

STATE OF MAINE  
WALDO, SS.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. CV-2018-44

PEACE RIDGE SANCTUARY, )  
Plaintiff, )  
 )  
v. )  
 )  
TOWN OF BROOKS, )  
Defendant. )

JUDGMENT

The matter before the court is Peace Ridge Sanctuary's ("PRS") Complaint for Declaratory Judgment seeking property tax exemption for its property in the Town of Brooks ("the Town") for the tax years 2016, 2017, and 2018. PRS also argues that the Town denied PRS due process of law. A trial<sup>1</sup> was conducted primarily by Zoom<sup>2</sup> on May 3, 19, 20, 26, and 27, 2022. A view of the property at issue in this matter was conducted with the parties on May 20, 2022. The parties were allowed time for post-trial briefing which was completed on July 15, 2022. This judgment is based on the evidence presented at trial and the stipulations of the parties.

For the reasons stated below, Judgment is GRANTED, in part, for PRS on Count I of its complaint. PRS is entitled to full property tax exemption pursuant to 36 M.R.S. § 652(1)(A) for tax years 2016, 2017, and 2018 for the lots it owns identified on Town Tax Map 10 and the lots identified as Map 7, Lot 95, 95A, and 95B. The other property owned by PRS is not entitled to exemption for the years in question. Judgment is GRANTED to the Town on Count II of PRS's complaint.

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<sup>1</sup> The trial in this matter was originally scheduled to be conducted March 16-20, 2020 but was delayed by the pandemic.

<sup>2</sup> Testimony was conducted live in court after a site view on May 20, 2022.

## LEGAL STANDARD

An organization's property is exempt from taxation if (1) the organization claiming the exemption is "organized and conducted exclusively for benevolent and charitable purposes," and (2) the property is "owned and occupied or used solely for [the organization's] own purposes." 36 M.R.S. § 652(1)(A), (C)(1). The burden is on the party seeking an exemption to prove that its use falls "unmistakably within the spirit and intent of the act creating the exemption." *Hebron Acad., Inc. v. Town of Hebron*, 2013 ME 15, ¶ 7, 60 A.3d 774. In cases where the charitable exemption is at issue, the Law Court requires that:

there must be a careful examination to determine whether in fact the institution is organized and conducting its operation for purely benevolent and charitable purposes in good faith, whether there is any profit motive revealed or concealed, whether there is any pretense to avoid taxation, and whether any production of revenue is purely incidental to a dominant purpose which is benevolent and charitable. When these questions are answered favorably to the petitioner for exemption, the property may not be taxed.

*Christian Fellowship & Renewal Ctr. v. Town of Limington*, 2006 ME 44, ¶ 17, 896 A.2d 287 (quoting *Green Acre Baha'i Institute v. Eliot*, 110 A.2d 581, 584 (Me. 1954)).

The Law Court interprets the term "benevolent" as synonymous with the word "charitable." *Christian Fellowship*, 2006 ME 44, ¶ 13, 896 A.2d 287. A purpose is charitable if it is:

for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering, or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government.

*Id.* ¶ 14 (quoting *Episcopal Camp Found., Inc. v. Town of Hope*, 666 A.2d 108, 110 (Me. 1995)).

The Law Court has held that a charitable organization's property is tax exempt so long as there is "sufficient evidence of the actual appropriation of its property, for the purposes for which the plaintiff corporation was incorporated." *Camp Emoh Assoc.'s v. Lyman*, 132 Me. 67, 70, 166 A. 59, 61 (1933). If the property is not used for other purposes, "it must be determined whether use was made thereof for its own purposes, which may be shown by incidental uses and by an actual appropriation to the purposes of the owner with a definite intention to broaden the scope of its use thereof in the future." *Osteopathic Hosp. of Me. v. City of Portland*, 139 Me. 24, 33, 26 A.2d 641, 644 (1942).

