence upon which to base its decision. Uintah Freight Lines v. Public Service Commission of Utah, 119 U. 491, 229 P. 2d 675 (1951) To the same effect: Wycoff Company, Inc. v. Public Service Commission, et al., 119 U. 342, 227 P. 2d 323 (1951); Central Bank v. Brimhall, 28 U. 2d 14, 497 P.2d 638 (1972).

This Court in the Uintah Freight Lines' case
(cited above) stated:

"In Mulcahy v. Public Service Commission,
101 U. 245, 117 P. 2d 298, 299, this Court
held:

"'It is not required that the facts found
by the commission be conclusively established
nor even that they may be shown by a preponder-
ance of the evidence. If there is in the record
competent evidence from which a reasonable
mind could believe or conclude that a certain
fact existed, a finding of such facts finds
justification in the evidence, and we cannot
disturb it.'" (At page 497)

The above-cited case provides that where there is competent
evidence from which one could conclude that certain facts
existed, it will not be disturbed by the courts. Petitioner
had ample opportunity to present contrary evidence to the
facts presented by representatives of the Good Shepherd Luther-
an Church, which petitioner did not do. A transcript of the
proceedings before a certified shorthand reporter was made
based upon evidence obtained under oath from competent wit-
nesses. Petitioner had the opportunity and did, in fact,
cross-examine those witnesses. Additional written documents
and affidavits were stipulated into the record before the Tax
Commission by the respective parties, which also form the basis
for the decision rendered by the State Tax Commission.

The decision of the Utah State Tax Commission was
not arbitrary nor capricious but was based upon substantial
evidence, and there was no contrary evidence presented by any
party to the effect that the use of the minister's home was
not within the exemption from taxation set forth in Article

XIII, Section 2 of the Utah Constitution.

POINT II

THE APPLICATION OF UTAH CODE ANNOTATED, SECTION 59-2-30 AND SECTION 59-2-31, IS LAWFUL AND SHOULD BE CONSTRUED AS CONSTITUTIONAL UNLESS CLEARLY SHOWN OTHERWISE.

Respondent, Utah State Tax Commission, applied the principles set forth in Utah Code Annotated, Sections 59-2-30 and 59-2-31, to the present fact situation, although said statutes were not effective until the year 1973. The property taxes in question are for the year 1972.

Utah Code Annotated, Section 59-2-30, provides:

"Property used for religious worship or charitable purposes--Requirements for exemption.--This section is intended to clarify the scope of exemptions for property used exclusively for either religious worship or charitable purposes provided for in section 2 of Article XIII of the Constitution of the state of Utah. This section is not intended to expand or limit the scope of such exemptions. Any property whose use is dedicated to religious worship or charitable purposes including property which is incidental to and reasonably necessary for the accomplishment of such religious worship or charitable purposes, intended to benefit an indefinite number of persons is exempt from taxation if all of the following requirements are met: (following requirements are not pertinent and are, therefore, omitted.)
... ."

The above-cited section was intended to "clarify the scope of exemption." It expressly states that it is not intended to expand or limit the scope of such exemptions. Based upon the wording in this statute, the State Tax Commission issued its decision on the basis that Section 30 merely clarified

the exemptions that were already available in the Utah Constitution, Article XIII, Section 2. Therefore, said statutory clarifications would have direct application to tax years preceding the adoption of Section 30 in 1973. If the subject property were exempt from taxation in 1973, and the use had not changed from 1972 to 1973, it follows that the property was also entitled to exemption from property taxes for the year 1972. If Utah Code Annotated, Section 59-2-30, is constitutional, then it cannot reasonably be argued that the use of the minister's home as set forth in the facts and transcripts is not "incidental to and reasonably necessary for the accomplishment of such religious worship or charitable purposes." Sworn testimony was given to the effect that the home is utilized as a secondary office and for occasional meetings, in addition to being additional compensation to the minister in the performance of his duties for the convenience of his employer, the Church. The Tax Commission found that said home appeared to be reasonably necessary and incidental to the performance of the religious and charitable functions of the Good Shepherd Lutheran Church.

Utah Code Annotated, Section 59-2-31, provides for an exemption for property used "exclusively" for religious purposes which use complies with the requirements of Section 59-2-30. The word "exclusively" has no meaning under this statute, and Article XIII, Section 2 of the Utah Constitution, in light of the facts and decision of this Court in

Benevolent and Protective Order of Elks, No. 85 v. Tax Commission, 536 P. 2d 1214 (1975).

The above-cited sections, 30 and 31, have been recognized and upheld at least by implication by this Court in the Benevolent and Protective Order of Elks, No. 85 v. State Tax Commission, cited at 536 P. 2d 1214 (1975).

When an act of the Legislature is attacked on the grounds of unconstitutionality, the question presented is not whether it is possible to condemn the act or whether it is possible to uphold it. The presumption is always in favor of validity, and legislative enactments must be sustained unless clearly in violation of the fundamental law. (Lehi City v. Meiling, City Recorder, 87 U. 237, 48 P. 2d 530 (1935)) It is the duty of the courts to so construe statutes as to make them operative where possible. Palmer v. Broadbent, 123 U. 580, 260 P. 2d 581 (1953) Utah Code Annotated, Section 68-3-11, provides:

"Rules of Construction as to words and phrases.--Words and phrases are to be construed according to the context and the approved usage of the language; but technical words and phrases and such others as have acquired a peculiar and appropriate meaning in law or are defined by statute are to be construed according to such peculiar and appropriate meaning or definition."

Where there is doubt respecting true meaning of certain words, then words should be read in light of conditions and necessities which they are intended to meet and objects sought to be attained thereby. United States Smelting, Refining and

Milling Company v. Utah Power & Light Company, 58 U. 168,
197 P. 902 (1921) It is hereby submitted that Utah law
requires the Utah State Tax Commission to apply all statutes
on the basis that said statutes are constitutional, and to
render such interpretation under statutes as would make
said statutes operative, all within the ability of the Utah
State Tax Commission.

CONCLUSION

Respondent, Utah State Tax Commission, does not
argue for nor against Good Shepherd Lutheran Church's ex-
emption from ad valorem property taxes. The action of the
State Tax Commission in the conduct of the formal hearing
relative to the Good Shepherd Lutheran Church was not arbi-
trary nor capricious but was in accordance with Utah law.
The conduct of respondent, State Tax Commission, should be
ratified and confirmed.

Respectfully submitted,

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Attorneys for Respondent, Utah
State Tax Commission

Attachm't./Exhibit A

SUPREME COURT BRIEF

EXHIBIT A

December 2, 1975

Pastor Jerome C. Trelstad
Good Shepherd Lutheran Church
1376 East 8850 South
Sandy, Utah 84070

Re: Good Shepherd Lutheran Church

Dear Pastor Trelstad:

As you well know, Salt Lake County has challenged the exemption from taxation granted by the State Tax Commission on your private residence. This matter is currently before the Utah Supreme Court.

This letter is to inform you that the Attorney General's Office, as legal counsel for the Utah State Tax Commission, will not advocate your right to exemption from taxation. It will only argue that the Tax Commission acted within the limits of the law.

I am suggesting you hire private legal counsel to file a brief and argue your right to exemption in this case before the Utah Supreme Court. You must act immediately in order to protect your interests.

If you have any further questions regarding this matter, feel free to contact me directly.

Very truly yours,

MLD/bc

MICHAEL L. DEANER
Assistant Attorney General

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