

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Appeal of Friends of Pennsylvania :
Leadership Charter School :
 :
From the County of Chester Board of :
Assessment Appeals, :
 :
Denial of Request for Real Estate Tax : No. 808 C.D. 2009
Exemption : Submitted: November 9, 2009
Property ID: 53-04-0156.0000 :
Municipality: East Goshen Township :
 :
Appeal of: Friends of Pennsylvania :
Leadership Charter School :

BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE JOSEPH F. MCCLOSKEY, Senior Judge¹
HONORABLE KEITH B. QUIGLEY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY SENIOR JUDGE QUIGLEY

FILED: January 7, 2010

Friends of Pennsylvania Leadership Charter School (Friends) appeals from the March 27, 2009 order of the Court of Common Pleas of Chester County (trial court), which affirmed the November 16, 2007 decision of the County of Chester Board of Assessment Appeals (Board) denying Friends' application for an exemption from real estate taxation for the property located at 1332 Enterprise Drive, East Goshen Township, Chester County, Pennsylvania, Tax Parcel Number 53-04-0156.0000 (Parcel 53-4-156). We affirm.

¹ This case was decided before Senior Judge McCloskey's retirement on December 31, 2009.

Friends is a Pennsylvania non-profit corporation whose sole corporate purpose is to support the educational mission of the Pennsylvania Leadership Charter School (PALCS). Friends is the legal owner of Parcel 53-4-156, which is leased to and used exclusively by PALCS pursuant to a twenty-five-year lease agreement.

On August 6, 2007, Friends filed an application with the Board seeking an exemption from real estate taxation on Parcel 53-4-156 on the basis that the property was actually and regularly used by an institution of purely public charity for the purpose of the institution.² The Board denied Friends' application on November 16, 2007. Friends appealed to the trial court, which affirmed the decision of the Board by order dated March 27, 2009. This appeal followed.³

Friends asserts that: (1) Friends qualifies as an institution of purely public charity pursuant to Article VIII, Section 2(a)(v) of the Pennsylvania Constitution; (2) Friends qualifies as an institution of purely public charity

² In order to be entitled to a real estate tax exemption, an institution must qualify as a "purely public charity" under both Article VIII, Section 2(a)(v) of the Pennsylvania Constitution and Section 5 of the Institutions of Purely Public Charity Act (Act 55), Act of November 26, 1997, P.L. 508, 10 P.S. §375; *Guthrie Clinic, Ltd. v. Sullivan County Board of Assessment Appeals*, 898 A.2d 1194, 1198 (Pa. Cmwlth. 2006). However, "status [as a 'purely public charity'] by itself does not automatically entitle the entity to the tax exemption." *Guthrie*, 898 A.2d at 1198. In this case, the institution must also satisfy Section 204 of The General County Assessment Law (Assessment Law), Act of May 22, 1933, P.L. 853, *as amended*, 72 P.S. §5020-204. *See Guthrie*.

³ "[O]ur scope of review is limited to determining whether the trial court abused its discretion or committed an error of law or whether its decision is supported by substantial evidence. A property owner's entitlement to tax exemption is a mixed question of fact and law and absent an abuse of discretion or a lack of supporting evidence, this court will not disturb the trial court's decision." *Guthrie*, 898 A.2d at 1197 n.4.

pursuant to Section 5 of Act 55; and (3) Friends is entitled to an exemption from real estate taxation pursuant to Section 204 of the Assessment Law.⁴

Notwithstanding the issues raised by Friends, Friends is not entitled to a property tax exemption on Parcel 53-4-156 because Friends does not occupy the subject property. This Court has stated, “[i]n order to qualify for a real estate tax exemption, the charitable activity of the entity must occur on the specific property for which the exemption is sought, and the entity must be the owner and occupier of the property.” *Appeal of Northwestern Corp. from Dauphin County Bd. of Assessment Appeals*, 665 A.2d 856, 858 (Pa. Cmwlth. 1995); *see also Veterans of Foreign Wars Post 1989 v. Indiana County Board of Assessment Appeals*, 954 A.2d 100, 104 (“Section 204(b) and (c) of the Assessment Law also require a purely public charity to occupy the real estate it owns in order to qualify for an exemption.”). Here, it is undisputed that Friends does not occupy Parcel 53-4-156, which is leased to and used exclusively by PALCS. As the trial court stated, “whether or not [Friends] is a purely public charity for both constitutional and [Act 55] purposes, the property is still not exempt from property taxes.” (R.R. at 86a.)

Accordingly, we affirm.

KEITH B. QUIGLEY, Senior Judge

⁴ We note that Friends also filed a motion for reconsideration of the trial court’s March 27, 2009 order on April 22, 2009, two days prior to filing a notice of appeal of the March 27, 2009 order with this Court. By order dated April 29, 2009, the trial court denied Friends’ motion for reconsideration. Friends seeks to assert, in the present matter, that the trial court erred in denying its motion for reconsideration. Unfortunately, this issue is not properly before this Court because no appeal was taken from the trial court’s April 29, 2009 order. Moreover, this Court has held, “Pennsylvania case law is absolutely clear that the refusal of a trial court to reconsider, rehear, or permit reargument of a final decree is not reviewable on appeal.” *Thorn v. Newman*, 538 A.2d 105, 108 (Pa. Cmwlth. 1988) (quoting *Provident National Bank v. Rooklin*, 378 A.2d 893, 897 (Pa. Super. 1977)).

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ORDER

AND NOW, this 7th day of January, 2010, the order of the Court of
Common Pleas of Chester County, dated March 27, 2009, is hereby affirmed.

KEITH B. QUIGLEY, Senior Judge