

To: New Jersey Law Revision Commission
From: Ben Cooper
Re: Parsonage exemption of N.J.S. 54:4-3.6 (*Clover Hill Reformed Church v. Twp. of Hillsborough*)
Date: July 8, 2019

MEMORANDUM

Executive Summary

In *Clover Hill Reformed Church v. Twp. of Hillsborough*, the Tax Court of New Jersey considered whether a residence qualified for an exemption from local property taxes as a parsonage occupied by an officiating clergyman of a religious congregation.¹ The central issue before the Court was whether the occupant of the house, the “Minister of Music” was to be considered an “officiating clergyman” for purposes of the exemption set forth in N.J.S. 54:4-3.6.² In the absence of a statutory definition, the Court determined that an unordained “Minister of Music” was an “officiating clergyman” for purposes of the statute.³

Background

Clover Hill Reformed Church was founded September 4, 1834.⁴ It is considered a tax-exempt, non-profit, religious organization incorporated under New Jersey law.⁵ The congregation meets in the church building. In addition to the church building, a one family home is located on the 3.3 acres of property.⁶ In 1965, a member of the congregation deeded the house to the congregation subject to the life tenancy.⁷ The tenants resided at the property until 2014 when the house was abandoned and eventually possessed by the church.⁸

The Reverend testified before the Court that music is an “important component of worship services at the congregation.”⁹ According to the Reverend, music is “an important component of worship services at the congregation.”¹⁰ The Reverend emphasized how “the congregants’ act of singing together is an integral reflection of their gathering for worship.”¹¹

¹ *Clover Hill Reformed Church v. Twp. of Hillsborough*, No. 010731-2016, 2018 WL 1478024 (N.J. Tax Ct. Mar. 23, 2018).

² N.J.S. 54:4-3.6.

³ *Id.*

⁴ *Clover Hill Reformed Church v. Twp. of Hillsborough*, 2018 WL 1478024 at 1.

⁵ N.J.S. 54:4-3.6.

⁶ *Clover Hill Reformed Church v. Twp. of Hillsborough*, 2018 WL 1478024 at 1.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

In May of 2015, the Reverend formulated a proposal to create a new position in the church - the “Minister of Music.”¹² The Minister of Music would be responsible for all musical facets of the congregation.¹³ After consulting the Book of Church Order of the Reformed Church in America, the Reverend discovered that “the Minister of Music” was not an officially recognized position. Reverend Cherry’s proposal, however, was consistent with the Reformed Church’s doctrines and rules.¹⁴

Although the Minister of Music served at the congregation’s Choir Director, he did not attend the seminary, was not an ordained minister, and was not a member of the church.¹⁵ The church, however, did allow the Minister of Music to live in the home located on the church property.¹⁶ In August of 2015, the congregation applied for exemption from local property taxes for the parsonage home.¹⁷ The tax assessor denied the exemption for the parsonage home.¹⁸ The only exemption granted by the tax assessor was for the “church only.”¹⁹

The congregation subsequently filed an appeal with the Somerset County Board of Taxation (“the Board”), challenging the denial of their exemption.²⁰ The Board dismissed the appeal without prejudice to the right to file an appeal in the court.²¹ The congregation filed a Complaint in the Tax Court alleging that both the subject property is exempt from local property taxes, and that the house was a parsonage.²² The Township filed a counterclaim requesting the dismissal of the complaint and moved for summary judgment.²³

Analysis

The Legislature provides a parsonage exemption in N.J.S. 54:4–3.6.²⁴ The statute provides an exemption for “...the buildings, not exceeding two, actually occupied as a parsonage by the officiating clergymen of any religious corporation of this State, together with the accessory buildings located on the same premises....” The language of the statute provides that several factors must be met before an applicant can be granted an exemption.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 2.

¹⁵ *Id.*

¹⁶ *Id.* at 3.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² N.J.S. 54:4–3.6.

²³ *Id.* at 3.

²⁴ *Id.* at 4.

There are five factors that must be satisfied by an applicant in order to be granted a “parsonage exemption.” These factors require that: (1) the residence be occupied as a parsonage by the “officiating clergyman” of a religious corporation of this State; (2) the land on which the residence sits, not in excess of five acres, must be necessary for the fair enjoyment of the premises and not devoted to a purpose other than the use as a parsonage; (3) the entity claiming the exemption must not be conducted for profit, nor may the building or land associated with the parsonage be conducted for profit; (4) the entity claiming the exemption own the property in question; and, (5) the entity seeking the exemption must be authorized to carry out the purposes of a parsonage.²⁵

To this date, N.J.S. 54:4–3.6 does not define the term “officiating clergyman.” In the absence of a statutory definition of “officiating clergyman” the Court, in *Clover Hill Reformed Church v. Twp. of Hillsborough*, examined the dictionary definition of the term clergyman.²⁶ The Court examined the definition of “clergyman” as defined by *Webster’s Third New International Dictionary* (1966), where a clergyman is defined as:

A member of the clergy: an ordained minister: a man regularly authorized to preach gospel and administer its ordinances; one in in “holy orders”; and clergy as “the body of men and women duly ordained to the service of God in the Christian church; the body of ordained ministers: clergymen and clergywomen.”²⁷

In addition to the definition of “clergyman” provided by the dictionary, the Court examined the term in the context of three separate court decisions.

In *Borough of Cresskill v. Northern Valley Evangelical Free Church*, the Appellate Division considered the granting of a parsonage exemption to a religious order where the occupant of the parsonage was unordained.²⁸ Under these circumstances the Court determined that the youth director, although a seminary student, was not an ordained minister. Thus, the statutory criteria for a parsonage exemption could not be satisfied.²⁹ The *Clover Hill Court* then examined a case in which the parsonage exemption was sought for property owned by a congregation and occupied by a religious official who sings liturgical music.

