

IN THE COURT OF COMMON PLEAS OF MONROE COUNTY, PENNSYLVANIA  
CIVIL DIVISION

CALVARY CHAPEL OF )  
STROUDSBURG, )  
Appellant ) No. \_\_\_\_\_ CV 20 \_\_\_\_\_  
v. )  
MONROE COUNTY BOARD OF ) Commercial Real Estate Involved  
ASSESSMENT REVISION, )  
Appellee )

**APPEAL FROM DECISION OF THE MONROE COUNTY BOARD OF ASSESSMENT  
REVISION**

COMES NOW Appellant, Calvary Chapel of Stroudsburg PA, by and through its attorney, Curtis Schube, Esquire, of Independence Law Center, and hereby collectively makes this its Appeal from the Decision of the Monroe County Board of Assessment Revision and hereby states as follows:

**Facts**

1. On January 7, 2020, Appellant participated in an informal hearing before the Monroe County Board of Assessment Revision (“Board”).
2. The Decision of the Board, dated January 10, 2020, is attached. (Exhibit 1).
3. The owner of this real estate, Calvary Chapel of Stroudsburg PA, is a church organized under the laws of Pennsylvania as a nonprofit corporation.
4. The address of the real estate is 146 Bossardsville Road, Sciota PA, 18354.
5. The Property has been assigned the Parcel Identification Number 07.13.1.70-24-1C (“the property”).

6. The County of Monroe, the municipality of Hamilton Township, and the Stroudsburg Area School District are the taxing bodies with an interest in the taxable status of the property.

7. Under state law, “churches...or other actual places of regularly stated religious worship” “shall be exempt from all county, city, borough, town, township, road, poor and school tax.” 72 P.S. §5020-204(a)(1); *see also* Pa. Const. Art. VIII, §2.

8. Prior to Appellant’s purchase of the property, in the Spring of 2019, the Monroe County Assessment Office (“Assessor”) made an assessment of the Property.

9. In June of 2019, Appellant signed an agreement to purchase the property.

10. One of Appellant’s church elders, Danny Tartaglione, took a trip to the Assessor’s Office to inquire about how to get a property tax exemption.

11. At the Assessor’s Office, an official, whose name is unknown, tasked with meeting members of the public, informed Tartaglione that he could not file for an exemption prior to a sale and should come back after the purchase of the property had been completed.

12. Despite Tartaglione telling that official that the purchase of sale would occur in July 2019, that official did not inform Tartaglione that any deadline for an application for exemption was looming.

13. On July 31, 2019, Appellant purchased the property.

14. At the real estate closing for the property, Jeffrey Durney, who represented the seller, was present.

15. Jeffrey Durney also serves as Solicitor for the Assessor, and represented the Assessor’s office at the January 7, 2020 hearing.

16. At the closing, Matt Fisher, head pastor for Appellant, asked the room what would need to be done to obtain a property tax exemption.

17. Durney failed to mention that a deadline was looming.

18. On August 1, 2019, the County of Monroe sent its 2019 Tax Notice to the previous owners of the property.

19. The Assessor's website has two separate dates listed for the deadline to appeal the 2020 property taxes within the county, indicating that the deadline was either August 1, 2019, or August 12, 2019.

20. It was not until after either deadline did Appellant receive either the Assessment Notice or the 2019 Tax Bill.

21. Within a short time from the closing of the property, which Appellants estimate was mid-to-late August, Tartaglione went back to the Assessor's Office to apply for tax exemption.

22. It was not until after the deadline(s) had passed that the Assessor's Office communicated to Appellants that there was a deadline and that Appellants had missed it.

23. On the day that Tartaglione went to the Assessor's office, Tartaglione intended to file his application for exemption, however the Assessor official with whom he met would not accept an application for the 2020 tax year.

24. Rather, the official at the Assessor's office informed Tartaglione that he could only return in 2020 to apply for an exemption for the 2021 tax year.

25. After retaining counsel, on September 26, 2019, Appellant filed its Application for the Exemption of Real Estate *Nunc Pro Tunc*. (Exhibit 2)(a copy of the file stamp is hereto attached as Exhibit 3).

26. On December 6, 2019, the Board sent Appellant a notice of hearing, which scheduled a hearing for January 7, 2019. (Exhibit 4).

27. The December 6, 2019, notice merely stated that “please be advised that your request on the above code number(s) has been scheduled for a hearing before the elected Board on January 8, 2020 at 1:30 PM,” as well as some boilerplate language.

28. On or about December 20, 2019, officials for the Board and/or Assessor did an onsite review of the property.

29. The results of that review have never been made available to Appellant.

30. The hearing notice made no reference as to the scope of the hearing, what the Board’s position was on whether the property was exempt or partially exempt, or which tax years that the Board would consider for exemption.

31. The hearing process of the Board did not include formal due process guarantees such as proper notice, discovery, the right to present formal evidence, testimony under oath, the right to cross-examine witnesses, or the production of a hearing transcript.

32. At the hearing, the members of the Board and Appellant merely discussed their positions off-the-record.

33. It was not until the hearing that Appellant was put on notice that the Board did not intend to grant Appellant’s Application *Nunc Pro Tunc*.

34. It was not until the hearing that Appellant was put on notice that the Board did not intend to exempt the property in its entirety, but would rather only grant the building and one additional acre — and then only starting the 2021 tax year.

35. It was not until the hearing that Appellant was put on notice that, in the Board’s view, no property is ever exempted for the first prorated year after the purchase of a property.

