

# Franklin County Legal Journal

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### **Franklin County Legal Journal**

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**In re: Appeal of Washington Jewish Community Camp  
Corporation, Appellant v. Franklin County Board of  
Assessment and Revision of Taxes, et al., Appellees**  
Court of Common Pleas of the 39th Judicial District of Pennsylvania,  
Franklin County Branch, Civil Action - Law  
No. 2013-3356 (Consolidated)

**HOLDING:** Under 53 Pa.C.S. § 8812(a), a taxation exemption applies to property used for regularly stated religious worship and property necessary to effectuate the religious use of a parcel. An exemption is not available for property whose primary purpose is merely incidental to religious worship.

**HEADNOTES**

*Taxation – Standard of review*

1. In a tax assessment appeal from the Board of Assessment and Revision of Taxes, the trial court’s standard of review is *de novo*. Wesley United Methodist Church v. Dauphin Cty. Bd. of Assessment Appeals, 844 A.2d 57, 59 (Pa. Cmwlth. 2004), aff’d, 889 A.2d 1180 (Pa. 2005).

*Taxation – Burden of proof*

2. The taxpayer claiming entitlement to an exemption bears the burden of proof. Benedictine Sisters of Pittsburgh v. Fayette Cty. Bd. of Assessment Appeals, 844 A.2d 86, 88 (Pa. Cmwlth. 2004).

*Taxation – General rules of construction*

3. Under the Statutory Construction Act, courts must strictly construe tax exemption provisions. Mount Zion New Life Center v. Bd. of Assessment and Revision of Taxes and Appeals, 503 A.2d 1065, 1068 (Pa. Cmwlth. 1986).

*Taxation – Religious exemption – Property used for worship*

4. For parcels to qualify for a religious exemption, they must be places of stated worship. Mount Zion, 503 A.2d at 1068.

5. Stated worship must be fixed, established, occurring at regular times, as stated hours of business. Mount Zion, 503 A.2d at 1068.

6. “Stated” means certain times, not occasionally. Mount Zion, 503 A.2d at 1068. Stated worship entails activities that are regular and constant, not necessarily an unchanging pattern. Id. at 1068-69.

7. Regularly stated religious worship is not limited to only a house of worship which has a finite congregation and a sign or other mode of communication stating the times of weekly worship. Mount Zion, 503 A.2d at 1068-69.

8. The concept of worship is not limited to a formal service. Benedictine Sisters, 844 A.2d at 90.

9. The term “religious worship” must be construed broadly to include prayer, religious teaching, and spiritual readings and discussions. In re Order of St. Paul the First Hermit, 873 A.2d 31, 38 (Pa. Cmwlth. 2005); Benedictine Sisters, 844 A.2d at 90.

10. Religious worship need not be the exclusive use of the parcel in question for the parcel to qualify for a religious exemption. Mount Zion, 503 A.2d at 1070-71.

*Taxation – Religious exemption – Primary purpose test*

11. In determining whether a structure is entitled to a tax exemption as an actual place of regularly stated religious worship, courts must apply the “primary purpose” test. Mount Zion, 503 A.2d at 1071.

12. Tax exemption is authorized by statute in those places in which the primary purpose is worship and other activities are merely incidental. Mount Zion, 503 A.2d at 1071.

*Taxation – Religious exemption – Partial exemption*

13. Under the principle of equitable separation, a partial exemption of a building may be appropriate where only a portion of the structure satisfies the requirements for the exemption. Connellsville Street Church of Christ v. Fayette County Bd. of Assessment Appeals, 838 A.2d 848 (Pa. Cmwlth. 2003); Mount Zion, 503 A.2d at 1070.

*Taxation – Valuation appeal – Burden-shifting framework*

14. In a valuation appeal, the assessed value of a property reflected in the tax records carries *prima facie* significance unless rebutted by the taxpayer; however, this burden-shifting framework is wholly inapplicable to an exemption appeal where the contents of the tax assessment records do not carry comparable weight. BET Lehigh Real Estate, LLC v. Schuylkill Cty. Bd. of Assessment Appeals, 67 A.3d 845 (Pa. Cmwlth 2013); Four Quarters Interfaith Sanctuary of Earth Religion v. Bedford County Bd. of Assessment and Revision of Taxes, 99 A.3d 603, 603 (Pa. Cmwlth. 2014).

*Taxation – Religious exemption – Recreational activities*

15. Recreational activities that encourage and facilitate worship and religious education fall within the definition of “religious worship.” Evangel Baptist Church v. Mifflin County Bd. of Assessment Appeals, 815 A.2d 1174, 1178 (Pa. Cmwlth. 2003).

*Taxation – Religious exemption – Property necessary for religious use*

16. A court must examine the purpose for which a structure is used in deciding whether the structure is entitled to an exemption. Evangel Baptist Church, 815 A.2d at 1176; Mount Zion, 503 A.2d at 1072-73.

17. When a property provides regularly stated religious worship, any structures or spaces necessary to effectuate the religious use of the property must also be exempt. Four Quarters, 99 A.3d at 610-11.

18. A structure does not qualify for an exemption if the structure has a merely incidental relationship to worship. Evangel Baptist Church, 815 A.2d at 1177; Mount Zion, 503 A.2d at 1071; In re Order of St. Paul, 873 A.2d at 38-39.

19. “Necessary” does not import an absolute necessity but instead contemplates a “reasonable necessity.” First Baptist Church of Pittsburgh v. City of Pittsburgh, 20 A.2d 209, 213 (Pa. 1941). “Necessary” does not include “merely desirable.” Id.

20. A structure that primarily serves as a staff residence is not necessarily essential to the religious use of a property. Reform Congregation Ohen Sholom v. Berks County Bd. of Assessment Appeals, 839 A.2d 1217, 1220 (Pa. Cmwlth. 2004); Connellsville Street Church, 838 A.2d at 853.

Appearances:

Stephanie E. DiVittore, Esquire, *Attorney for Appellant*

Andrew Benchoff, Esquire, *Counsel for Appellee Franklin County Board of Assessment and Revision of Taxes*

Justin Barbetta, Esquire, *Attorney for Appellee Waynesboro Area School District*

Richard P. Nuffort, Esquire, *Attorney for Appellee County of Franklin*

**OPINION**

Before Krom, J.

Before the Court are the consolidated tax assessment appeals of Washington Jewish Community Camp Corporation. As explained in detail below, the appeals will be granted in part and denied in part.

**PROCEDURAL HISTORY**

On August 20, 2013, Washington Jewish Community Camp Corporation (“WJCCC”) initiated tax assessment appeals for three parcels of real property located at 12750 Buchanan Trail East, Waynesboro, Franklin County, Pennsylvania.<sup>1</sup> The appeals were docketed at 2013-3356, 2013-3357, and 2013-3358. The Franklin County Board of Assessment and Revision of Taxes (“the Board”) filed preliminary objections to the appeals on September 4, 2013; WJCCC filed responsive preliminary objections on September 23, 2013. We sustained WJCCC’s preliminary objections and dismissed the Board’s preliminary objections on March 31, 2014.

The Board thereafter filed an Answer with New Matter on April 15, 2014; WJCCC submitted a Reply to New Matter on May 5, 2014. Subsequently, Waynesboro Area School District filed a praecipe for intervention in WJCCC’s three tax assessment appeals.

On December 14, 2017, WJCCC filed six additional tax assessment appeals, at docket numbers 2017-4695, 2017-4696, 2017-4697, 2017-4698, 2017-4699, and 2017-4700.<sup>2</sup> Waynesboro School District filed a praecipe for

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<sup>1</sup> The appeals were initiated after the Franklin County Board of Assessment and Revision of Taxes denied WJCCC’s applications on July 22, 2013, for exemption of the tax parcels from taxation as places of religious worship pursuant to Section 8812(a)(1) of the Consolidated County Assessment Law.

<sup>2</sup> WJCCC submitted applications to the Board in 2017 for five of the parcels, and a valuation appeal for another, which

intervention on December 22, 2017, for these appeals as well.<sup>3</sup> Prior to trial, WJCCC filed an Uncontested Motion for Consolidation of its nine pending tax appeals; we granted the Motion on April 12, 2018, and consolidated the actions.

A bench trial was held on October 9, 2018, where the Court heard testimony from Ruth Burka, Capital Camps' Director of Finance and Administration, and Jonah Geller, the CEO of Capital Camps; the Court also heard testimony from Jodi Martin and Gary Martin, the current and former Chief Appraisers for the Board, respectively. Further, the Board introduced the tax cards of the parcels at issue. See BART Exhibit 1. Both parties thereafter submitted proposed findings of fact and conclusions of law. By Opinion and Order of Court filed January 31, 2019, we remanded WJCCC's consolidated appeals to the Board for correction of the relevant tax assessment records, upon finding that the records presented at trial did not accurately reflect the structures actually situated on the tax parcels at issue. We scheduled a hearing for March 14, 2019, for the purpose of devising a process and timeline to move forward in this matter.

On March 11, 2019, WJCCC filed an Uncontested Motion for Continuance of March 14, 2019 Hearing, as the parties had reached an agreement as to how to address correction of the tax cards; we granted the request for a continuance, directed the Board to circulate proposed corrected tax cards to the other parties within sixty days, and directed the other parties to submit any disputes or changes to the proposed corrected tax cards within thirty days of receipt of the same. We also set the date of July 16, 2019, for hearing on any remaining disputes concerning the tax cards. On July 8, 2019, WJCCC filed an Uncontested Motion for Continuance of July 16, 2019 Hearing, noting that the discussions between the parties as to the proposed tax cards remained ongoing; we granted the Motion and rescheduled the hearing for October 8, 2019. WJCCC subsequently filed another Uncontested Motion for Continuance of October 8, 2019 Hearing on October 7, 2019, indicating that the parties had been working cooperatively to confirm the accuracy of the tax cards and believed they would be able to reach a stipulation regarding the cards; moreover, in the event WJCCC wished to provide additional evidence regarding structures not previously identified in the original tax cards, the parties suggested this may be accomplished by filing an affidavit in lieu of additional hearing on the matter. To the extent, however, the Taxing Authorities reached the conclusion that the additional evidence requires cross-examination, a hearing would be requested; we granted the Motion.

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were denied by the Board on November 16, 2017.

<sup>3</sup> The appellees, the Franklin County Board of Assessment and Revision of Taxes, Franklin County, and the Waynesboro Area School District, will hereafter be referred to collectively as "the Taxing Authorities."

On May 21, 2020, Waynesboro Area School District filed Intervenor, Waynesboro Area School District's Uncontested Motion for Continuance and Scheduling Order, proposing a timeline for the subsequent filings in the matter; we granted the Motion. On May 29, 2020, the Taxing Authorities filed a Praecipe to File Amended Tax Assessment Property Record Cards; as such, the corrected tax cards became part of the record. WJCCC thereafter submitted a February 10, 2020, Affidavit of Jonah Geller, pursuant to the parties' above-described plan for resolution of the matter. The Affidavit described in varying amounts of detail the purposes and uses, in relation to religious worship, of the structures depicted on the Amended Tax Cards. The appellees collectively filed the Taxing Authorities' Written Objection to Appellant's February 10, 2020 Affidavit, requesting that the Court disregard the Affidavit of Jonah Geller submitted by WJCCC. WJCCC filed the Reply of Washington Jewish Community Camp Corporation to Appellees' Objection to Affidavit on June 19, 2020, arguing that the use of an affidavit was proper in light of the prior agreement between the parties. By Order of Court dated August 28, 2020, we sustained the Taxing Authorities' objection and directed that the Affidavit submitted by WJCCC be entitled no evidentiary value. Instead, we scheduled a hearing for October 13, 2020, to hear testimony concerning the structures newly reflected in the corrected tax cards.

On September 11, 2020, the Board filed an Unopposed Motion to Continue Evidentiary Hearing on Corrected Tax Cards; we granted the Motion and continued the hearing until November 3, 2020. The parties came before the Court on November 3, 2020, for an in-person evidentiary hearing, where WJCCC introduced testimony from Jonah Geller concerning the structures identified in the Amended Tax Cards. Following the hearing, we directed the court reporter to transcribe the proceeding upon submission of an appropriate request and payment. We also directed WJCCC to file Proposed Findings of Fact and Conclusions of Law within two weeks after completion of the transcripts and directed the Taxing Authorities to respond within two weeks thereafter. We subsequently granted oral, unopposed motions for extensions to file proposed findings for both sides. WJCCC filed its Supplemental Proposed Findings of Fact & Conclusions of Law on December 23, 2020. The Taxing Authorities' Supplemental Proposed Findings of Fact and Conclusions of Law were filed January 20, 2021. On February 4, 2021, WJCCC filed Appellant Washington Jewish Community Camp Corporation's Motion for Leave to File Sur Reply.<sup>4</sup> On February 11, 2021, we received the Taxing Authorities' Joint Answer to Appellant

<sup>4</sup> In its Motion, WJCCC states that its purpose for requesting leave to file a sur reply is to address the Taxing Authorities' argument in their Supplemental Proposed Findings that the property should receive a 15% exemption, as it is used as a retreat center for nine months out of the year and a summer camp for the remaining three months, an argument WJCCC deems "factually and legally incorrect[.]" Appellant Washington Jewish Community Camp Corporation's Motion for Leave to File Sur Reply, at ¶¶4-6.

Washington Jewish Community Camp Corporation’s Motion for Leave to File Sur Reply. We granted WJCCC’s Motion and allowed them to file Appellant Washington Jewish Community Camp Corporation’s Sur Reply in Support of its Consolidated Appeal.

This matter is now ready for decision.

