

Board of Civil Authority Meeting Minutes
Tuesday October 13, 2020
Meeting Held Via Zoom Teleconference

A full recording of this meeting is available.

BCA Members Present: L. Schlegel-Stevens, Chair; K. Grace, H. Shepard, R. Dostis, K. Martin, P. Blake, J. Bauer, and C. Lawrence.

Public: P. Baker and M. Woodruff, Board of Listers; D. Sweet, Town Assessor; B. Woodruff, W. Shepeluk, Municipal Manager; J. Kennelly, J. MacLean, A. Olney.

The meeting was called to order at 5:00pm. The purpose of the meeting is to consider a request for tax exemption by Hunger Mountain Children's Center (HMCC). L. Schlegel introduced herself as Chair of the Board of Civil Authority and introductions were made. L. Schlegel asked if any member had a conflict of interest. It was determined that no member had a conflict of interest.

L. Schlegel stated that this appeal is a bit unusual as it is not an appeal about the value of the property but rather an appeal over the tax-exempt status of the property. As noted in Vermont College of Fine Arts vs. City of Montpelier, 2017 VT 12, it is the responsibility of the Board of Civil Authority to oversee the grand list and that is why this case is before the BCA.

D. Sweet introduced the property (ID 916-0121V) as two dwellings that came into HMCC ownership in 2015. The buildings were reconstructed in 2016 and completed in 2017 and are used as a child care center. The assessed value is \$764,600.

J. Kennelly presented the argument for the exemption as shown in VSA Title 32 §3802, specifically that the property is dedicated unconditionally to public use, the primary use directly benefits an indefinite class of persons who are part of the public, and the property is owned and operated on a not-for-profit basis.

J. Kennelly stated that HMCC provides extensive care to children and families; and that HMCC provides early education and is certified by the State of Vermont with 4 STARS. He further described services provided by the Center and stated that the property directly benefits an indefinite group of people. J. Kennelly described how HMCC fits the criteria for tax exemption. J. Kennelly stated that HMCC is applying for a public use exemption and described several other organizations that have been granted this type of exemption. J. Kennelly suggested that the money paid for taxes hinders the services they are able to provide to the children and families.

A. Olney, Director of HMCC, explained that HMCC provides security and education for children in Waterbury and surrounding towns. HMCC also offers universal pre-school and scholarships for low to moderate income families. A. Olney stated that

HMCC provides access to additional services through the State and that receiving the tax exemption will allow for more services and offerings to the students.

D. Sweet and the Listers were invited to respond. D. Sweet stated that the Listers focused on 2 cases; the Brattleboro Child Development case and the City of Rutland versus Rutland County Parent Child Center case. He reached out to the State of Vermont Department of Taxes and they supported the Lister's position that HMCC did not meet the criteria in VSA Title 32 §3802 and that HMCC does not provide a benefit to the public at large.

L. Schlegel asked the members of the BCA if they had any questions. H. Shepard asked D. Sweet if, in communications with the State, any discussion was held about the school tax portion of the tax bill. D. Sweet stated that if the exemption is granted, the Town would still be responsible for paying the education property tax. K. Grace asked if any other organization in Waterbury had been granted this type of tax exemption. D. Sweet stated that the Ice Center was granted an exemption through a legislative exemption. R. Dostis asked about the logic behind services being provided to an indefinite class of people and how is it that it is involuntary that children attend HMCC. J. Kennelly responded that children do not make a choice to be a child and explained the meaning of 'indefinite class'. J. Bauer stated that parents choose to have their children attend, which precludes other children from attending due to limited spacing. J. Kennelly stated that families that are turned away due to capacity does not make HMCC exclusive. P. Blake asked if anyone can attend regardless of income and this was confirmed. K. Grace suggested that home daycares that provide preschool are not for public charitable use. D. Sweet stated that there is not enough of a distinction between different daycare centers and that the Listers did not feel HMCC was open for public charitable use. J. Bauer asked if any other of the childcare centers are non-profit. D. Sweet responded that the local centers they looked at were for-profit organizations. L. Schlegel asked D. Sweet and J. Kennelly if they were aware of other Town BCA's granting this exemption to childcare centers. Neither J. Kennelly nor D. Sweet were aware of any BCA granting the exemption. L. Schlegel asked if HMCC has pursued other methods of getting tax relief from the Town such as requesting a Town appropriation or a PILOT payment. A. Olney responded in the negative.

L. Schlegel asked if anyone had any additional questions and explained that once the hearing is closed, there will be no opportunity for questions to be answered.

J. Kennelly stated that D. Sweet raised a good issue in that the legislature should address this type of exemption. He stated that there have been many court decisions defining what the statutory language encompasses and given recent cases HMCC meets the test for exemption and asked that the BCA grant the exemption.

D. Sweet reiterated that HMCC provides a good service and encouraged the Board to review the two cases that the Listers reviewed.

It was confirmed that the appellant did not request a property inspection.

The hearing was closed and the BCA went into deliberative session. The decision will be offered in writing within 15 days.

There being no further business, the meeting adjourned at 6:40pm.

Respectfully submitted,

Carla Lawrence, Town Clerk & BCA Member