In *Congregation Ahavath Torah v. City of Englewood*, the Tax Court of New Jersey considered the sought parsonage exemption of property owned by a Jewish congregation and occupied by its cantor. The Court found that the cantor “perform[ed] a variety of services for the

²⁵ N.J.S. 54:4–3.6.

²⁶ *Clover Hill Reformed Church v. Twp. of Hillsborough*, 2018 WL 1478024 at *5.

²⁷ *Id.* at 5.

²⁸ *Id.* at 5 citing *Borough of Cresskill v. N. Val. Evangelical Free Church*, 125 N.J. Super. 585, 586 (App. Div. 1973).

²⁹ *Id.*

congregation, including: directing of liturgical prayer; conducting various prayer services; assisting in the conduct of daily services; participating in weddings and funerals; and reading or chanting from sacred texts for holidays.”³⁰ The Court ruled in favor of the congregation stating the cantor’s responsibilities and integral duties to the synagogue.³¹ The Court also recognized that “while some lay members of certain congregations may have the knowledge to lead a service (in the role of cantor), in this congregation lay members are not permitted to perform a duty or responsibility of the cantor without the cantor’s consent.”³² Finally, the Court examined the parsonage exemption in the context of *Friends of Ahi Ezer, Inc. v. City of Long Branch*.

The Court recognized that whether or not to grant the parsonage exemption often centers on whether a particular individual is an officiant within the religious organization and that it is not the title or status but services performed that determined if the exemption applied. Citing *Friends of Ahi Ezer, Inc. v. City of Long Branch*, the *Clover Hill* Court noted that in “determining whether a given person qualifies under the Parsonage Exemption, the cases look to the character and extent of activities within the religious organization.”³³ The decision has examined a variety of factors to determine whether individuals are officiants within the meaning of the parsonage exemption and it is clear that it is not status or title, but the services performed that determine the exemption claim’s validity.³⁴

Ultimately, the *Clover Hill* Court in held that the Plaintiff was entitled to the parsonage exemption.³⁵ The Court reasoned that the Minister of Music played an important role in the congregation and utilized his training as part of his job function.³⁶ The Court found that the Minister of Music’s role was recognized as important to the religious life of the congregation and the overall religious life of the church.³⁷ As such the Court found him to be an “officiating clergyman.”³⁸

Pending Legislation

³⁰ *Clover Hill Reformed Church v. Twp. of Hillsborough*, No. 010731-2016, 2018 WL 1478024, at 5 (N.J. Tax Ct. Mar. 23, 2018).

³¹ *Friends of Ahi Ezer Congregation, Inc. v. Long Branch City*, 16 N.J. Tax 591 (1997).

³² *Id.* at 319-320.

³³ *Clover Hill Reformed Church v. Twp. of Hillsborough*, 2018 WL 1478024 at *5 referencing *Friends of Ahi Ezer Congregation, Inc. v. Long Branch City*, 16 N.J. Tax 591 (1997).

³⁴ *Id.*

³⁵ *Id.* at 3.

³⁶ *Id.* at 7.

³⁷ *Id.*

³⁸ *Id.*

There are currently 15 bills pending in the Legislature that seek to modify N.J.S. 54:4-3.6. The pending legislation, however, does not seek to define the term “officiating clergyman.”³⁹

Conclusion

Staff seeks authorization to conduct research and additional outreach to determine whether defining “officiating clergyman” would create more comprehensible bounds of the term and make the law more descriptive and clear for those it affects.

³⁹ S2642, 218th Leg., 1st Sess. (N.J. 2018). *See* A4013 218th Leg., 1st Sess. (N.J. 2018) (identical bill); S2517, 218th Leg., 1st Sess. (N.J. 2018). *See* A3881, 218th Leg., 1st Sess. (N.J. 2018) (identical bill); A3280, 218th Leg., 1st Sess. (N.J. 2018). *See* S789, 218th Leg., 1st Sess. (N.J. 2018) (identical bill); *see also* S3243, 218th Leg., 1st Sess. (N.J. 2018) (last session bill), *see also* A4946, 218th Leg., 1st Sess. (N.J. 2018) (identical bill last session); S1353 218th Leg., 1st Sess. (N.J. 2018) (identical bill). *See also* S3442, 218th Leg., 1st Sess. (N.J. 2018) (latest session); A2329, 218th Leg., 1st Sess. (N.J. 2018). *See also* A3183, 218th Leg., 1st Sess. (N.J. 2018) (latest session); A247, 218th Leg., 1st Sess. (N.J. 2018). *See also* A2246, 218th Leg., 1st Sess. (N.J. 2018) (latest session); A2837, 218th Leg., 1st Sess. (N.J. 2018). *See also* A2837, 218th Leg., 1st Sess. (N.J. 2018) (latest session); S72, 218th Leg., 1st Sess. (N.J. 2018). *See* A351, 218th Leg., 1st Sess. (N.J. 2018) (identical bill); *see also* A4985, 218th Leg., 1st Sess. (N.J. 2018) (latest session); S487, 218th Leg., 1st Sess. (N.J. 2018). *See also* S1306, 218th Leg., 1st Sess. (N.J. 2018) (latest session); S582, 218th Leg., 1st Sess. (N.J. 2018). *See also* S1878, 218th Leg., 1st Sess. (N.J. 2018) (latest session); A1503, 218th Leg., 1st Sess. (N.J. 2018). *See also* A1797, 218th Leg., 1st Sess. (N.J. 2018) (latest session).