### GENERAL FINDINGS OF FACT

After hearing in this matter, the Court makes the following general findings of fact:

1. Eleven tax parcels are located at 12750 Buchanan Trail East, Waynesboro, Franklin County, Pennsylvania, nine of which are the subject of this appeal. Transcript of Proceedings of Bench Trial, October 9, 2018 (“T.P., 10/9/2018”), at 13.

2. The property is owned by WJCCC, a non-profit Maryland corporation with its principal place of business located at 6101 Montrose Road, Rockville, Maryland 20852. Id. at 11-13.<sup>5</sup>

3. The property is occupied by Jewish Camp and Conference Center d/b/a Capital Camps and Retreat Center (“Capital Camps”), a non-profit Maryland corporation, with its principal place of business located at 11300 Rockville Pike, Suite 407, Rockville, Maryland 20852, pursuant to operating agreements between the two entities, See Appellant’s Exhibits 4 and 5. Id. at 10-12.<sup>6,7</sup>

4. The arrangement was formed between WJCCC and Capital Camps for liability purposes; Capital Camps pays WJCCC one dollar per year for use of the property. Id. at 12.

5. Capital Camps employs twenty-two employees each year, in addition to seasonal staff. Id. at 9-10, 44.

6. Ruth Burka (“Ms. Burka”) serves as the Director of Finance and Administration of Capital Camps and has been employed by Capital Camps for more than twenty-two years. Id. at 8. She testified on behalf of WJCCC at the bench trial.

7. Between the months of June and August, Capital Camps operates an annual summer camp attended by approximately 1,000 campers. Id. at 16, 30. Capital Camps has been operating the camp since 1997. Id. at 12.

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<sup>5</sup> The deed to the property was introduced at the bench trial as Appellant’s Exhibit 3. Id. at 11.

<sup>6</sup> Other than owning the property, WJCCC is not engaged in any other activity or business concerning the parcels. Id. at 12.

<sup>7</sup> The current operating agreement between WJCCC and Capital Camps governing the use of the property was entered into on December 30, 2011. See Appellant’s Exhibit 5.

8. During the remaining months, Capital Camps hosts various retreats which accommodate about 9,000 retreatants. Id. at 109.

9. Both the summer camp programming and the retreats are facilitated by use agreements with third-party users; about 100 agreements are executed throughout the year. Id. at 15, 27-28, 38; see Appellant's Exhibit 6.<sup>8</sup>

10. The bylaws for Capital Camps state that the entity's mission is "to provide fun, engaging, creative, challenging Jewish camps and retreat experiences to engage our participants to explore their Jewish identity and to build vibrant Jewish communities as a legacy." Id. at 9.

11. Capital Camps is affiliated with the Jewish Federation of Greater Washington, a community association supporting Jewish organizations and efforts, as well as the American Camp Association, the Foundation for Jewish Camp, the Jewish Community Center Association, and JCamp 180, a strategic planning board governing Jewish camps. Id. at 10, 20, 24-25, 102-03, 110.

12. Capital Camps sends out a newsletter to its campers and their families each time there is a Jewish holiday during the year, in order to "connect their education from what they learned at camp to what they're doing at home..." T.P., 10/9/2018, at 83-84.

13. Prior to 2012, all but one of the eleven parcels, which contained a residence, were exempt from taxation. Id. at 13, 136.

14. In 2011, Capital Camps decided to make improvements on the property and constructed a \$6 million Retreat Center (otherwise referred to as Nesiya Lodge). Id. at 13-16, 53. The Retreat Center is located on only one parcel. Id. at 14. No improvements were made to any of the other tax parcels at that time. Id. at 18.

15. After Capital Camps applied for building permits for the Retreat Center, all of its tax parcels were reassessed by the Board as taxable with the exception of a 1% exemption for Tax Parcel 23-Q-19-139. Appellant's Exhibit 10; T.P., 10/9/2018, at 19.

16. Gary Martin ("Mr. Martin") was the Chief Assessor for the Board from 1998 until January, 2017, and was responsible for issuing the reassessment of the parcels at issue after visiting the Retreat Center construction site. T.P., 10/9/2018, at 135-36. He testified at the bench trial in this matter.

17. Mr. Martin confirmed that he is familiar with the parcels in question, which he conceded were once previously exempted by the Board,

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<sup>8</sup> A number of those agreements typically are for the same groups attending multiple retreats during the course of the year, including many of the Jewish day schools or Jewish youth groups. Id. at 39-40.



though he could not recall when. Id. at 136.

18. Mr. Martin testified that Capital Camps “buil[ding] a new motel conference center” in 2013 triggered the reassessment by the Board, because “it was a three or four million dollar building...” Id. at 136-37.

19. No representatives of the Board reached out to Capital Camps to find out how the property was being used at the time of the reassessment. Id. at 19.

20. To complete the reassessment, Mr. Martin visited the property, along with Ms. Martin, the field person on the case, and looked at the building, measured it, and took down its details. Id. at 137.

21. Mr. Martin could not recall what time of year he visited the property or whether there were children participating in camp there at the time. Id. at 137.

22. When he evaluated the property, Mr. Martin did not know the basis for the property’s prior exemption or whether the camp’s operations had changed following the building of the Retreat Center; he also could not remember whether he spoke with camp representatives about the religious use of the property. Id. at 137-38, 147.

23. When asked if he saw the new Retreat Center and determined it should be taxable, Mr. Martin responded: “Yes. It was a motel that was slightly different than an exempt, a camp, motel conference center. We don’t know. That’s the Board’s decision to make...we taxed it because it didn’t seem to fit the entity’s mission. It’s not our job to figure it out.” Id. at 147.

24. The Retreat Center was still under construction when Mr. Martin issued the interim assessment, so he could not have known how it was being used. Id. at 148.

25. Retreat groups pay to use the Retreat Center throughout the year, and Capital Camps generates a gross income therefrom; those funds are used first to pay the direct costs for the retreat; any additional income goes towards camp operations and programming. Id. at 15-16.

26. The lists of retreat events held on the property during 2016 and 2017 were introduced at the bench trial as Exhibits BART-27 & 28. See Id. at 40.<sup>9</sup>

27. Ms. Burka testified that the purpose of building the Retreat Center was to increase space for the programs on the property, as well as generate income to help offset some of the operating expenses and support the camp. Id. at 14.

28. Capital Camps experiences a financial loss as a result of the

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<sup>9</sup> Capital Camps derived an income of \$1,701,813 from retreat events in 2016 and \$1,677,247 from retreat events in 2017. Id. at 40-41.

subsidies it provides to campers. Id. at 17. It does not receive any government funding. Id. at 17.

29. Campers stay for an average of three weeks, some staying for as little as two and others for as many as seven. Id. at 16. The cost is dependent on the length of the camper's stay, but the average cost is around \$4,500. Id.

30. Capital Camps offers more than 10% of the roughly 1,000 annual summer camp participants need-based financial aid, and provides another \$350,000 in discounts to campers to incentivize Jewish community professionals, siblings, and members of the military to attend the camp; Capital Camps also spends more than \$100,000 to bring in approximately thirty campers from Israel each summer. Id. at 16.

31. Ms. Burka testified that Capital Camps did not change the operations, mission, or purpose of the camp when it built the Retreat Center. Id. at 18.

32. Capital Camps uses the Retreat Center for summer camp in addition to leasing it to various groups each year, for educational and religious programming for Jewish organizations, Christian organizations, and for-profit organizations (though use by for-profit groups is very rare, making up just 2% of the bookings in 2017, for example). Id. at 14-17, 58-59; BART Exhibit 28.

33. Non-Jewish organizations constitute approximately 20-25% of the attendees at the Retreat Center each year. Id. at 60, 88. Many of these groups are church groups of other religions who conduct their own religious services during their stay at the Retreat Center; others are non-religious entities such as educational institutions. Id. at 60, 88.

34. The remaining 70-75% of the retreat groups during the year are Jewish organizations, which partake in formal religious services, including Shabbat Friday night, Saturday morning, and Saturday evening, as well as the prayer at night. Id. at 57, 86-88.<sup>10</sup>

35. The Jewish organizations that utilize the Retreat Center include Jewish congregations, synagogue groups, Jewish Youth groups, and local and national Jewish organizations, including B'nai Youth Organization five or six times a year, Washington Hebrew Congregation five or six times a year, and the Foundation for Jewish Camps several times a year. Id. at 88.

36. Capital Camps also hosts a number of Jewish family camp groups throughout the year, most of which are campers from the summer who come back with their parents during the offseason. Id. at 84-85. Such groups include mother-daughter groups, father-son groups, grandparent-

<sup>10</sup> We acknowledge that the 20-25% non-Jewish groups and 70-75% Jewish groups do not equal 100%, depending upon the configuration used. However, these are the numbers that were testified to, and thus, they are the numbers we will use.

grandchild groups, and families with younger children to participate in a winter camp on the property. Id. at 17, 85.

37. Whenever the Jewish family camp groups attend retreats on the property, Mr. Geller is present and “share[s] statistics about the impact of Jewish camp on a community on their ability to--and create interest for them to learn about Israel, to celebrate Shabbat during the year not just at camp, things like that...” Id. at 85.

38. Many of the representatives of the retreat groups throughout the year are “rabbis and clergy from local synagogues and temples who are thinking about sending...the kids from their congregation to camp during the summer, so they’re interested in hearing about [the camp’s] Jewish programming and what [they] do and things like that[.]” so Mr. Geller often provides tours to the groups. Id. at 85.

39. The Retreat Center is also used for other services throughout the year, such as Bar and Bat Mitzvahs and Jewish Weddings. Id. at 89.

40. The camp participants come primarily from Maryland, D.C., and Virginia. Id. at 64.

41. A typical day at camp proceeds as follows: After the campers wake up and get dressed, they head to the plaza, an area right outside the dining hall, where they raise the American flag, the Israeli flag, and the camp flag and say a prayer for allowing them to wake up and begin their day; they then enter the dining hall and recite the Hamotzi, the prayer before each of the three daily meals, and the Birakat HaMazon, the prayer after each of the meals; after breakfast, the campers return to their cabins to clean, before they head out for their three daily activities, which can include sports, a program at the lake, drama, arts and crafts, ropes course, etc.; they subsequently eat lunch and then have Menuha, which is a rest hour, before two more activities; the campers then typically shower and go to dinner; after dinner, there are two more evening programs; afterwards, the campers return to their cabins and say a prayer called Hashkiveinu before they go to sleep. Id. at 72-73.

42. During the daily camp activities, the campers are taught the Hebrew words for the activities. Id. at 73.

43. During camp season, and when Jewish organizations use the Retreat Center, there is a formal service every Friday and Saturday. Id. at 87.

44. The regular weekly service for someone of the Jewish faith is to commemorate Shabbat, a twenty-five hour holiday, which occurs on Friday evening, Saturday morning, and Saturday night. Id. at 86.

45. Typically, Shabbat at the camp is overseen by a rabbi or rabbi

in training, along with Jewish program staff (often college students studying Jewish education) as well as staff provided by the local and national Jewish organizations. Id. at 86-87.<sup>11</sup>

46. The rabbis from the local synagogues or temples also come to the camp and help teach some of the courses the camp offers. Id. at 85-86.

47. The campers are required to attend the services at the camp, but they need not participate in the prayers. Id. at 105.<sup>12</sup>

48. During the summer of 2013, the campers and staff created a siddur, a prayer book, see Appellant's Exhibit 13, which is now used by the camp as the "complete prayer book for Friday night, Saturday morning and Saturday night [services]." T.P., 10/9/2018, at 84. A donor provided copies of the siddur for the campers to take home with them "so they could use it throughout the year because the same Saturday services that they do during the summer happens 52 Saturdays every year..." Id. at 84.

49. Outside of the summer camp season, whether a retreat group participates in religious services is entirely their choice. Id. at 106.

50. Some of the retreat groups borrow the siddur throughout the year because they know that it is what the camp uses during the summer. Id. at 84.

51. When a for-profit group uses the Retreat Center, there usually are not any religious services conducted. Id. at 89.

52. There is no synagogue, temple, or traditional place of worship on the property. Id. at 99.

53. The website for the camp indicates that the camp was built to meet and/or exceed the American Camp Association Standards; the American Camp Association is a nondenominational association. Id. at 102-03.

54. Capital Camps' website contains articles about how to plan a team building retreat, the eight phases of a corporate retreat, the unexpected benefits of a company retreat, team building seminar, school and university retreats, planning a school field trip, Id. at 51-52, and advertises an aquatic center, fitness center and training facility, ropes challenge course and zipline, sports courts and playing fields, including soccer fields, volleyball courts, tennis courts, archery, hockey rinks, and a multipurpose field, Id. at 45-48.

55. Capital Camps' income is 70-75% from the camp and 25-30%

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11 Mr. Geller testified that the Jewish Community Association provides staff for the camp, and the Foundation for Jewish Camp provides programming. Id. at 86-87.

12 Mr. Geller clarified that "[i]t's not optional that [the campers] attend. They're encouraged to participate, lead services, read on their own in the prayer book, but we won't discipline them if they don't actually say the prayers as we're saying them." Id. at 104-05.

from the retreats. Id. at 32, 38. Copies of Capital Camps’ financial statements for the years ending in 2012-2016 were introduced during the bench trial. Id. at 32-37.

56. A list of Capital Camps’ third-party use agreements for 2013 was admitted at the bench trial, see Board’s Exhibit 31, and fourteen out of the first fifteen agreements were with Jewish organizations, Id. at 57.

57. Jodi Martin (“Ms. Martin”), Chief Appraiser of the Franklin County Tax Office since March of 2017, testified on behalf of the Board at the bench trial. Id. at 116.

58. Ms. Martin testified that she is responsible for the property assessment for the county, and that she and her office maintain custody of the tax cards for all real estate tax parcels for Franklin County. Id. at 116.

