

STATE OF MAINE  
KNOX, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. \_\_\_\_\_

ALDRSGATE UNITED METHODIST  
CHURCH,

Plaintiff,

v.

CITY OF ROCKLAND, MAINE, and  
DENNIS F. REED, in his official capacity as  
City of Rockland Assessor.

Defendants.

COMPLAINT FOR  
DECLARATORY RELIEF,  
INJUNCTIVE RELIEF, AND  
DAMAGES

**I. INTRODUCTION**

1. Aldersgate United Methodist Church ("Church") owns three parcels of land upon which its church building, parking lot, and parsonage sit. The Church applied for a tax exemption for all three properties as a charitable institution and as a house of religious worship. Although the Defendants granted the tax exemption for the land upon which the church building rests, they denied the tax exemption for the parking lot and the church parsonage.

2. The Church qualifies as a charitable organization for all three properties because it provides education and religious instruction to the general public on how to live moral and healthy lives – lives that are not dependent on the government and that care for and help others in times of need. In addition, the Church makes its facilities available to a wide variety of public groups without charge, such as local orchestras, children's development services, and branches of Alcoholics Anonymous and Narcotics Anonymous. The Church also provides financial support and volunteer assistance to local charities and ministry outreaches.

3. If the Church were treated the same as other charitable organizations in Maine, it would receive a complete tax exemption for all of its properties. See May 10, 2011 Brief of Rockland City Attorney to the Board of Assessment Review, p. 2 (“Were Aldersgate also entitled to exemption as a charitable and benevolent organization, the *entire* property would be exempt from taxation) (emphasis in original), Exhibit A.

4. This civil action is brought to ensure the right of the Church to enjoy the same treatment and benefits granted to other not-for-profit organizations under Maine’s tax exemption code, and to protect the Church from discrimination that selectively burdens religious ownership of property.

5. The Church seeks a declaratory judgment, under 14 M.R.S.A. § 5953 and § 5954, that its real and personal property are exempt from property taxation under 36 M.R.S.A. § 652(1)(A) and (G) as both a charitable institution and a house of religious worship.

6. The Church also seeks a declaratory judgment that 36 M.R.S.A. § 652(1)(A) is unconstitutional as applied and violates the First and Fourteenth Amendments to the United States Constitution to the extent that Defendants’ application treats the Church less favorably than secular charitable organizations.

7. The Church seeks an injunction, enjoining Defendants from placing or foreclosing on any tax lien on Church’s real estate.

8. The Church seeks nominal and actual damages caused by the Defendant’s unconstitutional application of the law to the Church.

## II. JURISDICTION

9. This is a declaratory action under 14 M.R.S.A. § 5953 and § 5954 raising the denial of a tax exemption and federal claims under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

10. The Superior Court has authority pursuant to 14 M.R.S.A. §§ 5951-63 and M.R.Civ.P. 57 to entertain and enter declaratory judgments and further relief in appropriate circumstances, including tax exemption cases. *See Maine Cent. R.R. v. Town of Dexter*, 588 A.2d 289, 293 (Me. 1991).

### III. IDENTIFICATION OF PARTIES

11. Plaintiff Aldersgate United Methodist Church is a Maine not-for-profit corporation, with its principal place of business in Rockland, Maine.

12. Defendant City of Rockland is a municipal corporation located in Rockland, Maine.

13. Defendant Dennis F. Reed is the Tax Assessor for the City of Rockland, Maine.

### IV. STATEMENT OF FACTS

14. The Church is a regular place of religious instruction and education, offered free of charge, to train the hearts and minds of the public.

15. It operates solely for the benefit of an indefinite numbers of persons.

16. The Church offers services to the community, including baptisms, weddings, funerals, and other events.

17. The Church makes its facilities available to a wide variety of public groups without charge, such as local orchestras, children's development services, and branches of Alcoholics Anonymous and Narcotics Anonymous.

18. It actively supports the relief of suffering through financial assistance, volunteer activity, and education.

19. The benevolent services provided by the Church to the Rockland community lessen the burden on the government.

20. The Church has no profit motive, no pretense to evade taxation, and production of revenue is incidental to its primary religious and charitable purpose.

21. The Church owns three parcels of adjacent real estate in Rockland, Maine: 15 Wesley Lane, 25 Wesley Lane, and 32 Wesley Lane.<sup>1</sup>

22. 15 Wesley Lane is an improved, 7.4-acre parcel denominated as City of Rockland Tax Map 87-A-14-2.

23. The Church's main building and a portion of the parking lot are located at 15 Wesley Lane.

24. 25 Wesley Lane is a 5.3-acre parcel denominated as City of Rockland Tax Map 87-A-14-4.

25. The Church's primary means of ingress and egress, as well as the majority of its parking lot, are located at 25 Wesley Lane.

26. 25 Wesley Lane directly serves the Church's main building since most attendees drive to the facility and need a space to park.

