

STATE OF VERMONT

SUPERIOR COURT
Rutland Unit

CIVIL DIVISION
Docket No. 87-2-14 Rdev

RUTLAND COUNTY PARENT CHILD CENTER,
Plaintiff

v.

CITY OF RUTLAND,
Defendant

FILED

APR 11 2016

VERMONT SUPERIOR COURT
RUTLAND

Findings of Fact and Conclusions of Law

Plaintiff Rutland County Parent Child Center (hereinafter "Center") appeals from a determination by the City of Rutland (hereinafter "City") that the Center does not qualify for an exemption from property taxation. A hearing on the merits was held on December 23, 2016. The Center is represented by Attorney John J. Kennelly. The City is represented by Attorney Charles A. Romeo. Based on the evidence, the Court makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

The Center is one of 15 parent child centers located in all counties statewide. They were created by the Legislature many years ago to promote safe, stable, nurturing families with children who are well cared for and well prepared for school. It is a non-profit Vermont corporation that is a 501(c)(3) organization under the Internal Revenue Code. Its corporate purpose is "promoting the health and welfare of children and parents in home, school, and community; and to support developmental child care and effective parenting; the operation of day care programs for children and educational programs directed toward parents, teachers, and the community; and all other lawful purposes whatever; provided that said corporation is not formed for pecuniary or financial gain."

It owns two properties in the City that are exclusively used for its programs. It has several different programs as described below, many of which are supported by state funding under contracts with state agencies as indicated, while participants in some programs pay for services. Anyone in the county who wishes services may contact the Center, which helps them determine which, if any, services might be appropriate. Approximately 80% of participants enter as a result of referrals. The programs include:

Learning Together. This program serves "pregnant and/or parenting youth who are working toward their high school diploma" and are selected and referred from various high schools in the county. It is certified by the state to serve a maximum of 25 families and as of November 2013 was serving 23. It serves approximately 20 families per year. It focuses on (a) parenting (including child development and parenting strategies), (b) education (including

working with the local high school to develop personalized lesson plans designed for the youth to graduate from high school, and (c) employability (including building skills to achieve dependability as an employee). Any person in Rutland County under age 24 who is pregnant or has a child and seeks to complete a high school education is eligible for this program. The sending school pays the Center to provide the education, and the diploma comes from the sending school.

Pregnant and Parenting Teens. The Center provides parenting classes and pregnancy prevention under a contract with the Vermont Department of Children and Families Child Development Division. This program serves approximately 20 families per year.

Reach Up. This program serves “all youth under the age of 24 who receive Reach-Up benefits,” and serves approximately 125 families. It provides case management to “provide resources and support to participants to assist them in balancing their roles as parents, students, employees, and community members, toward the goals of self-sufficiency.” The Center provides these services under a contract with the State.

Intensive Family Based Services/Strengthening Families. This is a service that provides family education support to prevent unnecessary placement of children in foster care. To be eligible, the family has to have an open case with DCF family services, a mental health and/or substance abuse issue, a child under the age of 3, and current or recent involvement with the Department of Corrections. Any family that meets these criteria is eligible. It serves approximately 25 families. The services are provided under contract with the Vermont Department of Children and Families Child Development Division.

Children’s Integrated Services Early Intervention/Family Support. The Center provides early intervention services to families with children under the age of 3 with any type of developmental or social emotional delay. It provides support in utilizing speech, physical, occupational, and mental health therapy, and coordinates use of resources as well as home visits. It serves anywhere from 160 families a year to 1,620 households. The program is funded as a subcontract from the Rutland Area Visiting Nurses Association and Hospice, which is a recipient of a grant from the Department of Children and Families Child Development Division.

Building Bright Futures Direct Services Program. This program serves families with children from birth to age 6. Any family is eligible. It provides “community education, coordination services for home-based and center-based early education providers, and support to new moms and isolated families.” Activities include play groups and welcome baby bags for babies born at the Rutland Regional Medical Center. Its goal is to make children be able to be successful in school when they reach kindergarten. It serves between 250 families and 1,200 households. Its services are provided under contract with the Department of Children and Families Child Development Division.

Parenting On Our Own in a Safe Environment (POISE). This program “provides safe, affordable housing for pregnant/parenting youth, while providing opportunities to gain the skills necessary to be successful on their own, and supporting their educational/vocational

goals.” It provides shelter for homeless pregnant or parenting youth ages 16-22 under a contract from the Washington County Youth Services Bureau Boys & Girls Club, which is overseen by the Department of Children and Families. The program rents 9 units of housing off-site from the properties at issue in this case in order to house some of the participants in the program. It serves approximately 12 families per year.