59. According to Ms. Martin, tax cards “represent the ownership of the property, the land, the amount of land on them, the buildings that are on those particular parcels, and the assessments.” Id. at 117.

60. At the November 3, 2020, evidentiary hearing, the parties stipulated to the authenticity of the Amended Tax Property Record Cards (Exhibit C--Tax Records).

61. Jonah Geller (“Mr. Geller”), who had served as Chief Executive Officer (CEO) of Capital Camps for seven years at the time of the bench trial,<sup>13</sup> see Id. at 62, offered testimony at both the bench trial and the November 3, 2020, evidentiary hearing concerning the structures situated on each tax parcel and how each structure was used.

62. While Mr. Geller testified about each structure specifically, he prefaced his testimony as follows: “[W]e have Jewish programming everywhere in camp, so it’s not relegated to just one cabin or one structure, but we have informal Jewish education programs, and we also have formal Jewish education services in a number of different areas around camp.” Id. at 71-72.

## GENERAL CONCLUSIONS OF LAW

Before the Court are WJCCC’s consolidated tax assessment appeals from the Franklin County Board. In a tax assessment appeal from the Board of Assessment and Revision of Taxes, the trial court’s standard of review is *de novo*. Wesley United Methodist Church v. Dauphin Cty. Bd. of Assessment Appeals, 844 A.2d 57, 59 (Pa. Cmwlth. 2004), aff’d, 889 A.2d 1180 (Pa. 2005). As the fact finder, the trial court resolves all matters

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<sup>13</sup> In his role as CEO, Mr. Geller works on Capital Camps’ fundraising efforts and board development, and supervises the Camp Director, the Chief Financial Officer, Chief Operating Officer, and Chief Development Officer. T.P., 10/9/2018, at 62-63.

of credibility and weight of the evidence. Id.

Specifically, WJCCC is seeking real property tax exemption as actual places of regularly stated worship. The Pennsylvania Constitution provides, in relevant part, that “[t]he General Assembly may by law exempt from taxation: (1) Actual places of regularly stated religious worship...” Pa. Const. art. 8, §2(a). Accordingly, §8812 of the Consolidated County Assessment Law states: “The following property shall be exempt from all county, city, borough, town, township, road, poor, county institution district and school real estate taxes: (1) All churches, meetinghouses or other places of regularly stated religious worship, with the ground annexed necessary for their occupancy and use...” 53 Pa.C.S. §8812(a).<sup>14</sup> “The taxpayer claiming entitlement to the exemption bears the burden of proof.” Benedictine Sisters of Pittsburgh v. Fayette Cty. Bd. of Assessment Appeals, 844 A.2d 86, 88 (Pa. Cmwlth. 2004). Further, “[t]he Statutory Construction Act requires that the courts strictly construe tax exemption provisions.” Mount Zion, 503 A.2d at 1068.

Our appellate courts have consistently emphasized that, for parcels to be exempt, “[t]hey must be places of *stated worship*,” meaning “fixed, established, occurring at regular times, as stated hours of business.” Mount Zion, 503 A.2d at 1068 (internal citations omitted)(emphasis in original). In other words, “statedly means at certain times, not occasionally.” Id. The Mount Zion decision established that stated worship entails activities that are regular and constant, rather than requiring “that the taxpayer schedule and conduct worship services according to an unchanging pattern.” 503 A.2d at 1068-69.

Further, “the concept of regularly stated religious worship is not limited only to a house of worship which has a finite congregation and a sign or other mode of communication stating the times of weekly worship.” Id. at 1068-69. Nor is the concept of worship limited to a formal service. Benedictine Sisters, 844 A.2d at 90. Instead, “the term ‘religious worship’ must be construed broadly to include prayer and religious teaching,” In re Order of St. Paul the First Hermit, 873 A.2d 31, 38 (Pa. Cmwlth. 2005), as well as “spiritual readings and discussions[.]” Benedictine Sisters, 844 A.2d at 90.

In addition, religious worship need not be the exclusive use of

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<sup>14</sup> WJCCC cites the Consolidated County Assessment Law, quoted above, while the Taxing Authorities cite the General County Assessment Law, codified at 72 P.S. § 5020-204(a).

Effective January 1, 2011, the Legislature enacted the Consolidated County Assessment Law, thereby repealing the General County Assessment Law as to all counties except first- and second-class counties. See 53 Pa.C.S. § 8803. Franklin County is presently a fourth-class county and is therefore subject solely to the Consolidated County Assessment Law. See 16 P.S. § 210(4). Nonetheless, both statutes contain nearly identical provisions pertaining to the instant exemption, and the Commonwealth Court has held that case law interpreting either law may be read interchangeably. Mount Zion New Life Ctr. v. Bd. of Assessment & Revision of Taxes & Appeals, 503 A.2d 1065, 1067 n.3 (Pa. Cmwlth. 1986).

the parcel in question. Mount Zion, 503 A.2d at 1070-71. Instead, in determining whether a structure is entitled to a tax exemption as an actual place of regularly stated religious worship, courts are to apply the “primary purpose” test. See Id. at 1071 (“tax exemption is authorized by statute in those places in which the primary purpose is worship and other activities are merely incidental.”). Under the principle of equitable separation, a partial exemption of a building may be appropriate where only a portion of the structure satisfies the requirements for the exemption. See Connellsville Street Church of Christ v. Fayette County Bd. of Assessment Appeals, 838 A.2d 848 (Pa. Cmwlth. 2003); see also Mount Zion, 503 A.2d at 1070.

## DISCUSSION

In its Supplemental Proposed Findings of Fact and Conclusions of Law (“Appellant’s Supp. FF/CL”), WJCCC requests that this Court reverse the Board’s rulings with respect to the structures used as actual places of regularly stated religious worship and the buildings and grounds annexed necessary for their occupancy and use.<sup>15</sup> To that end, WJCCC provided arguments parcel-by-parcel and structure-by-structure, specifying which it believed should be exempt and its reasons therefor.

In contrast, the Taxing Authorities’ Supplemental Proposed Findings (“Appellees’ Supp. FF/CL”) do not include arguments specific to each parcel and structure. Instead, the Taxing Authorities provide a blanket assertion that, aside from those structures that should be fully taxable, the remaining structures should be 15% exempt. The Taxing Authorities reference a number of legal principles in their brief. We will address these preliminary arguments first.

### I. The Burden of Proof

Initially, the Taxing Authorities contend that the burden to prove that a structure is an actual place of regularly stated worship “is high and the county assessment cards are presumed accurate.” Appellees’ Supp. FF/CL, at ¶III(A). Specifically, they cite to CRMS, Inc. v. Chester Cty. Bd. of Assessment Appeals, 2014 WL 5410208, at \*2 (Pa. Cmwlth. Oct. 23, 2014) for the proposition that “...an institution seeking a real estate tax exemption bears a heavy burden...the reason that this is so is that other property owners will have to pay increased taxes to make up for taxes that otherwise would have to be paid by those that receive a tax exemption.” Id. at ¶III(A)(2). The Taxing Authorities additionally quote Deitch Co. v. Bd. of Property Assessment, 209 A.2d 397, 402 (Pa. 1965) as follows:

<sup>15</sup> WJCCC also requested that the Board issue corrected tax bills of the relevant parcels to accurately reflect the structures on each parcel, as depicted on the Amended Tax Cards.

“The proper order of proof in cases such as the present one has long been established. The procedure requires that the taxing authority first present its assessment record into evidence. Such presentation makes out a *prima facie* case for the validity of the assessment in the sense that it fixes the time when the burden of coming forward with evidence shifts to the taxpayer. If the taxpayer fails to respond with credible, relevant evidence, then the taxing body prevails. But once the taxpayer produces sufficient proof to overcome its initially allotted status, the *prima facie* significance of the Board’s assessment figure has served its procedural purpose, and its value as an evidentiary devise is ended.”

Id. at ¶III(A)(2).

We previously rejected a nearly identical standard concerning the burden of proof applicable to the instant case in our January 31, 2019, Opinion and Order of Court.<sup>16</sup> We distinguished between the two forms of tax assessment appeals before the Courts of Common Pleas: valuation appeals and exemption appeals. Compare BET Lehigh Real Estate, LLC v. Schuylkill Cty. Bd. of Assessment Appeals, 67 A.3d 845 (Pa. Cmwlth. 2013) with Four Quarters, 99 A.3d 603. As a result, we explained that, while “in a valuation appeal, the assessed value of a property reflected in the tax records carries *prima facie* significance unless rebutted by the taxpayer[.]” this “burden-shifting framework...is wholly inapplicable to an exemption appeal where the contents of the tax assessment records do not carry comparable weight.” Opinion and Order of Court, January 31, 2019, at 4-5. The same logic applies to the standard now asserted by the Taxing Authorities in their Supplemental Proposed Findings. Instead of the burden-shifting framework proposed by the Taxing Authorities, the applicable burden of proof shall be as set forth above in our General Conclusions of Law.

## II. Occupation of the Property

The Taxing Authorities also argue that “[a] taxpayer seeking exemption must occupy the property[.]” Appellees’ Supp. FF/CL, at ¶III(C).

<sup>16</sup> At issue in our prior Opinion was the following standard set forth in Green v. Schuylkill County Board of Assessment Appeals, 772 A.2d 419, 425-26 (Pa. 2001):

The procedure requires that the taxing authority first present its assessment records into evidence. Such presentation makes out a *prima facie* case for the validity of the assessment in the sense that it fixes the time when the burden of coming forward with evidence shifts to the taxpayer. If the taxpayer fails to respond with credible, relevant evidence, then the taxing body prevails. But once the taxpayer produces sufficient proof to overcome its initially allotted status, the *prima facie* significance of the Board’s assessment figure has served its procedural purpose, and its value as an evidentiary devise is ended. Thereafter, such record, of itself, loses the weight previously accorded to it and may not then influence the court’s determination of the assessment’s correctness.

Opinion and Order of Court, January 31, 2019, at 4.



They set forth the following quote from CRMS, Inc., at \*2, in support thereof:

“...this Court has consistently denied tax exempt status to non-profit entities that do not meet the use and occupancy requirements of the Assessment Law. For instance, in Northwestern... this Court denied a nonprofit corporation’s application for tax exemption for a property operated by one of its subsidiaries because the property was not “actually and regularly used and occupied” for the non-profit corporation’s charitable purposes... because CRMS is merely a holding company which owns and leases properties to separate non-profit entities and does not actually use or occupy any of the properties, it is not entitled to a real estate tax exemption for those properties.”

Id. at ¶III(C)(12).

Though the Taxing Authorities continue to make this argument as recently as in their Supplemental Proposed Findings, this argument was addressed and disposed of by this Court previously in our January 31, 2019, Opinion and Order of Court following the bench trial in this matter. As we stated therein, CRMS, Inc. is not only unpublished and non-binding on this Court, but that case also involved the exemption for places of purely public charity, not the exemption for places of regularly stated religious worship. While the statute setting forth the exemption for purely public charities expressly includes an occupation requirement, the exemption for places of religious worship does not. For these reasons explained more fully in our prior Opinion, this argument shall not serve as a bar to exemption in the instant case.

### **III. Exemption Status of Other Parcels and Improvements**

Next, the Taxing Authorities argue that the “[e]xemption status of other parcels and improvements is not relevant[.]” Appellees’ Supp. FF/CL, at ¶III(D). Specifically, they contend:

The Commonwealth Court decision of Wyoming Valley Montessori Association, Inc. v. Board of Assessment Appeals of Luzerne County, 532 A.2d 931 (Pa. Cmwlth. Ct. 1987), is both instructive and controlling when a party seeking exemption attempts to compare the current parcel under appeal to a different parcel. The Taxpayer in Wyoming Valley Montessori Association claimed there were two other tax exempt educational facilities in Luzerne

County and, as a result, the Association should also be exempt. The Court held that even if the Association could prove that the Board granted a tax exemption in another case, such evidence would not warrant the granting of tax exempt status in the Association's case because each exemption request must stand on its own. *Id.*

*Id.* at ¶III(D)(13). The Taxing Authorities' Supplemental Proposed Findings do not expand on this argument, nor do they specify which other parcels or improvements evidence was erroneously admitted concerning. Instead, as the Taxing Authorities concede in their original Proposed Findings, "[WJCCC] was precluded from submitting exhibits and questioning Gary Martin...and Jody Martin...as on cross-examination, concerning the exemption status of other camps in Franklin County[.]" Taxing Authorities' Proposed Findings of Fact and Conclusions of Law ("Appellees' FF/CL"), at ¶I(A)(3).<sup>17</sup> As we have not considered any evidence relating to parcels other than those at issue, we decline to address this argument further.

#### **IV. Exemption for Summer Camp in General**

Finally, in their Supplemental Proposed Findings, the Taxing Authorities argue that "a 15% reduction for some improvements located on the parcels at issue may be warranted[,]" but that others "must remain fully taxable." Appellees' Supp. FF/CL, at ¶IV(3). Specifically, the Taxing Authorities contend that "[t]he testimony and evidence clearly indicate[] that the parcels at-issue in this matter are utilized as a retreat center nine (9) months of the calendar year and as a summer camp the remaining three (3) months[;]" they noted, however, that "[WJCCC]'s testimony on November 3, 2020, focused exclusively on the use of the property during the summer camp operations, and while the property was being used for the summer camp operations it was clear that the primary use of the property during that time was for the summer camp while any religious worship was secondary or merely complementary." *Id.* at ¶IV(1), (2).

