

**[J-193-2004]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

**CAPPY, C.J., CASTILLE, NIGRO, NEWMAN, SAYLOR, EAKIN, BAER, JJ.**

WESLEY UNITED METHODIST CHURCH,	:	No. 105 MAP 2004
	:	
Appellee	:	Appeal from the Order of the Commonwealth Court entered 3-4-2004 at No. 1424 CD 2003 which Affirmed the Order of Dauphin County Court of Common Pleas, Civil Division entered 5-27-2003 at No. 2002-CV-1780TX
v.	:	
	:	
DAUPHIN COUNTY BOARD OF ASSESSMENT APPEALS,	:	
	:	
Appellant	:	ARGUED: December 1, 2004
	:	

**OPINION**

**MR. JUSTICE EAKIN**

**Decided: December 30, 2005**

Appellant, the Dauphin County Board of Assessment Appeals, appeals from the order of the Commonwealth Court affirming the order of the trial court holding two parcels containing a parking lot used by Wesley United Methodist Church are exempt from real estate taxation. We affirm.

On July 30, 2001, the Church filed an application with the Board seeking an exemption from real estate taxation for two immediately adjacent parcels of land where its parking lot was located. Appellant denied the request, and the Church appealed to the Court of Common Pleas of Dauphin County. Testimony at the de novo hearing established that Wesley United Methodist Church had been in existence for over 150 years. Once,

most members lived within walking distance, but now most do not live close to the church. During the 1980s, Wesley had 300 to 400 members, with 200 actively attending services; since 1989, after the parcels for the parking lot were purchased and available for use by church members, the membership increased to more than 700 members, with 350 attending services. Testimony established limited off-street parking exists near the church; most on-street parking spaces are used by neighborhood residents. The Church contended the parking lots are an integral part of its operation, and that without them, membership would decline to the point that sustaining its ministry financially or spiritually would not be feasible.

Appellant acknowledged that when zoning codes require a newer church to provide parking spaces for its members, appellant grants a tax exemption for the parking area because the church must comply with zoning codes and could not otherwise exist without a parking lot.

The trial court found the parking lot was reasonably necessary for the occupancy and enjoyment of the church and held the parcels were tax-exempt. The Commonwealth Court affirmed in a published opinion. Wesley United Methodist Church v. Dauphin County Bd. of Assessment Appeals, 844 A.2d 57 (Pa. Cmwlth. 2004). We granted allowance of appeal.

Article VIII, § 2(a) of the Pennsylvania Constitution provides:

(a) The General Assembly may by law exempt from taxation:

(i) Actual places of regularly stated religious worship....

Pa. Const. art. VIII, § 2(a). Pursuant to Article VIII, § 2(a), the General Assembly enacted the General County Assessment Law, of which § 204(a)(1) provides, in relevant part:

(a) The following property shall be exempt from all county, city, borough, town, township, road, poor and school tax, to wit:

(1) All churches, meeting-houses, or other actual places of regularly stated religious worship, with the ground thereto annexed necessary for the occupancy and enjoyment of the same[.]

72 P.S. § 5020-204(a)(1).

Appellant contends this Court's decision in Second Church of Christ Scientist of Philadelphia v. City of Philadelphia, 157 A.2d 54 (Pa. 1959), is controlling and directly on point. In Second Church, two churches sought real estate tax exemptions for parking lots located on land contiguous to their buildings. Id., at 54. This Court held church parking lots are not exempt from taxation as they are not "actual places" of religious worship and are not "necessary" for occupancy and enjoyment. Id., at 56.

Times have changed since Second Church was decided in 1959. In this day and age, parking lots may be a necessity for a church, rather than just a convenience. People and churches have both moved away from towns, and many people are no longer living within walking distance of their church. To attend, they are required to drive and park a vehicle. With no available parking, church-goers may be forced to seek religious expression elsewhere, causing a decrease in membership and impeding the ability of the church to exist.

Section 204(a)(1) of the Assessment Law allows for tax exemption of ground adjacent to the church building which is necessary to permit actual worship. Just as appellant has granted tax exemptions to churches required by zoning ordinances to provide parking, the Church has established its parking lot is entitled to an exemption because it is "necessary for the occupancy and enjoyment of [Wesley]." 72 P.S. § 5020-204(a)(1). Testimony established the parking lot was reasonably necessary and the Church could not exist without it. Based on this testimony, the granting of the tax exemption for the two

parcels was in compliance with both the Constitution and the Assessment Law as being necessary.

We hasten to point out that we do not hold all church parking lots are entitled to tax-exempt status. However, if a church proves its parking lots are a reasonable necessity to the existence of the church itself, those lots are entitled to such status.

Order affirmed.

Mr. Justice Castille, Madame Justice Newman and Messrs. Justice Saylor and Baer join the opinion.

Mr. Justice Nigro did not participate in the decision of this case.

Mr. Chief Justice Cappy files a dissenting opinion.