

Massachusetts Department of Revenue Division of Local Services

Alan LeBovidge, Commissioner Gerard D. Perry, Deputy Commissioner



April 19, 2006

Frank J. Ragonese
Chief Assessor
Town Hall
25 Green Street
Ipswich, MA 01938

Re: Ipswich Masonic Temple
Our File No. 2006-67

Dear Mr. Ragonese:

You wrote that the Ipswich Masonic Temple failed to file a form of list (Form 3ABC) for fiscal year 2006. The assessors' office sent the form to the organization and later sent a reminder notice, but it did not receive a request for an extension to file, nor the form. When the parcel was placed on the tax rolls, the organization timely filed an abatement application. At a hearing on that application conducted on February 27, 2007, the president of the organization requested that the entire tax be abated on the basis that it is a tax-exempt organization. You inquired whether the assessors could now abate or exempt the FY2006 taxes assessed on the property.

Under G.L. c. 59 §5(3), charitable organizations may qualify for a property tax exemption for personal property and certain real estate they own. The statute is explicit, however, that failure to file the annual return bars any exemption to which the organization might otherwise be entitled. G.L. Ch. 59 §5(3)(b). ("A corporation coming within the foregoing description of charitable organization ... shall not be exempt for any year in which it omits to bring in to the assessors the list, statements and affidavit required by section twenty-nine and a true copy of the report for such year required by section eight F of chapter twelve to be filed with the division of public charities in the department of the attorney general.") (Emphasis added); Children's Hospital v. Assessors of Boston, 388 Mass. 832 (1983). Therefore, assessors do not have jurisdiction to abate where a charitable organization that owns property on January 1 for which it claims exemption for the fiscal year that begins on the following July 1 fails to file its annual return.

If the tax has not been paid and the assessors determine that (1) it would be a hardship for the organization to pay it and (2) there were mitigating circumstances for the failure to file, they may request authority to abate from the Commissioner under G.L. c. 58 §8.

If you have any further questions, please do not hesitate to contact me again.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen Colleary".

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC/JFC