As mentioned previously, after receiving the Taxing Authorities' Supplemental Proposed Findings, WJCCC requested leave to file a sur reply

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<sup>17</sup> At trial, counsel for WJCCC, in questioning Mr. Martin about events that can trigger reassessment by the Board, asked Mr. Martin whether there are other summer camps in Franklin County and whether they are all tax exempt or were in 2014. T.P., 10/9/2018, at 140-41. Counsel for the County objected before Mr. Martin could answer, for the same reasons as set forth in the Taxing Authorities' Supplemental Proposed Findings. *Id.* at 141-43. We considered the arguments from both sides and reviewed Wyoming Valley Montessori Association, Inc., and thereafter determined that the tax exempt status of the other religious camps in the county has no bearing or relevance on the challenged status in the instant case. *Id.* at 141-46. We reasoned that:

I do agree that the--whether these properties, these parcels qualify for an exemption must rise and fall on the merits of this property and the use of this property, not a, well, you gave it to them, why didn't you give it to me. I don't think there is a proper constitutional validity claim raised before the Court at this time...for the purposes of today we're going to stick with these properties and the merits of this claim.

T.P., 10/9/2018, at 146-47.

specifically to respond to this argument. In its Sur Reply, WJCCC stated:

In the Taxing Authorities' Supplemental Proposed Findings of Fact and Conclusions of Law... the Taxing Authorities outlined the evidence and their legal arguments. The Taxing Authorities do not object to the religious use of any individual structure. In their conclusion, they advocate, for the first time, for an otherwise arbitrary and capricious 15% exemption.

Appellant Washington Jewish Community Camp Corporation's Sur Reply in Support of its Consolidated Appeal, at 3. WJCCC argues that the Taxing Authorities' portrayal of the property's use is incorrect and "misstates the mission and vision of WJCCC as its religious teachings and worshipping is inexorably intertwined with the structures on the property and is contrary to the overwhelming evidence introduced by WJCCC in this case." Id.

WJCCC further argues:

In their arguments, the Taxing Authorities expressly misrepresent the use of the Property. There are two uses of the Property. First, Camp operations occur on nearly all of the parcels for three months each year. Second, Retreat Center operations throughout the year. The "Retreat Center" is Nesiya Lodge...(October 22, 2018 Notes of Testimony, p.14, 55-56-67). During the summer and Camp operations, the Camp uses the Nesiya Lodge. Id. at p.14. The Retreat Center is also used by private groups through the year. Id. at p.55-56[.]

Even more egregious is the Taxing Authorities' argument that no summer camp operations are entitled to an exemption...In its Opinion and Order, this Court thoroughly analyzed the law, explaining that "'regularly stated' worship entails activities that are regular and constant, but does not require 'that the taxpayer schedule and conduct worship services according to an unchanging pattern.'" (January 31, 2019 Opinion and Order of Court, p.8)(citing Mount Zion New Life Center v. Board of Assessment and Revision of Taxes and Appeals, 94 Pa. Commw. 439, 503 A.2d 1065 (1986)).

WJCCC should be entitled to an exemption for all portions of the Property used for religious worship and those necessary to support the religious worship. When camp is in session, the structures subject to exemption are in use

100% of the time, not 15%... WJCCC representative Jonah Geller testified extensively during both hearings as to the religious worship that occurs during Camp operations at the various structures... This Court previously considered--and rejected--[the Taxing Authorities'] argument[.]

Id. at 4-5.

While it appears that the Taxing Authorities do indeed argue for the 15% exemption for the first time in their Supplemental Proposed Findings, their underlying rationale, that camp operations are non-religious in purpose, has remained constant from the beginning. In their original Proposed Findings, the Taxing Authorities contended that “the primary purpose of the summer camp is just that: a summer camp.” Appellees’ FF/CL, at ¶III(8). They argued that “[t]he camp includes daily athletic, art, theater, swimming, and social activities, and any religious activities are merely incidental.” Id. They emphasized that “[t]here is no Jewish Temple or Synagogue, Church, Mosque, House of Prayer, House of Worship, or any other place of formal worship, on any of the nine (9) parcels under appeal.” Id. at ¶I(D)(44). The Taxing Authorities also noted that the “summer camp is built to, ‘meet and/or exceed the American Camp Association Standards[,]’” which has no religious affiliation. Id. at ¶I(D)(45)-(47).

After carefully and thoroughly reviewing the testimony and evidence presented in this matter, we find that at least portions of the camp property satisfy the primary purpose test. Mr. Geller’s testimony, which we found to be credible,<sup>18</sup> established that the camp’s underlying purpose is religious in nature:

[W]hen the camp was started in 1988 the main reason we began our camp operations was to work with children and families from the Jewish communities of Maryland, DC and Virginia primarily to bring children to camp to educate them in a religious way, inform Jewish education, to inspire them to explore their connection to Judaism through a number of different kinds of activities, even general activities, so there’s a religious component to what we do which is a lot of what we do.

There is all kinds of fun activities that the kids participate in and they learn about Hebrew and there are Hebrew terms for everything that’s going on up at camp. We’re really trying to build a community of Jewish children and families who care about Judaism and want to explore things like

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<sup>18</sup> Mr. Geller has occasion to observe personally the activities of the camp, as he lives at the camp during the summer, served as Camp Director for two years, and otherwise works closely with the Camp Director to oversee the functioning of the camp and its programming. T.P., 10/9/2018, at 64-65.

their connection with Israel and so forth.

...

...in the largest of context what we're all about with our camp is to create a Jewish space for Jewish children and counselors to come learn about their Judaism, their connection to Israel and motivate them to enhance their Jewish identity. That is done through religious worship, Jewish culture, activities and so forth. It's all under the auspices of Jewish identity building which is what our agency was founded upon. That happens with formal prayers. That happens with learning the Hebrew terminology of different places around camp including the pool, including the ropes course, including the soccer field...

T.P., 10/9/2018, at 64, 113. Further, the camp takes a number of measures to ensure that “the quality of [its] program can be as high as possible[,]” such as “partner[ing] with [several] local and national Jewish organizations to attract some of the better Jewish educated staff members[.]” Id. at 86-87.

While the camp is clearly meant to be fun and engaging, and offers recreational activities towards that end, the camp is primarily utilized as a unique means of encouraging and facilitating Jewish worship and education among children of the faith. See Evangel Baptist, 815 A.2d at 1178 (concluding that the Family Life Center, which was used for a weekly children’s youth group program, a weekly senior citizens’ Bible study, and Sunday school, in addition to basketball games and concerts was entitled to an exemption, after finding that the testimony suggested that the events were “a way of attracting people who would not otherwise come to the church.”). Moreover, the camp’s religious activities and programming fall within the broad definition of religious worship established by our appellate courts. See Benedictine Sisters, 844 A.2d at 90. In addition to the various religious programs, education, and activities offered by the camp, actual services occur regularly on the property. Each week during camp season, campers attend Friday night services for the beginning of Shabbat, Saturday morning Shabbat services, and Saturday evening services for the closure of Shabbat. See T.P., 10/9/2018, at 21-22, 87.<sup>19, 20</sup>

<sup>19</sup> Additional services and religious functions, such as Bar Mitzvahs and Jewish weddings, occur throughout the year both during the camp and in the off-season. Id. at 22, 88.

<sup>20</sup> WJCCC is partially correct in noting that we previously addressed and rejected this argument in our January 31, 2019, Opinion and Order of Court, following the bench trial. We are inclined to point out, however, that there, we were addressing the Taxing Authorities’ contention that WJCCC’s appeal should be denied in its entirety, which is not the case here. Nevertheless, our reasoning remains relevant:

The Taxing Authorities maintain that the primary purpose of the tax parcels is to operate a summer camp and retreat business. However, in asserting that Capital Camps’ operations are largely secular, the Taxing Authorities concede that “religious activities during the summer camp occur primarily in the dining hall

Further, while it is true that there is no synagogue, temple, or other formal place of worship on the property, Mr. Geller explicitly testified that such is not required to conduct regular Jewish services. See T.P., 10/9/2018, at 110; see also Mount Zion, 502 A.2d at 1068-69 (“the concept of regularly stated religious worship is not limited only to a house of worship which has a finite congregation and a sign or other mode of communication stating the times of weekly worship.”). Finally, while Capital Camps is affiliated with the American Camp Association, which is a non-denominational organization, Capital Camps is also affiliated with the Jewish Federation of Greater Washington, a community association supporting Jewish organizations and efforts, in addition to the American Camp Association, the Foundation for Jewish Camp, the Jewish Community Center Association, and JCamp 180, an organization governing Jewish camps. T.P., 10/9/2018, at 10, 20, 24-25, 102-03, 110.<sup>21</sup>

For these reasons, we reject the Taxing Authorities’ assertion that the camp property in general is primarily used for secular, recreational purposes. We also decline to follow their suggestion of a blanket 15% exemption for those structures entitled to partial exemption, finding no discernible basis in the record for such determination.

## **SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW**

In accordance with the applicable legal principles established by our appellate courts, we must examine carefully each structure located on each of the nine parcels and determine the purpose for which that structure is used in deciding whether it is entitled to an exemption. See Evangel Baptist Church v. Mifflin County Bd. of Assessment Appeals, 815 A.2d 1174, 1176 (Pa. Cmwlth. 2003)(citing Mount Zion, 503 A.2d at 1072-73). In Mount Zion, the Commonwealth Court methodically applied equitable separation to the relevant tax parcels, determining that regularly stated religious worship was the primary purpose of certain areas, but not others. 503 A.2d 1065. We will similarly do so here.

The following parcels are presently at issue in the consolidated appeals before this Court: (1) 23-Q-13-052; (2) 23-Q-13-068; (3) 23-Q-13-069; (4) 23-Q-13-070; (5) 23-Q-13-076; (6) 23-Q-13-196; (7) 23-Q-19-129; (8) 23-

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of the facility for several minutes and in the amphitheater for a weekly service...” Taxing Authorities’ Proposed Findings of Fact and Conclusions of Law, at [¶III(8)]. To reiterate, religious worship does not need to be the exclusive use of a property for the taxpayer to be entitled to an exemption as an actual place of religious worship. Mount Zion, 503 A.2d at 1071. We are inclined to agree with WJCC that certain parts of the property have the primary purpose of religious worship, as it is broadly construed, and that religious activity occurs consistently in these places.

Opinion and Order of Court, January 31, 2019, at 11-12.

<sup>21</sup> Mr. Geller testified that the Foundation for Jewish Camp requires religious worship for membership: it has a number of qualifications for Jewish camps to be part of the organization, one of which is recognition of Shabbat and Shabbat worship. T.P., 10/9/2018, at 111.

## **I. Parcel 23-Q-13-052**

Each year at the camp, the various campers in attendance are divided into villages by age group; one of the villages, called Mack's Village, is located on Parcel 052. This parcel contains several other structures as well, including: a bath house, the Director's/Mack's Village Leader's cabin, the farmer's cabin, the dining hall, and Nesiya Lodge.

### **a. Mack's Village**

Mack's Village is reserved for entering 10<sup>th</sup> grade campers. Transcript of Proceedings of Hearing, November 3, 2020 ("T.P., 11/3/2020"), at 13; T.P., 10/9/2018, at 74. The campers in this village live in wooden platform tents set up outside. T.P., 11/3/2020, at 13, 18; T.P., 10/9/2018, at 127. They are non-permanent structures that the camp erects every summer for the 10th graders in attendance. T.P., 10/9/2018, at 127.

WJCCC argues that "[s]tructures to house the camper and otherwise provide housing for Camp leaders should...be entitled to an exemption as necessary to support the places of religious worship." Appellant's Supp. FF/CL, at ¶223. In response, the Taxing Authorities argue that "[t]he cabins for campers and staff members exist so they have a place to stay during camp, not so they have a place to stay for the few minutes of prayer each day and service each week." Appellees' FF/CL, at ¶III(8).

In light of our above determination that the camp is a means of providing regularly stated religious worship, and that at least portions of the camp property have as their primary purpose religious worship, any structures or spaces necessary to effectuate the religious use of the property must also be exempt. In contrast to a stand-alone church or synagogue, where worshippers come only for the service and then return to wherever they came from, the religious purpose here is effected by way of a sleep-away camp, where the worship and services are not confined either to a set hour each week or to a single building or space. Instead, youth participating in a sleep-away camp that spans several weeks must have a place to sleep, bathe, and eat. Like the members in Four Quarters, the children who participate in the camp travel from other states, and even countries. The camp would not be able to complete its mission to provide religious services, programming, and education to Jewish children from various locations if not for overnight accommodations for the children. A review of the relevant law leads us to

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## **Opinion continued from previous edition of the Franklin County Legal Journal.**

conclude that the lodging for the campers shall appropriately be exempt on this basis. See Four Quarters, 99 A.3d at 610-11 (where “[t]axpayer’s witnesses confirmed that member participation in [the t]axpayer’s services would be greatly hindered” without the campsites and dormitory located on the property “because most members live far away and require overnight accommodations[,]” such sleeping areas “are necessary for the occupancy and enjoyment of the property used for regularly stated worship.”).

### **b. Bath House**

The bath house contains a bathroom, shower, and sinks used by campers and staff for sanitary cleaning and restroom facilities. T.P., 11/3/2020, at 18. It is also where the Mack’s Village campers, who live in the platform tents, are evacuated to during major storms. T.P., 11/3/2020, at 18.

It is undisputed that regular religious worship does not occur in the bath house. However, WJCCC argues that this structure is necessary for camp operations and should thus be entitled to complete exemption. We agree.