Early Education. This program serves children from ages 6 weeks to 6 years old, and any child in the County is eligible. While some people think of this as “child care,” it is designed as an educational program: the educational needs of each child are assessed and the program works to meet those needs and prepare each child for successful entry to school. The contract with the state requires that at least 25% of the children receive a state subsidy. About 5% of the children attend with full payment from the family. The other 95% attend with the help of a state subsidy. In some cases parents pay the difference between the subsidy and the full cost.

Although services for a few children are paid for with private funds (e.g., tuition for 5% of the children in the Early Education program is privately paid), nearly all of the funding for all the programs comes from government agencies based on formally executed agreements with the Department for Children and Families.

The Center has used its properties in Rutland for the exclusive purpose of its mission and purposes since the dates of purchase. The following programs are operated out of 18 Chaplin Avenue: Building Bright Futures, part of Intensive Family Based Services/Strengthening Families, and most of the Early Education program. The following programs are operated out of 61 Pleasant Street: Learning Together, Children’s Integrated Services Early Intervention/Family Support, some of the Early Education program, and part of Intensive Family Based Services/Strengthening Families.

On November 26, 2013, the Center applied for exemption from property tax. The City, which is the taxing authority for these properties, denied the application in January 2014. The Center has exhausted its administrative remedies.

The factual issue in dispute is whether the benefits provided by the programs, and therefore by the properties, are a personal benefit only to the parents and children who receive the services, or whether the benefits inure to the public as a result of the benefits conferred on the parents and children directly served.

There is no question that the services are delivered directly to the parents, teenagers, and children who are the participants in the program. It is intended that they benefit from those services, and hopefully they do. They are not the sole beneficiaries, however. The programs are not designed solely to affect the lives of the participants. The ultimate intended beneficiaries are members of the community at large, including not only in Rutland County but statewide. In much the same way that schools are publicly funded so that all will receive education and training that will prepare them to be productive, well-informed, and self-sufficient members of a democratic society throughout their lives, the Center’s programs are designed to create a

community of stable families in which parents are educated for parenting, employment, and public participation, and children achieve healthy development and success in school for the same purposes.

The overall goal is to make families function well and to provide education and early-life support in a manner that minimizes the need for ongoing reliance on state services over time. The fact that the State has chosen to provide such significant financial support for these early-life services shows a legislative intent of investing in providing these services to families at the front end of children's lives as a way of investing in a healthy future for the community as a whole, and not just for the benefit of the individuals involved. The benefit to the public is a reduction or minimization of the need to fund state services that participants might otherwise need throughout their lives.

Conclusions of Law

The Center claims exemption from municipal property taxation as a "public use" under 32 V.S.A. § 3802(4). The Center bears the burden of showing entitlement to an exemption, and exemptions are strictly construed against the taxpayer. *Vt. Studio Ctr., Inc. v. Town of Johnson*, 2010 VT 59, ¶ 7 (citing *Our Lady of Ephesus House of Prayer, Inc. v. Town of Jamaica*, 2005 VT 16, ¶ 14, and quoting *Ice Ctr. Of Wash. W., Inc. v. Town of Waterbury*, 2008 VT 37, ¶ 4).

In order to qualify under the "public use" exemption, the Center must show: (1) the properties are dedicated unconditionally to public use; (2) the primary use must directly benefit an indefinite class of persons who are part of the public and must also confer a benefit on society as a result of the benefit conferred on the persons directly served, and (3) the property must be owned and operated on a not-for-profit basis. *Am. Museum of Fly Fishing, Inc. v. Town of Manchester*, 151 Vt. 103, 110 (1989).

The Court concludes that the first part of the *American Museum* three-part test is satisfied here. The findings of fact set forth above show that the use of the properties at issue for government-funded social programs confers a "direct and immediate, rather than remote or incidental, benefit" upon the public. See *Kingsland Bay School v. Town of Middlebury*, 153 Vt. 201, 205 (1989) (quoting *Vermont Wild Land Found. v. Town of Pittsford*, 137 Vt. 439, 444 (1979)). The Center's programs "directly benefit[] the public by providing humanitarian services supported by the State." *Id.* (citing *Broughton v. Town of Charlotte*, 134 Vt. 270, 275, 356 A.2d 520, 523 (1976)). The Center has carried its burden with respect to this criterion.

The Court also concludes that the second part of the *American Museum* test is satisfied. Based on the findings of fact set forth above, the Center has met its burden to show that the class of eligible participants in the Center's programs is broad and indefinite and society as a whole is benefitted as a result of the benefits conferred on the parents and children who are the participants in the Center's programs.

Finally, the Court concludes that the third part of the *American Museum* test is satisfied. The parties have never disputed the fact that the Center owns and operates the properties on a not-for-profit basis.

Having carried its burden with respect to all three parts of the *American Museum* test, the Center is entitled to an exemption from municipal taxation on grounds of "public use" as to each of its two properties in Rutland.

Dated at Rutland, Vermont this 11th day of April, 2016.

Mary Miles Teachout
Hon. Mary Miles Teachout
Superior Judge