27. 25 Wesley Lane also provides a venue for outdoor worship services, outreaches, and events.

28. 32 Wesley Lane is a 1.7-acre parcel denominated as City of Rockland Tax Map 87-A-14-1.

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<sup>1</sup> 32 Wesley Lane is owned by the Wesley Trust. The Trust's sole beneficiary is Aldersgate United Methodist Church and the Trust is controlled solely by the Chairman of Aldersgate Trustees.

29. The Church's parsonage, a single-family dwelling, is located at 32 Wesley Lane.
30. This building has been used exclusively as a parsonage, first for Aldersgate United Methodist, and then more recently for the pastor of another church.
31. 32 Wesley Lane is under contract for sale.
32. Title 36 M.R.S.A. § 652(1) is Maine's property tax exemption statute for institutions and organizations.
33. Exempt organizations include charitable and benevolent institutions; literary and scientific institutions; veterans groups; houses of religious worship; fraternal organizations; and hospitals.
34. The real and personal property of these institutions are broadly exempt, except for the property of religious houses of worship.
35. Title 36 M.R.S.A. § 652(1)(A) and (C) exempts the real and personal property of organizations which are organized and conducted exclusively for benevolent and charitable purposes.
36. Title 36 M.R.S.A. § 652(1)(G) exempts houses of religious worship, including their vestries, pews and furniture, tombs and rights of burial, parsonage up to the value of \$20,000, and personal property not exceeding \$6,000.
37. The Church applied for a tax exemption on all three parcels of land as (1) a house of religious worship and (2) a charitable and benevolent organization.
38. Defendant Dennis F. Reed, in his official capacity as Assessor of the City of Rockland:
  - a. Granted the tax exemption for 15 Wesley Lane, the church building and surrounding grounds;

- b. Denied the tax exemption for 25 Wesley Lane, the church's parking lot and primary means of ingress and egress; and
- c. Denied the tax exemption for 32 Wesley Lane, the church's parsonage.  
*See Assessor Denial Letters, Exhibit B.*

39. From these tax exemption denials, Church now petitions this Court for declaratory and injunctive relief and damages.

#### V. ALLEGATIONS OF LAW

40. Each and all of the acts alleged in paragraphs 1-39 were done by Defendants, their officers, agents, servants, employees, and persons acting at their behest, and continue to be done under the color and pretense of state law.

41. Defendants have denied the Church a full tax exemption pursuant to their policies and practice.

42. Defendants' application of Maine's tax exemption statute discriminates against Church by treating it less favorably than other similar not-for-profit organizations.

43. Such discrimination violates the Church's constitutional rights under the First and Fourteenth Amendments.

44. Loss of constitutional freedoms, even for a moment, constitutes irreparable harm.

#### **FIRST CAUSE OF ACTION: Denial of a Tax Exemption for 25 Wesley Lane as a House of Religious Worship.**

45. The allegations contained in paragraphs 1-44 are incorporated herein by reference.

46. The Church applied for, and was denied, a property tax exemption as a house of religious worship, 36 M.R.S.A. § 652(1)(G), for 25 Wesley Lane, the church parking lot and primary means of ingress and egress.

47. Defendants exempted the portion of the Church's parking lot situated at 15 Wesley Lane, but refused to exempt the remainder of the Church's parking lot situated at 25 Wesley Lane.

48. The parking lot and driveway at 25 Wesley Lane are necessary for Church operation.

49. The parking lot and driveway not only directly serve the church building by providing a place for attendees to park, but they are also used by the Church for outdoor religious worship and community outreach events.

50. 25 Wesley Lane should be exempt as part of the Church's house of religious worship.

**SECOND CAUSE OF ACTION:  
Denial of a Tax Exemption for 25 Wesley Lane and 32 Wesley Lane as a  
Charitable and Benevolent Institution.**

51. The allegations contained in paragraphs 1-44 are incorporated herein by reference.

52. The Church applied for a charitable tax exemption under 36 M.R.S.A. § 652(1)(A), for 25 Wesley Lane and 32 Wesley Lane.

53. Defendants denied the Church's request for a tax exemption and continue to tax both properties.

54. Title 36 M.R.S.A. § 652(1)(A) exempts the real and personal property of institutions incorporated for exclusively benevolent and charitable purposes.

55. The Church is incorporated exclusively to serve the public benefit.

56. It is a regular place of religious instruction and education, offered without charge, to train the hearts and minds of the public.

57. The Church offers services to the community, including baptisms, weddings, funerals, and other events.

58. It actively supports the relief of suffering through financial assistance, education, and volunteer activity.

59. The benevolent services provided by the Church to the Rockland community lessen the burden on the government.

60. Such services to the public, if offered by a secular not-for-profit institution, would be adjudged charitable and benevolent.

61. The Church has no profit motive, no pretense to evade taxation, and production of revenue is incidental to its primary religious and charitable purpose.

62. Since the real and personal property of institutions organized for charitable purposes is entirely exempt from taxation, 25 Wesley Lane and 32 Wesley Lane should be tax exempt.