At the evidentiary hearing concerning the Amended Tax Records, WJCCC introduced testimony from Mr. Geller specifically on the necessity of this structure: he explained that the campers in Mack’s village need the bath house for ordinary cleaning, especially since they live in tents rather than buildings, and those tents do not contain bathrooms. T.P., 11/3/2020, at 18-19. As we discussed above, since the campers reside on the property for several weeks at a time, in order to participate in the Jewish services and programs offered by the camp, they need a place to bathe and use the restroom. As such, we find that the bath house is entitled to a 100% exemption.<sup>22</sup>

### **c. Director’s/Mack’s Village Leader’s Cabin**

The Director’s/Mack’s Village Leader’s cabin is a staff building located in Mack’s Village near the tents where the campers sleep. T.P.,

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<sup>22</sup> Four Quarters, which reaches a different result, is distinguishable. There, the court determined that the shower and toilet facilities on the property were not entitled to a tax exemption, because the “[t]axpayer’s witnesses did not testify that these buildings are necessary to its religious practices, only that they are conveniences.” 99 A.3d at 610-11.

By contrast, WJCCC did, as we explained, provide specific testimony that the camp needs the Bath House to effectuate its religious mission. In Four Quarters, there was no mention that the shower and toilet facilities in question were the only place for any of the retreatants to bathe or use the restroom. There may well have been restroom facilities inside the lodging quarters themselves. Here, however, the testimony was clear that the campers residing in Mack’s Village sleep in tents, which do not contain bathrooms. Therefore, the communal facilities located in the Bath House are more than just convenient.

10/9/2018, at 74. The leader of Mack’s Village stays at this cabin while camp is in session. T.P., 11/3/2020, at 13. This structure is relatively small compared to others on the property, and can fit no more than ten individuals. Id. at 16. While the cabin is too small to fit all of the campers in Mack’s Village, there are typically only around ten counselors that work in that village each session. Id. Therefore, Mr. Geller testified that the director and all of the counselors that he is supervising that summer have their staff meetings in the Director’s cabin “where they plan all kinds of things from upcoming trips to the programming for the coming day to how they’re going to [do] Shabbat services and morning services.” Id. The space is useful for confidentiality purposes, allowing the staff to confer outside the presence of campers. Id.

WJCCC argues generally that “[s]tructures to...provide housing for [c]amp leaders should...be entitled to an exemption as necessary to support the places of religious worship.” Appellant’s Supp. FF/CL, at ¶223. WJCCC cites to Evangel Baptist Church in support of its position.

Based on the testimony concerning the Director’s cabin, we conclude that WJCCC has not met their burden of establishing that this structure is entitled to an exemption. First, we find that the testimony established that worship in this cabin is only incidental; the cabin’s primary purpose is as a residence. See Evangel Baptist Church, 815 A.2d 1177 (citing Mount Zion, 503 A.2d at 1071)(concluding that, “although small groups of retreatants use the living room of the [Manor House] for worship and teaching, the house also served as the home for the administrator and his family[.]” and the taxpayer had not proven that the primary use of the house was religious and not a “day-to-day residence[;]” thus, the Manor House was denied an exemption.); see also In re Order of St. Paul, 873 A.2d at 38, 39 (concluding that the meeting room and forty overnight rooms located in the Retreat House were not places of regularly stated worship, despite the fact that the meeting area may be used occasionally for religious classes or meetings.).

Second, there is insufficient evidence demonstrating that a residence for the director and senior staff is necessary to the functioning of the camp and retreat center as a place of regularly stated religious worship. The director could live off the property. While it may be desirable for the director to live on the property, WJCCC has not shown that it is necessary.

Therefore, the Director’s cabin is not exempt.

#### **d. Farmer’s Cabin**

There is a farm located on the property, run by a number of farmers who also teach the campers about the earth. T.P., 11/3/2020, at 16. The

farmer's cabin provides a residence for these farmers. Id.

WJCCC's burden has not been met as to the farmer's cabin either as a place of regularly stated worship or a necessity. First, there was no testimony that actual worship takes place at the farmer's cabin. Though Mr. Geller did testify that "[ther[e are] religious components to God's planting and sustainability and environmental aspects of the farm[,]]" and the farmers teach the campers about the earth, T.P., 11/3/2020, at 16, this has done little to convince us that the primary purpose of the farmer's cabin is religious worship. Instead, this structure is plainly residential.

On the other hand, WJCCC does argue that the farmer's cabin is necessary for the ongoing operation of the camp, and thus is necessary for its use as a place of regularly stated worship. We do not agree. We have difficulty seeing how a residence for the farmers is necessary to the religious practice of the camp. While we do not doubt its utility, we are unaware of any testimony of how the farm specifically, and the farmers, contribute to the continued functioning of the camp. As with the directors, the farmers could live elsewhere.

As such, this structure is taxable.

#### **e. Dining Hall**

The dining hall is one of two facilities on the property that is large enough to fit the entire camp. T.P., 10/9/2018, at 78-79. Mr. Geller described the camp's use of the dining hall as follows:

We eat in the dining hall three times a day and we also gather there when it's raining to do all camp activities. We have dances in the dining hall sometimes and underneath the dining hall there's a very large space for at least one of the villages to gather so that they can do some of their programming as well.

...

We also get our snack to our campers in the dining hall. We also, like I was saying before we do the Birrkat HaMazon, the two prayers before and after the meal for each meal in the dining hall.

The dining hall is kosher and it's supervised by a rabbi from the Washington Jewish Council to make sure that all the kosher dietary laws are observed.

There are three kitchens - three individual kitchens in the major kitchen, so there's a milk kitchen, a meat kitchen and then there's what we call Pareve which is not milk and not meat, and the food has to stay in its own kitchen so that it follows the dietary laws that are kosher observed from the rabbinical Council.

T.P., 10/9/2018, at 79-82. "The rabbi is there everyday during camp season and beyond," and there are "two rabbis there when [they] have retreat groups and camp at the same time." *Id.* at 82. The food in the dining hall is certified Kosher and the dining is practiced in accordance with Kosher laws 365 days a year; even non-Jewish groups who participate in a retreat on the property eat Kosher food, supervised by a rabbi. *Id.* at 58, 82.<sup>23</sup> Additionally, there are hand-washing stations located around the dining hall with prayer inscribed above them, where campers customarily wash their hands before services and recite a prayer. *Id.* at 58.

In addition to serving as a place for meals, there are sometimes dances in the dining hall. Given its large size, the dining hall is also used for all-camp activities. Further, there is a large space under the dining hall where at least one village can gather and conduct some of their programming on rainy days. T.P., 10/9/2018, at 79, 81-82, 128. The bottom floor also contains some office space for the camp staff. *Id.* at 128. Moreover, the dining hall has been used for Bar and Bat Mitzvahs and Jewish weddings. *Id.* at 89.

In its Supplemental Proposed Findings, WJCCC avers that "[t]he [d]ining [h]all is one of the most important structures at [c]amp and central to its Jewish programming and message, as it is one of only two facilities in which all of the campers and staff are able to fit." Appellant's Supp. FF/CL, at ¶142. As such, WJCCC argues that "[t]he [d]ining [h]all contains places of regularly stated religious worship, and the remaining space is necessary to support the religious use and worship purpose." *Id.* at ¶226.

On the other hand, the Taxing Authorities argue that "[k]itchens and dining halls that are not regularly used for religious services but are most often used as a convenient place to provide food to guests are non-exempt." Appellees' Supp. FF/CL, at ¶III(B)(5). They cite to In re Order of St. Paul and Four Quarters in support of this contention.

In In re Order of St. Paul, the property at issue contained the Shrine of Our Lady of Szestochowa, dedicated to the patron saint of Poland, which is visited by over 400,000 people each year. 873 A.2d at 34. Also on the property was the Visitor's Center, which contained, in part, a

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<sup>23</sup> Mr. Geller testified that they educate "non-Jewish groups about what Kashrut means and why they can't bring in food and why they can't mix milk and meat..." T.P., 10/9/2018, at 82-83.

chapel, cemetery offices, a gift shop, a museum, a cafeteria, and a Polish delicatessen. Id. at 35. The court declined to exempt the cafeteria and Polish delicatessen, finding that:

...[T]he primary purpose of the cafeteria and Polish delicatessen is to provide visitors to the Shrine with a place to purchase food on weekends, even though the cafeteria may occasionally be used for religious and cultural performances. Hence, we do not believe that the food services provided in the cafeteria and delicatessen render those areas essential to the primary use of the Shrine as a place of regularly stated religious worship. Rather, they are primarily used as dining facilities.

Id. at 39.

In its original Proposed Findings, WJCCC argues that the dining hall in this case is distinguishable from the cafeteria and delicatessen in In re Order of St. Paul the First Hermit because there is evidence in this case of regular religious programming, supervision by a rabbi, kosher aspects to the dining, and other religious practices occurring in the dining hall. We need not address this argument, however, as we conclude that the dining hall is entitled to an exemption under the other grounds for relief: as a place necessary to the operation of the camp for religious purposes. As discussed previously with respect to the lodging and bathing facilities for the campers, the unique method by which worship is conducted in this case necessitates a different result than the one reached in In re Order of St. Paul the First Hermit. Since the religious practices are being provided through a weeks-long sleep-away camp for children, providing food is a necessity, not merely a convenience. See First Baptist Church of Pittsburgh, 20 A.2d at 213 (“[t]he word ‘necessary’ does not import an absolute necessity,” but instead contemplates a “reasonable necessity[.]”).<sup>24</sup>

As such, we hold that the dining hall is entitled to a 100% exemption.

#### **f. Nesiya Lodge**

Nesiya Lodge, also known as the Retreat Center, is one of the larger spaces in the camp. T.P., 11/3/2020, at 17. According to Mr. Geller, “[it is] used for a variety of purposes depending on the season. Id. During the camp’s offseason, the Nesiya Lodge is used for the retreat groups that Capital Four Quarters is also distinguishable. There, the Commonwealth Court considered property that was used by members of a religious organization to perform outdoor religious rituals. 99 A.3d at 605. The court held that, although the kitchen on the property was “[o]n occasion” used to prepare sacred food for ceremonies, “it is most often used as a convenient place to provide food to guests of the campsite.” Id. at 608-09. In contrast to the kitchen in Four Quarters, where the “[the taxpayer]’s witnesses did not testify that [the kitchen is] necessary to its religious practices, only that they are conveniences[.]” Id. at 611, WJCCC presented evidence that the dining hall is necessary to the operation of the camp as a place of regularly stated religious worship.

Camps hosts throughout the year, 70-75% of which are Jewish groups. Id. The Nesiya Lodge contains housing for the retreat groups, kitchens, guest rooms, meeting spaces, a lobby, an office, and a computer room. Id. Mr. Geller testified that religious worship occurs at Nesiya Lodge, during camp season and otherwise. Id. He explained that retreat groups, religious in nature, often use the Lodge to conduct their services during camp season, since they are not permitted to enter the rest of camp while it is in session. Id. at 17-18. Campers, on the other hand, typically do not use this building. Id. at 18.

There are three floors in Nesiya Lodge. T.P., 10/9/2018, at 26. According to Ms. Burka, the first floor contains “a reception area,... meeting areas, eating areas, just programmatic areas. Id. at 26. She testified that “[t]he meeting spaces are used for worship[.]” but conceded that there are other uses as well. Id. at 27. Mr. Geller similarly explained that the six meeting rooms are used for religious programming, as well as non-religious activities. When Jewish groups use the Retreat Center over a weekend, the participants generally observe Shabbat Friday night and Saturday morning, as well as the closure of Shabbat Saturday night and prayer at night and before and after meals. Id. at 57. Also located on the first floor is a dining facility supervised at all times during religious programming by a rabbi. Id. at 82. The second and third floors of Nesiya Lodge contain forty-two sleeping rooms, in addition to private baths, and are used as retreat housing. Id. at 26-27.

In its Supplemental Proposed Findings, WJCCC emphasizes the importance of this structure to the property. WJCCC highlights the heavy usage of Nesiya Lodge by retreat groups, the majority of which are Jewish groups who conduct religious worship, including Shabbat services, throughout the year. WJCCC avers that, while “the upper floors of Nesiya contain retreat housing,...the lower floors are used for religious worship and programming during the [c]amp season and during non-camp retreats.” Appellant’s Supp. FF/CL, at ¶146.

WJCCC submits that Nesiya Lodge should be entitled to a complete exemption. WJCCC reasons that “[t]he primary purpose of a significant portion of Nesiya Lodge is regularly stated religious worship and spiritual readings and discussions[.]” and “[t]he remaining spaces consist of lodging also properly exempt as necessary to support the actual places of regular religious worship in Nesiya Lodge.” Id. at ¶225.

The Taxing Authorities concede that religious worship takes place in Nesiya Lodge during camp season. However, they argue, with respect to the retreat business:

During the nine (9) month retreat season, the primary

purpose is to generate business with contracting parties. All of the cabins, grounds, lodges, and amenities on the parcels under appeal are open to religious and non-religious entities for retreat business, and both religious and non-religious entities engage in retreat business with [Capital Camps]. [Capital Camps] advertises corporate, youth, individual, group, and leadership retreats on its website. [Capital Camps] does not advertise religious worship, teaching, prayer, reading, or conversation. The [Capital Camps] website also advertises its amenities and meeting rooms, including personal training, an aquatic center, hotel-style room, meeting rooms, lakefront, and ropes course. Additionally, any religious worship during the nine (9) month retreat season is optional.

