

# **Bond Case Briefs**

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## **TAX - VIRGINIA**

### **Emmanuel Worship Center v. City of Petersburg**

**Court of Appeals of Virginia, Richmond - February 13, 2024 - S.E.2d - 2024 WL 559285**

Following payment by taxpayer, a church, of city real estate taxes for taxpayer's property located adjacent to taxpayer's main worship center to avoid tax sale, taxpayer filed bill of review challenging city's issuance of decree of sale of property.

The Circuit Court dismissed bill. Taxpayer appealed. The Supreme Court reversed and remanded for trial court to determine whether property was used for religious worship, and consequently whether taxpayer owed any delinquent taxes for the property.

On remand, and pursuant to a bench trial, the Circuit Court granted city's motion to strike taxpayer's evidence at the close of taxpayer's case-in-chief, determined that the property was not exempt from property taxes, but denied city's request for attorney fees. Parties cross-appealed.

The Court of Appeals held that:

- Property was not entitled to exemption from real estate taxation, and
- City was not entitled to attorney fees for having to defend against taxpayer's bill of review.

Taxpayer, a church, failed to prove that it used property adjacent to main worship center "exclusively" for religious worship purposes or for the residence of its minister, and thus property was not entitled to exemption from real estate taxation by city, even if various aspects of taxpayer's activities at property qualified as worship, such as conducting Sunday school and youth outreach; no minister had ever resided on property, taxpayer had leased much if not most of property to operator of commercial business unrelated to taxpayer, and taxpayer had never claimed that property served as "adjacent land" or otherwise supported worship center, but rather claimed that property was entitled to tax exemption as a standalone property.

Taxpayer, a church, failed to preserve for appellate review claim that property supported taxpayer's adjacent main worship center under statute providing exemption from real estate taxation by classification for adjacent land reasonably necessary for the convenient use of any such exclusive-use property, or for ancillary and accessory property the dominant purpose of which is to support or augment the principal religious worship use, because that argument had not been raised to date, let alone stated with reasonable certainty at the time of the ruling below.

City was not entitled to attorney fees for having to defend against taxpayer's bill of review challenging city's issuance of decree of sale of property for delinquent taxes after taxpayer had exercised right of redemption on property by paying all taxes, costs, and attorney fees then accumulated; all statutory provisions addressing attorney fees contemplated fees for work that ended upon sale of the property to pay delinquency, or upon taxpayer's redemption of the property by paying all arrearages then outstanding.