Even if the property is sometimes used for other purposes, the Law Court has ruled that so long as the charitable organization's use of the property is "reasonably incident to the major purpose for which a benevolent and charitable institution is incorporated, and such utilization is not oriented toward pecuniary profit but, rather, toward providing necessary services and facilities, such property under Maine law is exempt from taxation." *Maine Medical Center v. Lucci*, 317 A.2d 1, 3 (Me. 1974); *see also Hebron*, 2013 ME 15, ¶ 24, 60 A.3d 774 (de minimis use of property that does not interfere with organization's major tax-exempt purpose not a bar to exemption).

#### **FINDINGS OF FACT**

PRS is a tax-exempt 501(c)(3) non-profit organization. PRS is a benevolent and charitable organization and was organized exclusively for charitable purposes, including operating an animal sanctuary and sheltering animals.

Before purchasing the property in Brooks in November 2015, PRS operated a smaller animal sanctuary and shelter in Penobscot. PRS purchased the Brooks property with the intent of relocating its operations from Penobscot and expanding its activities.

PRS's relocation of its activities to Brooks was limited before April 1, 2016 due to the winter weather. However, before April 1, 2016, PRS had relocated a pack of rescued dogs to the farmhouse on the Brooks property. PRS housed rescued pigs at the Brooks property by April 1, 2016. PRS also conducted meetings of its board at the Brooks property before April 1, 2016.

PRS purchased the Brooks property with the definite intent to relocate and expand its activities on the property. In March 2016, it obtained quotes for the construction of a pig barn and other animal shelters on the Brooks property. Construction of those facilities occurred in 2016. Early in 2016, PRS was working on a business plan and fundraising materials to raise the funds necessary to complete the relocation to Brooks and to develop the property more fully as an animal sanctuary and animal shelter. PRS had fully relocated to Brooks by the end of 2016.

During 2016, substantial construction on facilities to house animals was completed. Further development occurred in 2017 and 2018. By the end of 2016, there were over 160 rescued animals living on the Brooks property. That number increased to over 200 in 2017 and to nearly 300 by 2018. Brooks Town Clerk Jane McLaughlin testified credibly that PRS's use of the property in 2017 was "impressive."

PRS's charitable activities of rescuing and sheltering abused or neglected animals occurs on the lots it owns identified on the Town Tax Map 10 and the lots identified as Map 7, Lot 95, 95A, and 95B. The structures used for housing animals and staff housing are located on these lots, as are the fenced in pastures for livestock. Though not all these lots are developed, all are used to walk dogs or are necessary as buffers from other human activity. Any other use of this property in the years in question for wood harvesting or recreation by PRS staff was de minimis and did not interfere with PRS's major purpose.

PRS lessens the burden on state and local government by accepting and caring for abused and neglected animals that are rescued by government officials. There are few facilities in Maine licensed to take the types of livestock that are housed by PRS and there are no other facilities that have the space and resources to take the large number of animals that are housed by PRS. Due to the nature of the animals housed by PRS, and the trauma that many have experienced, a certain amount of land is needed as a buffer from other activities.

The other lots owned by PRS, Map 7, Lot 85 and Map 7, Lot 50, were used during the years in question almost exclusively for land conservation and/or as a private game preserve with no meaningful public access allowed. The property is not held in trust and is not held with a conservation easement.

### DISCUSSION

Though the Town granted a partial charitable tax exemption to PRS for tax years 2017 and 2018, the Town now argues that PRS's use of the property is not unmistakably charitable because of the way that PRS chooses to conduct its animal rescue operations. Essentially, the Town concedes that animal rescue is a charitable use but argues that the way that PRS operates and the philosophy that PRS espouses make its actual operations not unmistakably charitable. The Town takes issue with PRS's policy of housing rescued animals for the rest of their natural lives and not making efforts to adopt out animals to suitable homes. The apparent significance of this argument is that animals could be rescued on a smaller property if PRS followed a different philosophy or operated differently.