**THIRD CAUSE OF ACTION:  
Violation of the Equal Protection Clause of the Fourteenth Amendment to the  
United States Constitution.**

63. The allegations contained in paragraphs 1-44 are incorporated herein by reference.

64. The Equal Protection Clause, as incorporated to the states by the Fourteenth Amendment, requires state governments to treat similarly-situated entities equally.

65. The Church is organized and conducted for the public benefit, and offers religious instruction, education, community events, charitable support, and other charitable and benevolent services.



66. Organizations, like the Church, which are incorporated and operated exclusively for the public benefit are entitled to a tax exemption on all their real and personal property.

67. The Church, however, has been limited to a tax exemption on 15 Wesley Lane, the parcel on which its main building is situated.

68. Other charitable and benevolent not-for-profit organizations are not similarly limited, and enjoy broad real and personal property tax exemption.

69. If Defendants had treated the Church in the same manner as they treat secular not-for-profit organizations, the Church's parking lot and parsonage would be exempt from taxation.

70. Moreover, if the Church's parking lot or parsonage were occupied by another religious organization, the property would be entirely exempt from taxation under 36 M.R.S.A. § 652(1)(J).

71. The Defendants have no compelling reason to justify their discriminatory treatment of the Church.

72. The Defendants do not have even a rational basis for treating the Church less favorably than other not-for-profit organizations.

73. Accordingly, Defendants' application of 36 M.R.S.A. § 652(1)(A) to the Church violates the Church's right to the equal protection of the laws guaranteed by the Fourteenth Amendment to the United States Constitution.

**FOURTH CAUSE OF ACTION:  
Violation of the Free Exercise Clause of the First Amendment to the  
United States Constitution.**

74. The allegations contained in paragraphs 1-44 are incorporated herein by reference.

75. The Free Exercise Clause, as incorporated to the states by the Fourteenth Amendment, prohibits states from burdening the free exercise of religion.

76. Defendants exempted only a portion of the Church's real property from taxation, even though the property of other charitable not-for-profit organizations is completely exempt.

77. Defendants' application of Maine's tax exemption statute to the Church burdens the religious ownership of property, thereby burdening the Church's free exercise of religion.

78. The application to the Church is neither neutral nor generally applicable.

79. Defendants have no compelling reason that justifies denying the Church, as a qualifying charitable organization, the right to a charitable exemption.

80. Accordingly, Defendants' enforcement of 36 M.R.S.A. § 652(1)(A) against the Church violates its right to the free exercise of religion guaranteed by the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

**FIFTH CAUSE OF ACTION:  
Violation of the Establishment Clause of the First Amendment to the  
United States Constitution.**

81. The allegations contained in paragraphs 1-44 are incorporated herein by reference.

82. Defendants' application of 36 M.R.S.A. § 652(1)(A) to the Church is hostile towards religion and favor irreligion over religion.

83. Defendants treat the Church as a second-class citizen of the community because of its protected religious expression, beliefs, and conduct.

84. Defendants impermissibly entangle the government with religion by scrutinizing private property ownership to determine whether it is owned for religious or non-religious purposes.

85. Defendants have no compelling interest that justifies their hostility towards religion, or that justifies their excessive entanglement with religion.

86. Accordingly, Defendants' enforcement of 36 M.R.S.A. § 652(1)(A) against the Church violates the Establishment Clause of the First Amendment to the United States Constitution, as applicable to the states under the Fourteenth Amendment.

#### **PRAYER FOR RELIEF**

WHEREFORE, the Church respectfully requests the following relief:

A. Permanently enjoin the Defendants, their agents, servants, employees, officials, and any other persons acting on their behalf, from placing a tax lien on Church's real estate, order Defendants to remove any tax liens, and enjoin Defendants from foreclosing on any tax lien;

B. Declare that 15 Wesley Lane, 25 Wesley Lane, and 32 Wesley Lane are exempt from taxation.

C. Declare that 36 M.R.S.A. § 652(1)(A) is unconstitutional as applied to the Church, violating its rights guaranteed by the First and Fourteenth Amendments to the United States Constitution;

D. Award nominal and actual damages to the Church against the Defendants;

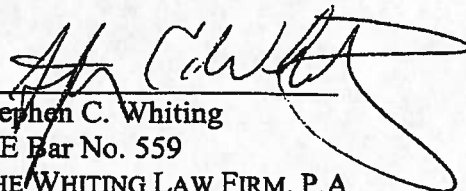
E. Award the costs and expenses of this action to the Church, in accordance with 14 M.R.S.A. § 5962, and reasonable attorney's fees, 42 U.S.C. § 1988;

F. Grant any other relief that the Court deems equitable, just, and proper;

G. Adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such determination shall have the force and effect of final judgment; and

H. Retain jurisdiction of this matter as necessary to enforce the Court's orders.

Respectfully submitted,



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