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UNION CLUB OF BRITISH COLUMBIA

v.

ASSESSOR OF AREA 01 - SAANICH/CAPITAL

Supreme Court of British Columbia (912315) Victoria Registry

Before the HONOURABLE MADAM JUSTICE GILL Victoria

June 21, 1991

Scott Marshall for the Appellant
James Legh for the Respondent

Reasons for Judgment August 20, 1991

This is an appeal by way of Stated Case pursuant to section 74 (2) of the Assessment Act R.S.B.C. 1979, chap. 21, from a decision of the Assessment Appeal Board. The Board directed that the Assessor enter the Appellant's property on the 1990 role as Class 6 _ business and other. Although four questions were posed for the opinion of the Court, the appeal was abandoned in respect of two. Two questions remain:

> (1) Did the Assessment Appeal Board err, in law, when it found that the Union Club was not a "fraternal organization" within the meaning of Regulation 438/81 of the Assessment Act ?
>
> (2) Did the Assessment Appeal Board err, in law, when it held that no part of the Union Club's premises constituted "a meeting hall of a non-profit fraternal organization . . . for at least 150 days of the year ending on June 30" ?

Regulation 438/81, enacted pursuant to the authority of the Assessment Act, prescribes classes of property for taxation purposes. Nine classes are delineated. Property not included in classes 1 to 5 and 7 to 9 is included in class 6. Class 8 is described as "recreational property/non-profit organization". Class 8 property includes:

> (c) that part of any land and improvements used or set aside for use as a place of public worship or as a meeting hall for a non-profit fraternal organization of persons of either or both sexes, together with the facilities necessarily incidental to that use, for at least 150 days in the year ending on June 30, of the calendar year preceding the calendar year for which the assessment roll is being prepared, not counting any day in which the land and improvements so used or set aside are also used for
>
> > (i) any purpose by an organization that is neither a religious organization nor a non-profit fraternal organization,
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> > (ii) entertainment where there is an admission charge, or
> >
> > (iii) the sale or consumption, or both, of alcoholic beverages.

Section 74 of the Assessment Act permits appeals on questions of law. The questions as framed may seem somewhat broader in scope but counsel for the parties are in agreement that questions of law are found within the questions as framed. Those questions relate to the Board's interpretation of the words "fraternal organization" and "meeting hall" as they are used in Regulation 438/81.

Turning to the factual background, the property which is the subject matter of this appeal comprises land and buildings owned by the Appellant, Union Club of British Columbia. The Appellant is a private club which was incorporated in 1932. It became a non-profit society in 1986. The 1989 Court of Revision classified a portion of the property as class 6 and a portion as class 8. The Assessment Appeal Board concluded that the Court of Revision had erred in classifying a portion of the land and improvements as class 8 and ordered the Assessor to classify the property in its entirety as class 6.

The first question relates to the meaning of "fraternal organization". The decision of the Board on the issue of whether the Appellant is a fraternal organization is brief. Reference was made to the decision of Southin J in Marpole Curling Club v. Assessor Area 9 - Vancouver (1988) Stated Case 259 and to certain evidence as to the Appellant's involvement or otherwise in charitable activities. The Appellant argued that from its reasons, it appears that the Board may have inferred that involvement in charitable work is a prerequisite for classification as a fraternal organization and that such a requirement does not exist. The Respondent submitted that the correct interpretation of the words "fraternal organization" includes a requirement that the entity in question have an overriding "worthy object", that organizations which simply provide for social pleasure do not fall within that definition.

In Marpole Curling Club v. Assessor of Area 9 - Vancouver, Southin J. addressed the meaning of that phrase. She stated, at p. 1491:

> The word "fraternal" must have some meaning in the context. The word "fraternal" in its ordinary meaning denotes "of pertaining to or involving brethren" (Webster's New International Dictionary, 2nd Edition 1934, page 1002) or as the Shorter Oxford Dictionary puts it: "of or pertaining to brothers or a brother; brotherly". It carries with it the notion of mutual help.
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> That same edition of Webster's defines "fraternal society, association, or order" thus:
>
> > A society organized for the pursuit of some common object by working together in brotherly union; specif., a benefit society organized with a representative form of government and not carried on for profit, and, often, consisting of members of the same trade or occupation or allied ones.
>
> One thinks for instance of such organizations as the Masons, the Benevolent and Protective Order of Elks, the Knights of Columbus and similar bodies.
>
> I do not recall ever hearing anyone describe the Vancouver Lawn Tennis and Badminton Club or the Jericho Tennis Club _ even in the days when their premises were modest and their members assembled purely for playing badminton and tennis - as "fraternal organizations".