The authority cited by the Town supports the proposition that it is appropriate for the taxing authority, and ultimately a court, to examine a claimed charitable activity to determine if the activity is being conducted for a purely charitable purpose in good

faith. However, the authority does not support the proposition that it is the role of the taxing authority or a court to question the philosophical basis for the way the charitable entity conducts its operations or to determine if the operations could be conducted in a more efficient manner. Though one may reasonably disagree with the philosophy espoused by PRS, the record is clear that those involved in the organization have a good faith belief in that philosophy and that PRS's activities are conducted in a way that PRS believes is in the best interest of the animals. The fact that an organization may hold beliefs that are not held by the majority of the population does not mean that the organization's activities are not charitable and benevolent.

The facts established at trial, and found above, are sufficient to establish that PRS used the property for its charitable purpose by April 1, 2016 and during all three tax years in question. In addition, the record supports that PRS's actual appropriation of the property was for its charitable purpose. As a result, the limited activities that occurred at the property before April 1, 2016 are sufficient to justify tax exemption for the 2016 tax year. The evidence presented about other uses of the property established that that such use was de minimis and did not interfere with PRS' major purpose.

The Town argues that PRS is not entitled to a tax exemption in 2017 or 2018 because it did not apply in those years. PRS applied for tax exemption for the 2016 and was wrongfully denied. If PRS had been granted the tax exemption it sought and was entitled to, no application would have been required for 2017 and 2018. *See* 36 M.R.S. § 652(1). In addition, the Town actually granted a partial charitable tax exemption for the tax years 2017 and 2018, meaning that this action for those years is to determine the scope of the exemption. Because the Town found a charitable exemption was appropriate for tax years 2017 and 2018, no application was required. *See* 36 M.R.S. §

652(1) ("If granted, the exemption continues in effect until the assessors determine that the organization or institution is no longer qualified.")

### UNDEVELOPED LAND

The court is satisfied that the evidence supports the conclusion that the property PRS owns identified on Town Tax Map 10 and the lots identified as Map 7, Lots 95, 95A, and 95B was actively used during 2016, 2017, and 2018 as part of its charitable purpose and/or is a necessary for its animal rescue activities. However, it is the court's conclusion that Map 7, Lots 50 and 85 were used in the years in question only for land conservation and/or as a private game preserve.

The Law Court has held that an organization that operates a closed wildlife preserve, the purpose of which is only to benefit wild animals without any benefit to the public, is contrary to the public policy favoring state-regulated game areas. *Holbrook Island Sanctuary v. Inhabitants of the Town of Brooksville*, 161 Me. 476, 484-88, 214 A.2d 660, 664-67 (1965). In *Holbrook*, the wildlife sanctuary's use of the property was described by the court as follows:

The corporation employed a full-time Warden . . . with an additional helper during the summer months and the hunting season. All persons wishing to enter the sanctuary were and are asked to register at the office and to apply to the Warden for permission to enter the sanctuary. Persons and organizations engaged in nature study were permitted in the Sanctuary accompanied by the Warden for the purpose of nature study, observation and photography. The public was directed not to enter the sanctuary for any other purpose. The Warden and his assistant were instructed to prohibit hunting in the area.

*Id.* at 480-81. Importantly, the regional game biologist of the Fish and Game Department inspected the wildlife sanctuary under scrutiny and concluded that the way the organization was maintaining the preserve was not consistent with the state's preferred way of managing wildlife populations. *Id.* at 482, 488. Accordingly, the game

preserve was deemed to be no benefit to public, as it was contrary to the state's conservation policy.