Appellees' FF/CL, at III, ¶III(9). They explain that “[f]rom 2013 through 2017, non-religious entities, including but not limited to: college and university groups, public and private school groups, leadership groups, poetry groups, yoga groups, and family reunion and anniversary groups, entered into business contracts with [Capital Camps] during the September through May retreat season.” *Id.* at ¶I(D)(43)(citing Exhibit BART-31, Exhibit BART-32, Exhibit BART-33, Exhibit BART-27, and Exhibit BART-28). Further, the Taxing Authorities contend that “overnight retreatant rooms and meeting rooms used only occasionally for religious worship are non-exempt.” Appellees' Supp. FF/CL, at ¶III(B)(2)(11).<sup>25</sup>

We find the decision in Benedictine Sisters relevant here. In that case, the property at issue consisted of four acres of land “improved by a standard three-bedroom, ranch-style house, a swimming pool and a detached garage[,]” used by the Benedictine Sisters for religious retreats. 844 A.2d at 87. Witnesses for the taxpayer testified that the seventy-seven Sisters are required each year to make a retreat that spans multiple days, and that nine months out of the year, the property is used exclusively for such retreats.

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<sup>25</sup> Initially, we note that much of the focus with respect to Nesiya Lodge has been on the appearance and cost of the structure. In fact, the construction of Nesiya Lodge was the catalyst to the reassessment by the Board, and thus this action: the Board revoked exemption of the entire property after Nesiya Lodge was built, based not on its use, but on its appearance and apparent cost—Mr. Martin testified that a reassessment was conducted because Nesiya Lodge was a multi-million dollar structure and looked to the appraisers to be more of a motel, than a camp-type structure. This led the Board to conclude that the mission of the camp had changed. In their original Proposed Findings, the Taxing Authorities confirm this belief, stating: “[t]he nine (9) parcels under appeal were reassessed in 2013 after [Capital Camps] applied for building permits for the Nesiya Lodge, a \$6 million dollar, forty-two (42)-hotel-room style lodge and conference center that is open for business year-round.” Appellees' FF/CL, at ¶I(B)(20). Further, at the bench trial both counsel for the Board and counsel for the School District inquired into and highlighted the appearance of Nesiya Lodge. *See* T.P., 10/9/2018, at 26, 53-55.

In our opinion, the more important inquiry is the actual purpose for which the building is being put to use, rather than its cost or appearance. *See Benedictine Sisters* 844 A.2d at 90, 90 n.8 (rejecting the county's argument that “a ranch-style house is not an actual place of worship[.]” noting that “[o]ur jurisprudence looks to the use of a building, not its appearance.”). As such, we must determine the primary purpose of Nesiya Lodge in deciding whether exemption is warranted.

Id. About two or three weeks out of the year, the Sisters use the property for relaxation, instead of retreat purposes. Id. at 87-88. While on retreat, the Sisters pray, read, discuss spiritual topics among themselves, listen to tapes, and watch videotapes of conference talks given in other locations. Id. at 87. While they “do have [mass] occasionally[,]” they “don’t have anyone who would come on a regular basis to celebrate mass or to lead a prayer[.]” Id.

The Commonwealth Court noted the use of the property for adoration, prayer, meditation, and spiritual readings and discussions, which it determined “are the very activities found to be worship in Mount Zion and Evangel Baptist Church.” Id. at 90. The court ultimately held that the Sisters satisfied their burden of showing that the primary use of the property was for regularly stated religious worship. Id.

Mount Zion is also instructive here. In that case, the property at issue consisted of one hundred and four acres of land owned by a nonprofit corporation which operated “a retreat center for persons desiring to learn Christian living and discipleship[,]” among other things. 503 A.2d at 1067. Most of the retreatants were members of a church group, were accompanied by their own clergy, and were responsible for scheduling their own daily events during the retreat. Id. Further, each group’s “own spiritual leader usually lead[] the worship and teaching sessions[.]” Id.<sup>26</sup>

The court noted that “[b]ecause the scheduling of worship over the course of a year involves many different groups, the Center adheres to no established pattern of time and frequency of worship.” Id. at 1068. Instead of focusing solely on “the mere existence of an established schedule[,]” the focus should be on “the intent of individuals to join together in worship, with the worshipers’ establishment of a schedule being a manifestation of that intent.” Id. at 1069. The court determined from the record, and in particular “the planning and scheduling of retreat programs and the logs of events,” that “the worship conducted at the Center constitutes regularly stated religious worship.” Id.

Here, each year, during the non-summer months, Capital Camps hosts around one hundred retreat groups at Nesiya Lodge. 70-75% of these groups are Jewish groups, which include Jewish congregations, synagogue groups, Jewish youth groups, and local and national Jewish organizations. Several Jewish family camp groups, most of which consist of campers from the summer who come back with their families during the offseason, also utilize Nesiya Lodge throughout the year. The remaining 25-30% consist

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<sup>26</sup> “The Center introduced a log of events which listed the groups which conducted retreats at the Center and the corresponding dates from October, 1983 through August, 1984. Most retreats took place on weekends. However, the Center regularly hosted groups of retreatants during the week, usually for three days. Especially during the summer months, the Center hosted a number of weeklong retreats.” Id. at 1068 n.6.



of groups of other religious denominations, non-religious groups, and for-profit groups.

Further, the worship at the retreat center in Mount Zion was determined to be regular and constant, as it occurred “virtually on a weekly basis.” 503 A.2d at 1069. Similarly, weekly worship occurs in Nesiya Lodge, despite the changing character of the groups conducting said worship. Ms. Burka testified that “[g]enerally over a weekend, [the retreat groups] would be observing Shabbat Friday night, Shabbat Saturday morning, and then the closure of Shabbat Saturday evening as well as the prayer at night[,]” and usually “prayer before and after the meals as well.” T.P., 10/9/2018, at 57.<sup>27</sup>

Based upon the foregoing, we conclude that Nesiya Lodge is entitled to a 70% exemption. This conclusion is based on the testimony that 70-75% of the retreat groups that use Nesiya Lodge during the year are Jewish organizations, which partake in formal religious services, as well as daily prayer. See Benedictine Sisters 844 A.2d at 90 n.9 (“[t]he testimony that the retreat is used nine months out of the year for retreats establishes that the primary purpose of the house is for religious purpose; the other use is merely occasional.”); see also Benedictine Sisters 844 A.2d at 89 (finding that Mount Zion “did not equate worship with a specific type of formal ceremony involving a church-type building where congregants gather[,]” but instead, “gave a broad reading to worship, which includes prayer and teaching, *i.e.*, the predominant activity at a retreat center.”).

## II. Parcel 23-Q-13-068

Parcel 13-068 consists of several cabins that make up Benjamin Village, as well as the Welcome Center, Tsfat Pavilion, the cooks’ cabin, the Pioneer Shelter Welcome Gazebo, a staff cabin, the Camp Director’s cabin, basketball and tennis courts, a shed, Lodge Aleph, a gazebo, the amphitheater, and Lodge Bet.

### a. Welcome Center

According to Mr. Geller, whenever anyone seeks to enter the camp,

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<sup>27</sup> We note that, in reaching its conclusion, the Mount Zion Court made the following comments: The record shows that those parts of the premises used for worship are not diverted to inconsistent activities. For example, this Center displays a specialized application to worship which distinguishes it, for example, from a recreational camp facility which might be used only sporadically as a facility for the conducting of religious worship or retreats.

503 A.2d at 1069. We acknowledge that this language may be seen as contemplating a different result here. However, we read the court’s statements to preclude exemption only for those recreational camp facilities which are used only sporadically for religious worship. As explained above in our discussion of camp operations, such is not the case here.

they are required to park in a designated lot and enter through the Welcome Center, where the camp has security set up. T.P., 10/9/18, at 74, 123; T.P., 11/3/2020, at 20. Prospective campers check in at the Welcome Center upon arrival, and once security confirms that they are permitted to be there, they receive their guest passes. T.P., 11/3/2020, at 20. In addition, the staff members check in and out of the camp through the Welcome Center on their days off or nights out. *Id.* Mr. Geller described the Welcome Center as “just a nice place to welcome everybody in which we have Hebrew signage in there Bruchim Habaim which is Hebrew for welcome, and that’s where we welcome everybody into the camp.” *Id.*

The testimony by WJCCC’s witnesses did not indicate that religious worship occurs at the Welcome Center, and WJCCC admits as much in its Supplemental Proposed Findings. As such, we cannot find that the Welcome Center is an actual place of regularly stated religious worship.<sup>28</sup>

Instead, WJCCC argues that the Welcome Center, as the site where guests check in and out, is necessary for security and camp functioning. We disagree, however, that the usefulness of the Welcome Center rises to the level of necessity. While it may be beneficial or convenient to have all visitors and members enter through a designated, secure area, more is required. We reiterate that “the Statutory Construction Act requires that the courts strictly construe tax exemption provisions.” *Mount Zion*, 503 A.2d at 1068. Doing so here leads us to conclude that the Welcome Center shall be taxable.

## **b. Tsfat Pavilion**

The Tsfat Pavilion provides a shelter space for campers, as well as meeting areas. T.P., 11/3/2020, at 19-20. Mr. Geller testified that “a lot” of Jewish programming with songs and prayer occurs in this structure. *Id.* at 19. Staff teach Rikud dancing, and campers learn the Shabbat songs for the week in Tsfat. *Id.* at 20. Tsfat is similarly used for music programs during which the campers can learn Israeli dancing and play guitar. *Id.*, at 20-21. In addition, Friday night and Saturday morning Shabbat services are held at the stage in Tsfat when the camp holds services by village only, as are the Havdalah services on Saturday evenings to end Shabbat. *Id.* at 21.

WJCCC avers that “[t]he Tsfat building is a place of regular worship[,]” as the “campers use the space for religious dancing and Shabbat music, as well as for Friday night and Saturday morning Shabbat services.”

<sup>28</sup> The presence of Hebrew signage and teaching of Hebrew principles in the Welcome Center does not change our conclusion. See *In re Order of St. Paul*, 873 A.2d at 39 (concluding that the gift shop, museum, and bookstore located in the Visitors Center built on the property of the Shrine were not exempt as places of regularly stated religious worship and were not “essential to the primary use of the Shrine as a place of regularly stated religious worship[.]” although the court acknowledged that “these areas contain items of religious, cultural, and historical significance[.]”).

Appellant's Supp. FF/CL, at ¶156. As such, WJCCC submits that the primary purpose of Tsfat is for regularly stated religious worship. The testimony concerning this structure leads us to the same conclusion.

Like the meeting hall in Mount Zion, which was fully exempt because it was used primarily as a facility for prayer and teaching, 503 A.2d at 1071, we find that Tsfat Pavilion shall be exempt for the same reason. Mr. Geller specifically testified to the regularity of the worship at Tsfat. See T.P., 11/3/2020, at 21. His testimony revealed that this structure is used for Shabbat services as well as Jewish programming with songs and prayer. These religious gatherings, prayers, and activities in Tsfat are sufficiently regular and constant to enable a finding that its primary purpose is regularly stated religious worship.

Accordingly, Tsfat Pavilion is entitled to a 100% exemption.

### **c. Cook's Cabin**

The cook's cabin is where the Kosher supervisor of the camp lives, along with a number of other staff that work in the kitchen. T.P., 11/3/2020, at 21. Mr. Geller testified that "[n]o campers are ever in there but from time to time the staff that work in the kitchen are there." Id. at 21.

Based upon the foregoing we find that the cook's cabin is not entitled to an exemption. First, Mr. Geller admitted that other than personal prayer by the staff who live in cook's cabin, no regular worship occurs there. T.P., 11/3/2020, at 21-22. WJCCC does not appear to argue differently in its Supplemental Proposed Findings.

Instead, WJCCC argues that the cook's cabin "is necessary to support the regular places of religious worship as it contains housing for the Kosher Supervisor, an individual essential to [c]amp operations." Appellant's Supp. FF/CL, at ¶157.

However, upon review of the testimony and evidence available to us, we are not so persuaded. As with the other employees, the kitchen staff could reside elsewhere, off property. For this reason, WJCCC has not met their burden of proving necessity. See Reform Congregation Oheb Sholom v. Berks County Bd. of Assessment Appeals, 839 A.2d 1217, 1220 (Pa. Cmwlth. 2004)(holding that one-story ranch house located a block from the synagogue which is used by the congregation as the residence for its full-time maintenance employee, who is required to be available twenty-four hours a day, seven days a week, is not necessary to the occupation or enjoyment of the synagogue.).

As such, WJCCC is not entitled to an exemption for cook's cabin.

#### d. Pioneer Shelter Welcome Gazebo

The Pioneer Shelter Welcome Gazebo is one of two gazebos located right next to each other. T.P., 11/3/2020, at 22. Mr. Geller testified that this gazebo is surrounded by donor walls with Hebrew phrases to honor past board members and donors. Id. This structure is used to welcome and give orientation to any tour groups, campers, and prospective campers. Id. It is also used for programming of campers and staff, especially when it is raining, as it provides good shelter and has benches that can fit approximately thirty campers and staff. Id. Mr. Geller also testified about what the camp refers to as Shabbat Options, or “ShabbOptions,” where on Saturday mornings, the campers are able to choose from a variety of different Jewish services and educational programming, including yoga services by the pool and a nature walk tour for Shabbat services. Id. at 23. He explained that the Pioneer Shelter Welcome Gazebo is one of the spaces used for these Shabbat Options. Id.

WJCCC contends that religious worship and Jewish programming regularly occur in this structure, “as it is used for ‘Shabbat Options’...as well as a camp light service for the whole camp.” Appellant’s Supp. FF/CL, at ¶160-61. However, we are not convinced that an exemption is warranted for this structure.

