



July 31, 2009

Donna Champagne O'Keefe
Assistant Assessor, Town of Swampscott
22 Monument Ave.
Swampscott, MA 01907

Re: Classification of Property
Our File # 2009-986-2

Dear Ms. O'Keefe:

You have requested our opinion on the appropriate classification of a parcel of real property situated at 143 Burrill Street in Swampscott (the "subject property.") You indicate that the subject property includes a structure formerly used as a church. It was sold by an exempt organization to the present owner, who is not a tax-exempt entity, on August 8, 2008 for \$250,000. It appears that the new owner is marketing the subject property for sale for purposes of development, with an asking price of \$585,000. The building is unoccupied, as it has been since the present owner's purchase of the subject property.

The Commissioner of Revenue does not determine the classification of property for local tax purposes. Property taxes in Massachusetts are assessed and collected by cities and towns, not by the state. The Board of Assessors of the Town of Swampscott, as the local tax administrator, has the sole power to determine which classification under G.L. c. 59, § 2A applies to the subject property. However, we do offer the following advisory comments regarding the classification of property under G.L. c. 59, § 2A.

G.L. c. 59, § 2A specifies four classes of property for purposes of differentiation of tax rates: "Class one, residential; Class two, open-space; Class three, commercial; and Class four, industrial." Definitions are provided for each classification. "Class one, residential property" applies, generally speaking, to "property used or held for human habitation ... [and] accessory land." *Id.* "Class two, open-space" denotes property "maintained in an open or natural condition and which contributes significantly to the benefit and enjoyment of the public." *Id.* "Class four, industrial property" covers property used to conduct manufacturing, processing, and other mechanical, chemical, or electronic operations. *Id.* Each of these classification categories applies to relatively specific uses of property inconsistent with the status of the subject property as an improved but unoccupied parcel being marketed for purposes of sale and development.

"Class three, commercial property" is defined to cover:

property used or held for use for business purposes and not specifically includible in another class, including but not limited to any commercial, business, retail, trade, service, recreational, agricultural, artistic, sporting, fraternal, governmental,

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educational, medical or religious enterprise, for non-profit purposes. Such property may be expressly exempt from taxation under other provisions of this chapter.

Id.

“Class three, commercial property” constitutes a comparatively broad category which may apply where the use of property does not fall within the scope of the definition of another class. The reference to property “not specifically includible in another class ...” suggests that “class three, commercial” property functions as a default classification.

We hope this information proves helpful. Please do not hesitate to contact us if we can be of further assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathleen Colleary', is written over a light gray rectangular background.

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC: DG