



**PROPERTY OWNER'S PERSEVANCE PAYS OFF IN RARE DECISION  
BY MARYLAND'S HIGH COURT ON TAX EXEMPTION**

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A recent decision by Maryland's highest court draws new attention to property tax exemptions in the State of Maryland. The Tax-Property Article of the Maryland Code contains dozens of exemptions from property taxes. These range from the arcane, such as an exemption for property used by Gunpowder Youth Camps, to the ordinary, such as cemeteries and mausoleums. In between are exemptions for uses relating to charities, religious worship, fire companies, war memorials, public airports and homes for disabled veterans, to name a few. In order to benefit from an exemption, however, a property owner must sometimes challenge the local Supervisor of Assessments through several levels of administrative and judicial review. The property owner in the case of *Green v. Church of Jesus Christ of Latter-Day Saints*, 59 A.3d 1001 (2013) made this burdensome discovery.

In the *Latter-Day Saints* case, the Court of Appeals of Maryland was asked to consider the tax exempt status of an apartment complex owned and used by the Church to house temporary workers who perform religious ceremonies. The Church benefited from a property tax exemption applied to the apartment complex for nearly 30 years until the Supervisor of

Assessments of Montgomery County revoked the exemption in 2008 after deciding that the complex was not used exclusively as a “parsonage” or “convent” under Section 7-204 of the Tax-Property Article. The Church appealed the revocation to the local Property Tax Assessment Appeals Board (PTAAB), which affirmed the Supervisor without explanation.

The Church pressed its appeal to the Maryland Tax Court, where the case was heard *de novo*. At trial, the Church offered evidence showing the complex was purchased to house ordinance workers from out-of-town, the majority of whom are retired, married couples. The residents pay below-market rents to offset the operating cost of the complex, but the rents do not typically fully cover such costs. In defending its position, the Supervisor argued that the traditional definition of a “convent” is a location where unmarried men and women live together in a communal lifestyle and take lifelong vows of poverty, chastity and obedience to a superior being. The Tax Court agreed and affirmed the decision of the PTAAB, holding that the apartment complex was not a “convent” under the “ordinary and usual meaning of the words in the statute” because it did not house single persons living under lifetime vows of poverty, chastity and obedience. The Tax Court further held that this definition did not violate the Establishment Clause of the 1<sup>st</sup> Amendment to the U.S. Constitution because the State was applying a neutral statute in a manner that did not advance or inhibit religious belief.

The Church appealed the Tax Court’s decision to the Circuit Court for Montgomery County, Maryland. Here, the Supervisor of Assessments finally lost its battle with the Church when the Circuit Court reversed the Tax Court. The Circuit Court determined that the apartment complex qualified as a parsonage or convent because the ordinance workers live in a communal style by worshipping together on Sundays, providing guidance to one another, studying scripture as a group, and working together in the temple on a regular basis. Further, the Circuit Court

found that the Tax Court erred by defining members of a convent in terms of a “typical monk or nun,” despite the absence of such language in the statute. The Circuit Court ruled that “the law could not constitutionally require that to qualify for an exemption a religious organization have an organizational structure parallel to that found in other religions, denominations, or churches, Christian or otherwise.”

The Supervisor of Assessments then noted an appeal to the Court of Special Appeals of Maryland. The Court of Appeals, on its own motion, granted a writ of certiorari to consider the case. The Court recognized that the case involved the proper construction of the words “parsonage” and “convent” under Section 7-204 of the Tax-Property Article. Although noting the customary practice of giving deference to an agency’s interpretation and application of a statute that the agency itself administers, the Court determined that the Tax Court did *not* have a long-standing practice of construing the word “convent.” The Court determined that it owed no deference to the Tax Court’s interpretation of the law, holding it proper for the Court to make an independent determination of the meaning.

After citing established jurisprudence, the Court sought to discern the legislative purpose of the statute. In doing so, the Court found little assistance from the statute itself, which provides:

Property that is owned by a religious group or organization is not subject to property tax if the property is actually used exclusively for:

- (1) public religious worship;
- (2) a parsonage or convent; or
- (3) educational purposes.

After reviewing various definitions of the term “convent,” the Court noted that it traditionally takes a “common-sense approach when it comes to religious exemptions in order to achieve a fair construction of the statute.” The Court determined that the Tax Court’s

interpretation of the statute was too narrow in requiring that convents be used only by unmarried persons who take vows of poverty, chastity and obedience to a superior, in the manner of a monk or nun. The Court concluded that the Tax Court interpreted the statute too closely to specific religions, such as Roman Catholic or Anglican traditions. The Court of Appeals held that a more general definition must apply, setting forth three criteria: A “convent” must consist of a community of people who: 1) live together; 2) follow strict religious vows; and 3) devote themselves full-time to religious work. In so holding, the Court remanded the case to the Tax Court to apply this definition to the facts of the case.

The *Latter-Day Saints* case represents an unusual foray by the Court of Appeals of Maryland into the unique realm of property tax law. These cases generally terminate at the Maryland Tax Court and are rarely further appealed owing to the deference the appellate courts give the Tax Court. As noted by the Court in *Latter-Day Saints*, however, the Tax Court is given no deference when there is an issue of statutory construction and the Tax Court lacks a “long-standing practice” of construction of the statute at issue. The lesson for property owners when advocating an exemption, or any other issue that depends upon statutory interpretation, is to thoroughly research decisions by the Tax Court that might bear on the matter. If there is little or no precedent, then the interpretation is left wide open for common sense advocacy.

Unfortunately, the Church had to litigate its case through five levels of adjudication before Maryland’s highest court issued the final word in its favor. Such is the system in Maryland, where property owners must first seek relief from the local Supervisor of Assessments, then the local Property Tax Assessment Appeals Board, then the Maryland Tax Court in Baltimore (technically an administrative agency with part-time administrative judges), then the Circuit Court for the county in which the property is located, and finally the Court of

Special Appeals or Court of Appeals of Maryland. The Church's perseverance paid off as it must have taken a lesson from the New Testament, James 1:12: "Blessed is the man who perseveres under trial...."