We do not dispute that WJCCC provided testimony that actual Jewish programming occurs in this Gazebo. However, to be entitled to an exemption, the worship in a particular location must also be regularly stated. See Mount Zion, 503 A.2d at 1071-72 (denying exemption to three outdoor areas on the property even though the primary purpose of the areas is religious worship, since the record indicated that “the retreatants do not regularly schedule worship at th[o]se places.”). Mr. Geller did not offer any testimony that the worship in the Pioneer Shelter Welcome Gazebo satisfies the regular and constant standard set forth in Mount Zion. While he stated that it is *one of* the spaces used for Shabbat Options, the record is devoid of any specifics on the frequency of the structure’s use for this purpose. (emphasis added). If anything, the testimony suggests that the Pioneer Shelter Welcome Gazebo’s utility as a location for Jewish programming is primarily limited to periods of inclement weather. As stated by the Taxing Authorities in their initial Proposed Findings, “[p]arcels or improvements used only for worship in special circumstances or conditions, such as poor weather or for a specific event, which only occur a few times each year—even if religious use is the only use are not places of regularly stated religious worship...” Appellees’ FF/CL, at ¶III(4).

In addition, we are unaware of any testimony or argument on

the Pioneer Shelter Welcome Gazebo's necessity to the camp's religious operations. Accordingly, exemption is not warranted on this basis, either.

For these reasons, the Pioneer Shelter Welcome Gazebo shall remain subject to taxation.

#### **e. Staff Cabin**

The staff cabin is a three-bedroom structure with a kitchenette and a meeting area. T.P., 11/3/2020, at 31. This is typically where an assistant camp director lives. Id.<sup>29</sup> Campers do not use the staff cabin, but the Jewish programming staff meets there to prepare for services for the upcoming week and review the events of the previous week. Id. at 32.

WJCCC argues that “[t]he [s]taff [c]abin is a staff building in which an assistant camp director resides[,]” and, while “[r]eligious services for campers do not occur in this structure,...Jewish programming staff use this space to engage in personal worship and services.” Appellant’s Supp. FF/CL, at ¶176-77. WJCCC further contends that, “[i]n addition to periods of prayer and religious worship occurring” at the [s]taff [c]abin, this structure is also “necessary to support the actual places of regularly stated religious worship of the property.” Id. at ¶231.

While WJCCC may be correct that some worship occurs in the staff cabin, the evidence suggests that any such worship is limited to personal prayer by the employees who reside there. Therefore, there is no intent for individuals to join together in worship which would enable us to find that the worship at the staff cabin rises to the level of regularly stated. Moreover, the primary purpose of the staff cabin is clearly residential, with any worship occurring merely incidentally.

In addition, WJCCC has not satisfied its burden of proving that the staff cabin is necessary to the operation of the camp. As stated with respect to other residential structures for members of the camp staff, WJCCC has not demonstrated that it is necessary for the assistant camp directors to live in this particular location.

For these reasons, this cabin shall not be exempt from taxation.

#### **f. Camp Director Cabin**

The Camp Director cabin is a three-bedroom dwelling that contains a kitchenette, a laundry room, and a meeting space in the center that can fit up to ten people. T.P., 11/3/2020, at 27-28. This building is where the Camp Director and his family live. Id. at 27. Campers are not permitted

<sup>29</sup> The Director of Jewish programming for the camp also lived there for a few years, because she came with two children and needed space for them. T.P., 11/3/2020, at 32.

in this building. Id. at 28. Like the Director’s Cabin in Mack’s Village, the Camp Director holds meetings for the senior staff there. Id.<sup>30</sup>

In its Supplemental Proposed Findings, WJCCC concedes that “[t]he Camp Director building is a building in which staff reside[.]” Appellant’s Supp. FF/CL, at ¶171, but argues that there are “periods of prayer and religious worship occurring” at the Camp Director Cabin, on top of the cabin being necessary to support the places of regular worship on the property, Id. at ¶231.

It is clear that the primary purpose of this building is simply to provide a residence for the Camp Director and his family. See Mount Zion, 503 A.2d at 1065 (holding that the portion of the Faith House used for lodging is taxable, as is the Manor House, because although small groups of retreatants use the living room for worship and teaching, the house serves as the home for the center’s administrator and his family.); see also Connellsville Street Church, 838 A.2d at 853 (concluding that the principal use of the living room space of the building was for the visiting preacher to use between services, not regular worship.).

Moreover, we do not find that the Camp Director cabin is necessary to the operation of the camp for religious purposes. Like the other camp employees, WJCCC has not shown that having the Camp Director reside on the premises is anything more than convenient.

As we have concluded that neither grounds for exemption applies, the Camp Director cabin shall be subject to taxation.

### **g. Benjamin Village**

Benjamin Village consists of eight cabins which are used to house the 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> grade campers. T.P., 11/3/2020, at 30; T.P., 10/9/2018, at 123. Two to four staff members also live in each cabin. T.P., 11/3/2020, at 30.

Mr. Geller described the religious activities that occur in the Benjamin Village cabins as a prayer for peaceful sleep that the campers recite before bed at night, as well as a thank you prayer in the morning when they wake up. T.P., 11/3/2020, at 30-31.

WJCCC argues that “[t]here is religious worship--Hashkiveinu and Modeh Ani prayers--by the Benjamin Village campers in these buildings.” Appellant’s Supp. FF/CL, at ¶175. In addition to this personal prayer and worship, WJCCC contends that the Benjamin Village cabins are “necessary to support the actual places of regularly stated religious worship on the

30 The camp employs “camp moms,” and others who look after the health and well-being of the children at the camp, and the Camp Director Cabin provides a private, confidential space for the Camp Director to speak with these individuals about how the campers and staff are doing. T.P., 11/3/2020, at 28.

property.” Id. at ¶231.

It is clear that the purpose of these cabins is residential, not religious. We have seen no evidence that regularly stated worship occurs there. Individual prayer is not sufficient.

However, we do find that the cabins are necessary to the ongoing operation of the camp. As we explained with respect to Mack’s Village, given the establishment of a sleep-away camp for minors, where the minors engage in regularly stated religious worship, lodging for the children and their adult supervisors is a necessity. See Four Quarters, 99 A.3d at 610-11.

Accordingly, the Benjamin Village cabins are 100% exempt.

#### **h. Tennis and Basketball Courts**

Mr. Geller confirmed during his testimony that the tennis and basketball courts on this parcel are just ordinary tennis and basketball courts. T.P., 11/3/2020, at 28. To the question of whether the courts are used for religious services, he responded: “No. At best we teach the kids about Hebrew terms for tennis and basketball, but there’s no religious practice there. There’s no services.” Id. at 28-29.

It is clear that the primary purpose of these courts is recreational, not religious. There is likewise nothing in the record to suggest that these courts are in any way necessary to the use of the camp property for religious purposes. In fact, in its Supplemental Proposed Findings, WJCCC plainly admits that the tennis and basketball courts are not used for religious worship, nor are they necessary to the conducting of religious worship on the property.

Thus, both of these courts are taxable.

#### **i. Shed**

The shed is a very small space used to store sports equipment. T.P., 11/3/2020, at 28.

Based upon the limited testimony presented concerning this structure, we must conclude that the shed is not entitled to an exemption either as a place of regularly stated worship or as a necessity to the camp. First, when asked if religious worship occurs in the shed, Mr. Geller answered, “No, just tennis balls and hockey sticks.” T.P., 11/3/2020, at 28. In its Supplemental Proposed Findings, WJCCC similarly advises that the shed is used for storage of sports equipment, and no religious worship occurs there.

Second, no argument has been made that the shed is necessary to

the practice of religion on the property, nor is any basis for such argument apparent in the record. See Four Quarters, 99 A.3d at 611 (denying exemption for a storage shed located on the religious organization’s property where the tax payer’s witnesses did not testify that the shed was anything more than a convenience.). WJCCC concedes as much.

As such, the shed shall be taxable.

### **j. Lodge Aleph**

Lodge Aleph is a multi-use building with three floors. T.P., 11/3/2020, at 26. The top floor consists of additional housing space for members of the senior staff. T.P., 11/3/2020, at 26; T.P., 10/9/18, at 75. The middle floor contains a health center, which employs nurses to administer first-aid to campers and staff. T.P., 11/3/2020, at 26; T.P., 10/9/18, at 75. The bottom floor consists of two large meeting spaces. T.P., 11/3/2020, at 26; T.P., 10/9/18, at 75. The larger of the two is where the camp holds services in the case of rain or lightning. T.P., 11/3/2020, at 26; T.P., 10/9/2018, at 75-76. That space is also used by the camp’s leaders-in-training for their meetings and leadership training. T.P., 11/3/2020, at 26. In addition, campers that observe Tisha B’av, one of the two full-day fasts of the Jewish faith, fast, then break their fast with prayer and learning in this space. Id. at 26-27. The other meeting room is a more formal space, which contains shelves of prayer books. Id. at 27.

In its Supplemental Proposed Findings, WJCCC describes the bottom level of Lodge Aleph as consisting of “two large meeting spaces used for religious services in inclement weather, as well as training for [c]amp leaders.” Appellant’s Supp. FF/CL, at ¶168. WJCCC further notes that this “space is also used for those that are fasting for the religious holiday Tisha B’Av ‘one of the most significant holidays within the Jewish tradition’, and there is a formal religious worship structure with prayer shelves of ‘Sidurem’, or Hebrew prayer books.” Id. at ¶169 (*quoting* T.P., 11/3/2020, at 26-27). In sum, WJCCC argues that “[a] significant portion of Aleph is used for regular religious teaching and activities with housing and the infirmary necessary to support the [c]amp.” Id. at ¶170.

When asked where in Lodge Aleph Jewish programming and services occur, Mr. Geller explained that some Jewish programming with smaller groups occurs in the sitting areas on the main and upper floors, but “[p]rimarily...the meeting room Daled and the meeting room Hay.” T.P., 10/9/2018, at 80.

Based on the testimony presented at the hearings on this matter, we conclude that Lodge Aleph is not entitled to an exemption. The top



floor, consisting of sleeping rooms, is taxable. In fact, at the bench trial, WJCCC advised the Court that they are not seeking an exemption for the sleeping areas located in Lodge Aleph. Id. at 56. The middle floor, housing the medical center, is also taxable. Medical services are readily available in the surrounding community. WJCCC has not sufficiently established necessity, as was its burden.

WJCCC has similarly not met its burden of demonstrating that the bottom floor, and the meeting rooms therein, is an actual place of regularly stated religious worship. Mr. Geller testified to the following with respect to the bottom floor of Lodge Aleph:

In the bottom floor we have two main gathering spaces for Jewish programming, leadership development training and other programs for campers usually in the evening and on rainy days. Any time it rains in camp we all head inside. It's one of the main areas that we do programming inside when we can't be outside because of the weather.

T.P., 10/9/2018, at 75. Later in his testimony, Mr. Geller described the bottom floor spaces as “program areas for the rainy day programs, et cetera.” T.P., 10/9/2018, at 124. In response to the question whether Shabbat services take place in Lodge Aleph, Mr. Geller stated, “Usually only if it's raining. We use the amphitheater when it's nice out because it's open air.” T.P., 11/3/2020, at 27.

While the primary purpose of the space may be religious worship, the record suggests that the worship conducted therein is not regularly stated. Occasional worship, or worship only in certain circumstances, such as inclement weather, is not enough. See Mount Zion, 502 A.2d at 1071-72 (three outdoor sites not exempt even though their primary purpose is religious worship, because “the retreatants do not regularly schedule worship at these places.”).

#### **k. Hockey Rink**

Mr. Geller described the hockey rink as “just a concrete slab with hockey boards around the perimeter.” T.P., 11/3/2020, at 29. During the summer, the hockey rink is used as a typical hockey rink, which contains “boards and nets and goal[s] and all that kind of stuff[.]” T.P., 10/9/2018, at 76; T.P., 11/3/2020, at 29. Mr. Geller testified that they have also had services there. T.P., 11/3/2020, at 29. Specifically, he stated that “we've tried several times to have all-camp Havdalah, which is the service to end Shabbat. It's a little unruly because it doesn't always fit the whole camp, but we've done things like that.” Id. Mr. Geller also testified that the counselors-in-training gather at the rink for one of their Saturday morning Shabbat services. Id.

In the camp's offseason, the boards are removed and the hockey rink is converted into a parking lot for the retreat business. Id. Mr. Geller testified that the rink, which is large in size, is conducive to parking many vehicles, so that is where many retreat participants park. Id. at 29-30.

WJCCC argues that “[t]he hockey rink is used for parking necessary to support the Retreat Center when [c]amp is not in session, as well as a location for Havdalah, the Jewish religious ceremony and formal prayer marking the end of the Sabbath, so it is used for regular worship at the [c]amp.” Appellant’s Supp. FF/CL, at ¶174.

First, we find that the hockey rink is not an actual place of regularly stated religious worship. The rink’s primary purposes are recreation and parking. Further, the frequency of use for religious purposes does not rise to the level of regular and constant contemplated in Mount Zion. In its original Proposed Findings, WJCCC contended that “[t]he hockey rink is also utilized at times for Havdalah and Shabbat services.” Appellant’s FF/CL, at ¶70. Similarly, Mr. Geller testified that they “sometimes have [their] Havdalah service there...” T.P., 10/9/2018, at 76. At best, this demonstrates that religious use of the rink is occasional, which is not sufficient to establish regularly stated religious worship.<sup>31</sup>

WJCCC argues, in the alternative, that the hockey rink, which most of the year is used for parking, is essential to the operation of the property as a place for regularly stated worship. We disagree.

