



Attorneys weigh usefulness of SJC ruling in clarifying Dover Amendment exemptions

‘Dominant purpose’ of RV camp deemed spiritual goal

Eric T. Berkman//June 23, 2023

The Dover Amendment precluded the town of Monterey from denying approval of a recreational vehicle camp intended to help provide a Christian camping experience, the Supreme Judicial Court has ruled.

Plaintiff Hume Lake Christian Camps, an evangelical organization, was already operating Hume New England (Hume NE), a religious family camp, on its Monterey property when it applied for permission to build an RV camp that would house families attending its retreats as well as volunteers and seasonal staff performing a variety of duties at the camp.

A Land Court judge found that the RV camp served a predominantly religious purpose within the meaning of the Dover Amendment, G.L.c. 40A, §3 – which exempts religious and educational uses of land from most local zoning regulations – to the extent that it was housing family attendees.

However, the judge affirmed the Monterey planning board’s denial of the plan, finding that the housing of staff and volunteers served a primarily financial purpose rather than a religious one.

The SJC reversed the decision.

“Hume contends that the primary or dominant purpose of housing volunteers and seasonal staff at the RV camp would be to facilitate the operation, maintenance, and improvement of Hume NE, and thereby supports Hume’s religious mission. We agree,” wrote Justice Frank M. Gaziano for the court. “Because Hume NE exists to advance Hume’s religious mission, it follows that the purpose of housing volunteers and seasonal workers at the RV camp is a religiously significant goal.”

[The 27-page decision is *Hume Lake Christian Camps, Inc. v. Planning Board of Monterey*, Lawyers Weekly No. 10-066-23.](#)

‘Welcome aid’

Hume’s attorney, Alexandra H. Glover of Great Barrington, said the court has provided a helpful analysis as to when a traditionally secular use or structure that aids or supports an organization’s religious purpose, as opposed to a

religious structure like a church or synagogue, will be afforded the protection of the Dover Amendment's religious exemption.



“For my own practice and, I think, for municipalities, this is a welcome aid,” Glover said. “Cities and towns have to struggle with these determinations and it’s not easy to make these distinctions.”

However Donna M. Brewer of Wellesley, who represented the town, said she had hoped the court would provide more general guidance on how municipalities should determine when a use is primarily and dominantly for religious purposes.

“Unfortunately I don’t think the decision does that, and perhaps it can’t,” said Brewer. “My take from this decision is that these cases are highly factually specific and highly factually determinative, such that each case will be adjudged independently of much guidance from precedent.”

Christopher J. Petrini, a municipal lawyer in Framingham, said the case illustrates the deference that courts have been giving to religious uses under the Dover Amendment.

Specifically, Petrini said, the decision serves as a warning to local officials that once an organization establishes that its overall mission is religious or educational, the inquiry is essentially over.

“So long as the use in question can plausibly be viewed as furthering, facilitating or enhancing the organization’s religious or educational mission, even if the use is not directly religious or educational itself, the use will be protected,” he said.

Boston attorney Kathleen M. Heyer, who co-authored an amicus brief in the case on behalf of the Real Estate Bar Association, said she was pleased that the SJC adopted essentially the same test REBA had proposed in the brief.

She also said the decision clarifies that a trial court shouldn't get "too in the weeds" when looking at ancillary or related structures or uses and instead should look at the overall use of the property.

Along those lines, Kate Moran Carter of Boston, also a co-author of REBA's brief, called the Land Court decision a "head scratcher."

"The Land Court zoomed in too closely and focused too much on *who* was using the RV camp and not enough on how that use related to and integrated into Hume's existing, protected use," said Carter. "The SJC's single application of the established 'dominant purpose' test to the RV camp better recognized that Hume's seasonal staff and volunteers are the human equipment by which the camp does its work. Their labor is part and parcel of the operation of the camp, which in turn furthers Hume's evangelical ministry."

Proposed RV park

Hume, a California-based evangelical Christian organization that carries out its mission through its "camping ministry," first acquired the Monterey campground where it operates Hume NE in 2012.

The 400-acre property includes a dining hall, two residential lodges with gathering spaces, two chapels and a number of small buildings used for activities, storage and a snack shop.

Because camper fees, concession sales and donations do not cover Hume NE's operating costs, the camp relies on support from its parent organization and on the services of volunteers who help with operations, maintenance and new projects.

Hume Lake Christian Camps, Inc. v. Planning Board of Monterey

THE ISSUE: Was the town of Monterey precluded under the Dover Amendment from denying approval of a recreational vehicle camp intended to help provide a Christian camping experience?

DECISION: Yes (Supreme Judicial Court)

LAWYERS: Alexandra H. Glover of Lazan Glover & Puciloski, Great Barrington (plaintiff)

Donna M. Brewer of Miyares & Harrington, Wellesley (defense)

The volunteers receive room and board in exchange for their labor and, unlike seasonal employees, aren't required to sign Hume's statement of beliefs or to agree with the organization's religious precepts.

In May 2019, Hume submitted to the Monterey planning board an application for site plan review for construction of an RV camp on Hume NE grounds.

Hume described the proposed project as a 12-space camp to accommodate temporary trailers, motor homes and tents in an area that was within walking distance of the rest of the facilities. Hume's application also referenced the organization's concern about the cost of constructing additional permanent buildings rather than creating an RV camp.

The application further stated that the RV camp would be used for families seeking a Christian camp experience while remaining in their own RVs, volunteers working at Hume NE and temporary summer staff.

Under Monterey's zoning regulations, a principal use as a "trailer or mobile home park" is prohibited in all zoning districts. In July 2019, the board denied Hume's application, stating that its proposed "trailer park" was not a customary religious use within the meaning of the Dover Amendment.

Hume appealed to the Land Court, where a trial was held in April 2021.

A year later, Judge Diane R. Rubin overturned the board's determination that use of an RV camp for families participating in Hume's programming was not protected by the Dover Amendment.

However she affirmed the board's finding that Hume's purpose in allowing volunteers and seasonal staff to use the RV camp did not fall under the Dover Amendment because it was primarily financial and not religious.

Hume appealed, and the SJC transferred the case from the Appeals Court on its own motion.

Primary or dominant purpose

"We conclude that the proposed RV camp would have as its primary or dominant purpose a religiously significant goal, and so would be exempt under the Dover Amendment," wrote Gaziano. "We reach this conclusion because, under Hume's proposal, the purpose of the RV camp would be to facilitate the operations of and strengthen attendance at Hume NE, whose mission is to cultivate religious practice and spiritual growth."

The court also emphasized that the trial judge erred by inquiring into whether each individual use of the RV camp would be exempt under the Dover Amendment.

"Rather, the RV camp is a single structure and therefore is subjected to a single instance of the religious purpose test," said Gaziano.

Applying this test, the SJC rejected the board's argument that families' use of the RV camp did not serve a religious purpose because staying in a trailer home was not a religious activity.

"This argument applies the religious purposes test too narrowly," Gaziano said. "Cooking food, for example, in itself may not be a religious activity, but a kitchen nonetheless serves a religious purpose if it is used to feed the members of a congregation."

Further, the court decided, because the camp exists to advance Hume’s religious mission, the purpose of housing volunteers and seasonal workers at the RV camp is a “religiously significant” objective under the Dover Amendment.

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