In Black's Law Dictionary (Sixth Edition, 1990), "fraternal" is defined as follows:

> Brotherly; relating or belonging to a fraternity or an association of persons formed for mutual aid and benefit, but not for profit.

The following definition of "fraternal benefit association or society" appears in that same edition of Black's:

> One whose members have adopted the same, or a very similar, calling, avocation, or profession, or who are working in unison to accomplish some worthy object, and who for that reason have joined themselves together as an association or society to aid and assist one another, and to promote the common cause.

From the above, it would appear that a "fraternal organization" is one formed for mutual help, mutual aid and benefit or for the pursuit of some common object. There does not appear to be any requirement that there be benefit to the public generally or an involvement in charitable activities. The "worthy object" may be the aid and assistance given by one member to another.

Support for that conclusion is also found in Woman's Club of Little Falls v. Township of Little Falls (1942) 26 A. 2d 739, a decision of the New Jersey State Board of Tax Appeals. In that case, the issue was the meaning of the phrase "fraternal organization" as used in an exemption statute. It was held that, as a condition for exemption, it was unnecessary to establish that the organization was devoted to uses which were of substantial benefit to the public or to the community, as well as to the members themselves. The latter was sufficient.

In my view, the Assessment Appeal Board, insofar as it considered the Appellant's involvement in charitable activities to be relevant to whether it was a "fraternal organization", erred in law. Such involvement is unnecessary. The first question is therefore answered in the affirmative.

Turning to the phrase "meeting hall', the Board in its reasons does not delineate what criteria it was applying in concluding that no part of the Appellant's premises were a "meeting hall". It considered the premises on a room-by-room basis, applied what was described as a size concept and made reference to evidence of prearranged gatherings such as annual general meetings, extraordinary meetings and committee meetings.

The Appellant argued that the Board erred in two ways. First, it was said that it erred in considering the premises on a room-by-room basis. Second, it was argued that the Board adopted far too narrow a definition of "meeting hall". In the case of a fraternal organization, a meeting hall was a building where two or more club members came together to discuss matters of common interest. Reliance was placed upon one portion of the definition of "hall" which is contained in Webster's New International Dictionary (3rd Edition) at p. 1023:

> A building belonging to or used as the place of assembly, social center, or headquarters of a fraternal society or trade union.

In response, the Respondent argued that no matter whether a hall is a room or a building, a hall is something different from a "meeting hall" and the fact that a meeting, in the broadest sense of the word, may occur at a certain location does not mean that that location is a "meeting hall". It was argued that while a hall may be used for social purposes, the phrase "meeting hall" contemplates gatherings for some other purpose which occur by reason of specific prearrangement.

Some assistance in the interpretation of this phrase can be obtained from the comments of Southin J. in Marpole Curling Club v. Assessor of Area 9 - Vancouver, supra, at p. 1491. Her Ladyship stated:

> Nor do I think that in common speech anyone would refer to a building, the chief purpose of which was the provision of curling ice, as a "meeting hall".

> I think that is a reference to a building - and there are many of them throughout British Columbia - which is owned by a fraternal organization and used for its meetings which usually take place on a regular basis but which is frequently rented to or lent to others sometimes for functions, such as weddings, at which liquor is served.

A number of definitions of "hall" were also referred to in argument. It seems clear that a "hall" may refer to either a building or a room. But that does not, in my view, lead to the conclusion that any error was made by the Board in considering the premises on a room-by-room basis. The definition of "hall" which was relied upon by the Appellant is but one of many definitions.

I agree with the submission of the Respondent that when interpreting the phrase "meeting hall" the words must be considered together. I do not believe that a building or room where two or more persons come together on an informal basis for social purposes would commonly be described as a "meeting hall". Such a gathering might be a "meeting" in the broadest sense and the location may be a "hall", but in my view, it is not a "meeting hall". The decision in Marpole Curling Club v. Assessor of Area 9 - Vancouver is supportive of that view. Accordingly, the second question is answered in the negative.

Pursuant to s. 74 of the Assessment Act, this opinion is remitted to the Board.