36. Following the informal hearing, the Decision was issued, which stated:

Please be advised that the Board of Assessment Revision at their January 7, 2020 meeting has granted your request for tax exemption with respect to 1 acre and the buildings on the above referenced code 07.13.1.70-24. The remaining 9.26 acres will remain taxable with a parcel number of 07.13.1.70-24-1C. The exemption will be effective for the 2021 tax year. The Board denied the request for a nunc pro tunc appeal.

(Exhibit 1).

37. Thus, the Board denied Appellant's request for exemption for the 2019 prorated property taxes, the 2020 exemption entirely, and for 9.26 acres starting in 2021 and beyond.

### Counts

#### **I. The Board Erred in Not Accepting Appellant's Application *Nunc Pro Tunc*, in that Extraordinary, Unusual, and Unjust Circumstances Warrant Granting Such Relief.**

38. Appellant incorporates by reference the facts alleged above.

39. Appellant found itself in an unusual set of circumstances, in that, it purchased a property either the day before or 13 days before a deadline.

40. Appellant was not put on notice about the deadline for filing an exemption because both the assessment and the tax bill were sent to the previous owner of the property.

41. Appellant was proactive in trying to inquire about exemption from property taxes on two occasions with Assessor officials.

42. However, on both occasions Assessor officials omitted the fact that a deadline was looming.

43. Appellant detrimentally relied upon the Assessor official's omissions, in that it acted with the assumption that if it filed for an exemption soon after the purchase of the property that its application would be accepted.

44. Had the officials informed Appellant of the deadline, Appellant could have and would have expedited its efforts to file for an exemption.

45. By omitting the fact that a deadline was looming, thus causing a delay in the filing of an appeal, the Assessor official's actions were akin to circumstances involving fraud or its equivalent.

46. Accordingly, Appellant's Application *Nunc Pro Tunc* should have been accepted.

**II. The Board Erred in Not Granting an Exemption to the Remaining 9.26 Acres of Property Because the Remaining Acres are Used for Regularly Stated Religious Worship.**

47. Appellant incorporates by reference the facts alleged above.

48. The property "annexed necessary for the occupancy and enjoyment of" "regularly stated religious worship" is exempt from taxation. 72 P.S. § 5020-204(a)(1).

49. On or about December 20, 2019, the Board and/or Assessor did an on-site review of the property.

50. However, the results of that review have not been made available to the Appellant, so it is unknown what factors were used, or were not considered, to determine that 9.26 acres of the property should not be exempt.

51. Additionally, at the January 7, 2020 hearing, the Board did not take additional evidence to support Appellant's contention that the remaining property is used regularly for religious worship.

52. Such evidence would have included that the remaining property is used as overflow parking, for regularly scheduled church events such as picnics, bar-b-ques, hosting the

public for church outreach events, youth retreats and men’s retreats, and other religious purposes — all part of the gospel mission of the church.

53. The church could not operate according to its religious mission with only the church building and surrounding one acre.

54. Thus, all of the church property should be exempted from property taxes.

55. Alternatively, more of the property than what was exempted by the Board should be eligible for exemption.

**III. The Board’s Policies that the First Prorated Year of Property Taxes Can Never be Exempt from Property Taxes, and the Policy that an Arbitrary Deadline Exists to Obtain an Exemption, are both Contrary to the Plain Meaning of the Pennsylvania Constitution and the Relevant Pennsylvania Statute.**

56. Appellant incorporates by reference the facts alleged above.

57. At the January 7, 2020, hearing, the Board indicated that no church would ever be exempted from property taxes during their first prorated year of ownership.

58. This runs contrary to the Pennsylvania statute, which states that such properties “shall be exempt.” 72 P.S. §5020-204(a).

59. The plain meaning of this language is that an exemption should apply immediately.

60. Additionally, the Board and/or Assessor’s policy is that an exemption must be filed by August 1 or August 12, 2019, to be exempt from 2020 taxes.

61. Such a policy would theoretically require a property owner who purchases a property on August 13, who is otherwise exempt from property taxes under Pennsylvania law, to pay a prorated 2019 tax and a full 2020 tax before ever being eligible for consideration for exemption.

62. This arbitrary deadline also runs contrary to the plain meaning of Pennsylvania law, that exemption should apply immediately.

**Prayer for Relief**

A. Because Appellant was not afforded an administrative hearing that met the requirements for due process, Appellants request a trial de novo.

B. Alternatively, Appellant requests that this Court remand the matter with instructions that would require the Board to hold a hearing that would meet the requirements of due process.


C. Appellant requests this Court to issue an Order which would exempt Appellant from the property taxes for the 2019, 2020, and 2021 tax years in entirety.

D. Alternatively, Appellant requests this Court to remand the issue with instructions to grant Appellant's Application *Nunc Pro Tunc*.

WHEREFORE, Petitioners respectfully request this Honorable Court to Grant such relief that is just and proper.

Respectfully Submitted,

**The Independence Law Center**



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Date: February 4, 2020

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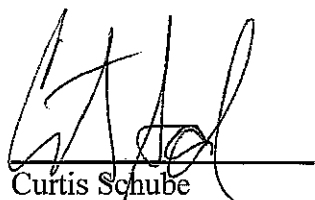
## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on Tuesday, February 4, 2020, the foregoing was filed by certified mail and served on the following taxing bodies via certified mail.

County of Monroe  
One Quaker Plaza  
Stroudsburg, PA 18360

Hamilton Township  
PO Box 285  
Sciota, PA 18354

Stroudsburg Area School District  
123 Linden St  
Stroudsburg, PA 18360

A handwritten signature in black ink, appearing to read 'C. Schube', is written over a solid horizontal line.

Curtis Schube  
Independence Law Center  
23 North Front St.  
Harrisburg, PA 17101  
[cschube@indlawcenter.org](mailto:cschube@indlawcenter.org)