The Law Court has distinguished *Holbrook* from other cases involving conservation efforts. In *Francis Small Heritage Trust v. Town of Limington*, 2014 ME 102, ¶ 21, 98 A.3d 1012, the Law Court held that a trust that with the primary purpose of "conserv[ing] natural resources for the benefit of the public" was organized for charitable purposes under Maine law. The trust in *Francis Small Heritage Trust* "opened its properties to the public year-round, free of charge, and permits school field trips, hunting, fishing, hiking, cross-country skiing, and snowmobiling." *Id.* The Law Court found that the trust "essentially operates its properties in the manner of a state park," which assists the state in achieving its conservation goals and lessened the burdens of government. *Id.*

The Town argues that *Holbrook* and *Francis Small Heritage Trust* should be read to mean that public access, in the form of recreational activities, is a requirement for a purpose to be considered charitable. PRS argues that land conservation is a charitable purpose on its own, whether or not public access is permitted. This court does not accept either interpretation. Instead *Holbrook* and *Francis Small Heritage Trust* should be read together to mean that land conservation *may* be a permissible charitable purpose, so long as it furthers the conservation policy of the State of Maine.

As PRS correctly notes, "the Legislature has enunciated a strong public policy in favor of the protection and conservation of the natural resources and scenic beauty of Maine." *Francis Small Heritage Trust*, 2014 ME 102, ¶ 21, 98 A.3d 1012. This public policy is not simply an incidental by-product of a public policy in favor of ensuring access to recreational activities, as the Legislature has specified the preservation of wildlife habitat as a specific and distinct goal from recreational opportunities associated

with that habitat. See 30-A M.R.S. § 4312(3)(F) (identifying the protection of "critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas" as a state goal). The Legislature recognizes conservation organizations as an important part of achieving this goal. See 5 M.R.S. § 6200. However, as *Holbrook* shows, this does not mean that private organizations may claim that they are providing a public benefit by pursuing any project that they label as conservation efforts. To claim a property tax exemption, PRS must show that they are furthering the state's conservation goals.

In regards to the two lots listed above, PRS has failed to meet its burden to show that it is furthering the state's conservation goals by leaving this portion of their property undeveloped. There is no evidence that PRS engages in any active conservation efforts on this property. Importantly, the land PRS holds is not subject to any conservation easement, nor is PRS required to hold that land in trust. See *Francis Small Heritage Trust*, 2014 ME 102, ¶ 22, 98 A.3d 1012 (property was protected from further development by a conservation easement). Nothing would stop PRS from choosing to sell that part of the property to a third-party, who would be entitled develop that land as they wished. This portion of PRS's undeveloped property is no different from any other private landowner who holds a private lot that is not being actively used or developed. This portion of PRS's property is not used for a charitable purpose, so it does not qualify for a property tax exemption.

#### **DUE PROCESS CLAIM**

Count II of the complaint alleges that the Town denied PRS due process of law. This claim was not developed in post-trial briefing and is deemed abandoned. However, to the extent that this court is required to address the merits, it is the court's conclusion of law that the evidence falls well short of establishing a due process claim.

While the Town may have held some bias against PRS as outsiders and due to their vegan beliefs, the property tax dispute at issue in this case was primarily a good faith dispute over competing economic interests.

### CONCLUSION

It is ORDERED that Judgment is GRANTED, in part, for PRS on Count I of its complaint. PRS is entitled to full property tax exemption 36 M.R.S. § 652(1)(A) for tax years 2016, 2017, and 2018 for the lots it owns identified on Town Tax Map 10 and the lots identified as Map 7, Lots 95, 95A, and 95B. The other property owned by PRS is not eligible for tax exemption for the years in question.

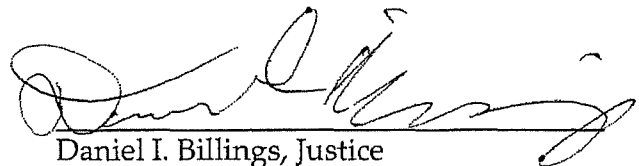
It is further ORDERED that Judgment is GRANTED to the Town on Count II of PRS's complaint.

The court deems the Plaintiff to be the prevailing party in this matter and it is entitled to recover its costs from the Defendant as allowed by statute and court rules.

Any motions not previously addressed are made MOOT by this judgment

The Clerk is directed to incorporate this Order by reference into the docket for this case, pursuant to Rule 79(a), Maine Rules of Civil Procedure.

Dated: January 18, 2023



Daniel I. Billings, Justice  
Maine Superior Court