

Bond Case Briefs

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First Congregational Church v. Fulton County Bd. of Tax Assessors

Court of Appeals of Georgia - March 27, 2013 - S.E.2d - 2013 WL 1223852

Court finds that primary purpose of church's income-producing parking lot is commercial, not charitable, and thus taxable.

Tax-exempt church purchased a parking lot for use by its parishioners. The church subsequently entered into a lease agreement with a company that operated a commercial parking business on those days on which it was not used for church parking.

The superior court ruled in favor of the county board of tax assessors, holding that an income-producing parking lot did not qualify for an exemption from ad valorem property taxation.

The church appealed, arguing that it had purchased the property for the purpose of creating a parking lot, and that after it converted the property into a paved parking lot, it indeed used the property for overflow parking for its parishioners and guests attending religious activities or obtaining charitable services. The church acknowledged that it derived income from the property by way of its contract with a third party, but pointed out that the income received by it (as opposed to whatever income was received by the commercial operator) was used to support its religious services and charitable pursuits. In light of these circumstances, the church maintained that the property's "primary" use was the provision of overflow parking, that income production of \$90,000 yearly was an "incidental" use of its property its property was entitled to the claimed tax exemptions.

The appeals court concluded that most of the activities that took place on the church's property were patently not at the core of its religious or charitable purposes, affirming the trial court's opinion.