We concede that, in Wesley United Methodist Church v. Dauphin County Bd. of Assessment Appeals, the Pennsylvania Supreme Court held that the church parking lot was necessary to the occupancy and enjoyment of the church. 889 A.2d 1180, 1182 (Pa. 2005). However, the ruling was based on a specific set of circumstances present in that case: the majority of the church’s members began to reside a distance from the church, virtually no on-street parking is available around the church, and membership and attendance at the church were significantly declining before the parking lot was constructed, but turned around afterwards. Id. at 1181. On those facts, the court determined that the church could not exist without the parking lot. Id. at 1182. Significantly, the court emphasized that it “[did] not hold all church parking lots are entitled to tax-exempt status[.]” but instead, only those which the church proves “are a reasonable necessity to the existence of the church itself[.]” Id.<sup>32</sup>

<sup>31</sup> Further supporting our conclusion that use of the hockey rink for religious worship is merely incidental, Mr. Geller, while testifying about the rink’s use, stated that “one thing that’s great about camp is we can have these religious services all over camp, so we have sometimes religious services by the lake, in the hockey rink, at the pool. It provides a nice place to have informal activities to have religious services.” T.P., 10/9/2018, at 76. It is clear that the primary purpose of these areas is not religious worship. Simply because worship at times occurs there does not make it an actual place of regularly stated religious worship entitled to an exemption.

<sup>32</sup> Similarly, in the Commonwealth Court’s decision in the same case, the court clarified that its “holding is not to

Unlike in Wesley United Methodist Church, WJCCC has not demonstrated specific circumstances in the instant case that render the parking lot necessary. WJCCC has presented no evidence that the hockey rink is the only place for retreat participants to park. Instead, the evidence available to us indicates that converting the hockey rink to a parking area is merely convenient. As such, WJCCC's burden has not been met.

For these reasons, the hockey rink shall be taxable.

### **I. Gazebo**

The gazebo is a sheltered structure adjacent to the amphitheater where the campers engage in Israeli dancing and singing. T.P., 10/9/2018, at 77; T.P., 11/3/2020, at 25. Mr. Geller testified that the gazebo is also used for services when it is raining. T.P., 11/3/2020, at 25. Further, it is where the camp's scouts, 17-year-olds who travel from Israel to teach Israeli cooking and rope course activities, do their cooking. Id. In addition, the younger campers who do not want to dance on Friday nights instead go to the gazebo to play cards. Id. at 25-26.

In the Supplemental Proposed Findings, WJCCC argues that “[t]he [g]azebo is primarily used for religious services[.]” in addition to Israeli dancing and cooking lessons. Appellant's Supp. FF/CL, at ¶165. Thus, WJCCC submits that the gazebo satisfies the primary purpose test.

The frequency of the religious services and activities at the gazebo is unclear from the testimony. At the bench trial, when asked whether services occur there, Jonah Geller responded, “Yes, absolutely, more so on an evening by evening case, not just once a week or something like that.” T.P., 10/9/2018, at 78. Then at the November 3, 2020, evidentiary hearing, Mr. Geller testified that the gazebo “is primarily used for services.” T.P., 11/3/2020, at 25. However, he followed that up with, “Again, when it's raining it's a space that can hold 30 to 40 campers and staff.” T.P., 11/3/2020, at 25. We are uncertain whether religious services are held at the gazebo nightly, weekly, or only when it is raining.

Moreover, there was no testimony that the gazebo is necessary to support the camp, nor does WJCCC appear to make this argument.

Based upon the foregoing, we conclude that the gazebo is not entitled to an exemption.

### **m. Amphitheater**

The amphitheater is a large theater set up like a half-stadium with  
be construed as a general tax exemption for church parking lots[.]” reasoning that, “although similar circumstances might be shown in some other cases, they would not exist in most.” Wesley United Methodist Church, 844 A.2d at 61.

a stage at the bottom. T.P., 11/3/2020, at 24. Mr. Geller testified that the amphitheater is a space with a lot of utility, especially because it contains a stage, and because it is one of only a few spaces where the entire camp can gather at once. *Id.* The camp holds Friday night services, Saturday morning services, and Havdalah services to end Shabbat at the amphitheater. T.P., 11/3/2020, at 24; T.P., 10/9/2018, at 75. The amphitheater is also used for all of the camp plays, some of which have Jewish themes, and Israeli singing and dancing competitions, as well as the opening and closing ceremonies of Maccabiah, or the “Color War,” a two to three-day event where campers are divided into teams and compete in dozens of different activities. T.P., 10/9/18, at 75; T.P., 11/3/2020, at 24-25.

WJCCC asserts that the amphitheater “is a heavily used religious area[,]” particularly with respect to large religious services. Appellant’s Supp. FF/CL, at ¶163. More specifically, WJCCC contends that “Shabbat and Havdalah services regularly occur in this structure.” *Id.* Accordingly, WJCCC argues that the primary purpose of the amphitheater is regularly stated religious worship.

We find Evangel Baptist Church applicable here. In that case, the Commonwealth Court considered a Family Life Center, which consisted of “a large all-purpose room, a kitchen, a dining area, several classrooms, an office and restrooms.” 815 A.2d at 1177. The all-purpose room is used for youth group, concerts, and weekly basketball games, as well as weekly meetings for the AWANA program several months out of the year, where children from fifth to eighth grade participate in Bible study and activity time. *Id.* at 1177, 1178, 1178 n. 4. Ultimately, the court affirmed the trial court’s granting of an exemption, finding that, though the Family Life Center is “used occasionally for recreational purposes[,]...the primary purpose of the Center is for AWANA and ‘Evangelers’ meetings and activities, Sunday School, Bible study, religious gatherings too large for the sanctuary and office space for these religious activities.” *Id.* at 1178 (internal citations omitted).

We agree with WJCCC that the primary use of this structure, like the Family Life Center in Evangel Baptist Church, is for religious activities involving large gatherings. The amphitheater is used weekly for Friday night and Saturday morning Shabbat services, as well as the Havdalah service. Although certain recreational activities take place within the structure, the recreational use is purely incidental to the religious use. As such, we find that the amphitheater constitutes an actual place of regularly stated religious worship.

For these reasons, the amphitheater shall be 100% exempt.

## **n. Lodge Bet**

Bet is a lodge that consists of two floors. T.P., 10/9/2018, at 81; T.P., 11/3/2020, at 23. On the upper level are sleeping quarters for many senior staff members, with a common area in the middle where small groups of campers and staff often get together. T.P., 11/3/2020, at 23. Mr. Geller described this as “[p]rogram space[.]” T.P., 10/9/2018, at 81, 124. The bottom floor is a residential area for the 11<sup>th</sup> grade campers, with six rooms and eight to sixteen campers per room. T.P., 11/3/2020, at 23; T.P., 10/9/2018, at 81, 124.

In its Supplemental Proposed Findings, WJCCC states merely that “[r]eligious worship--other than the personal worship by campers and staff--occurs in this facility only in inclement weather.” Appellant’s Supp. FF/CL, at ¶162.<sup>33</sup> WJCCC does not argue that religious worship in the structure is its primary purpose, or is anything other than incidental. Instead, WJCCC contends that Lodge Bet is necessary to support those places on the property that constitute actual places of regular worship.

Ultimately, we find that Lodge Bet shall be 50% exempt. The bottom floor, which houses 11<sup>th</sup> grade campers shall be exempt, for the same reasons as with the village cabins. The top floor, which houses staff, shall be taxable, as WJCCC has failed to provide any reason why the members of the staff who reside there must necessarily do so.

As such, a 50% exemption is warranted.

## **III. Parcel 23-Q-13-069**

Located on Parcel 13-069 are the cabins that make up Reich Village, a basketball court, a tennis court, a sports shed with a pavilion at the end, a water tower, Ulam, the theater, the Nest, and a filter and pump house.

### **a. Basketball Court**

This basketball court has been razed and is no longer in use, other than as a location for ice-breakers on the first day of camp. T.P., 11/3/2020, at 34. In its Supplemental Proposed Findings, WJCCC confirms that “[t]he [b]asketball [c]ourt is in very poor shape and used only on the first day of camp.” Appellant’s Supp. FF/CL, at ¶184. For this reason, WJCCC admits that the basketball court is not used for religious worship or necessary to the camp, and is thus not entitled to exemption.

We concur with WJCCC’s assessment and deem the basketball

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<sup>33</sup> Similarly, when asked whether this building is used for religious services or programming, Mr. Geller responded: “The majority of the time that we use that space for anything religious would be if it’s inclement weather, and we use that space for staff and/or campers to gather and potentially conduct their services.” T.P., 11/3/2020, at 23-24.

court taxable.

### **b. Tennis Court**

Like the basketball court, the tennis court is not used by the campers, aside from the first day of camp. T.P., 11/3/2020, at 33. Mr. Geller testified, and WJCCC confirms, that the tennis court is not a place used for religious worship, T.P., 11/3/2020, at 33, “but instead only ice-breaking activities for the campers on the first day of camp.” Appellant’s Supp. FF/CL, at ¶180.

WJCCC does not argue that the tennis court is a place of regularly stated worship. Neither does WJCCC contend that the tennis court is necessary to support the religious use of the property. The testimony supports its conclusion.

Thus, the tennis court is not entitled to exemption.

### **c. Reich Village**

Reich Village contains eight cabins which provide lodging for the entering 6<sup>th</sup> and 7<sup>th</sup> grade campers and their counselors. T.P., 10/9/2018, at 76, 125; T.P., 11/3/2020, at 33, 35. There is some personal prayer, similar to that in the Benjamin Village cabins, before the campers go to sleep and after they wake up. T.P., 11/3/2020, at 35. Other than that, WJCCC’s witnesses did not testify to any religious worship that occurs in these cabins.

WJCCC argues in its Supplemental Proposed Findings that “[t] here is religious worship--prayers--by the Reich Village campers in these buildings.” Appellant’s Supp. FF/CL, at ¶185. Not only does WJCCC contend that “prayer and worship occurs in...Reich Village,” but also that the Reich Village cabins are “necessary to support the buildings primarily used as actual places of regularly stated religious worship[.]” *Id.* at ¶236.

Although prayer and worship may, and likely does, occur in these cabins, the evidence does not suggest that the prayer is anything more than individual, personal prayer by the campers. The primary purpose of the Reich Village cabins is clearly residential.

Nevertheless, as with the cabins in Benjamin Village and the tents in Mack’s Village, the Reich Village cabins are necessary to provide overnight accommodations to the minors participating in the religious worship and services at the camp and their counselors who provide necessary supervision. See Four Quarters, 99 A.3d at 610-11.

For this reason, the Reich Village cabins are 100% exempt.

#### **d. Sports Shed with Pavilion at the End**

The sports shed is a larger structure that holds almost all of the camp's sporting equipment. T.P., 11/3/2020, at 33-34. There is also a pavilion attached to the sports shed that serves as a shelter and water fountain area and can fit up to fifteen to twenty campers and their counselors. Id. at 34. According to Mr. Geller, the pavilion is used for Shabbat Options "on Saturday mornings from time to time,...usually when it's raining because there's a nice shelter space." Id.

With respect to this structure, WJCCC concedes that "[t]he [s]ports [s]hed with [p]avilion at end is used to store sports equipment, not religious purposes or worship[.]" Appellant's Supp. FF/CL, at ¶181, but notes that "[t] here is a shelter area outside the shed used, from time to time, for Shabbat Options." Id. at ¶182.

These facts do not support a finding that the sports shed is an actual place of regularly stated worship. While religious activities sometimes occur at the pavilion attached to this structure, that is not its primary purpose. Instead, the primary purpose of the sports shed is storage. Similarly, using the pavilion "from time to time" for religious activities does not meet the standard for regularly stated religious activities. Occasional use, or use only during bad weather, is not sufficient.

Moreover, WJCCC does not claim that the sports shed is necessary to the exercise of religion on the camp property. At most, the sports shed supports the recreational and sporting activities of the camp--the utility of the sports shed has little to no relation to the camp's religious activities. See Four Quarters, 99 A.3d at 611 (denying exemption for a storage shed located on the religious organization's property where the tax payer's witnesses did not testify that the shed was anything more than a convenience.).

For these reasons, the sports shed and the attached pavilion shall be taxable.

#### **e. Water Tower**

The testimony at the November 3, 2020, evidentiary hearing concerning the water tower was as follows:

[ATTORNEY FOR WJCCC]: Water tower, what's the water tower used for?

[MR. GELLER]: It's used for water. You can't go inside. It's a cistern type collecting of water that we use for different parts of the camp.

[ATTORNEY FOR WJCCC]: Drinking water or—

[MR. GELLER]: To be honest, I don't know what they do with that water. I've never been inside or near it very much. It's more of a facilities staff thing but definitely no religious purposes for inside there.

[ATTORNEY FOR WJCCC]: But it's your understanding that it's used to support the property?

[MR. GELLER]: Yes. It's critical to the property.

T.P., 11/3/2020, at 34. At the bench trial, Mr. Geller described the water tower as “a cistern type device to help with the sprinkler system.” T.P., 10/9/2018, at 126.

After reviewing the testimony on this structure, we cannot find that the water tower should be exempt.

First, it is clear that the water tower is not an actual place of regularly stated worship. WJCCC admits that religious worship does not occur at this site.

Instead, WJCCC argues that it “provides water ‘critical to the property.’” Appellant’s Supp. FF/CL, at ¶183 (*quoting* T.P., 11/3/2020, at 34). After careful review of the record, we find that there is insufficient evidence to establish that the water tower is necessary to support religious activity of the camp. There is no evidence as to what, specifically, the water in the water tower is used for. The Court is thus uncertain whether the water produced by the water tower services the entire camp or only a portion thereof, whether the water is for regular use or purely emergency use, etc.

We reiterate the principle in this Commonwealth that the taxpayer bears the burden of proving entitlement to an exemption. *See Mount Zion*, 503 A.2d at 1068. WCCC has failed to do so here. Therefore, we are constrained to conclude that the water tower is taxable.

#### **f. Ulam**

Ulam is a large, older building that was part of the old camp, which has since been completely redone. T.P., 11/3/2020, at 35-36. The building is now used essentially for storage of beds, cubbies, and other similar items. T.P., 11/3/2020, at 36; T.P., 10/9/2018, at 125. Because the building is concrete and soundly constructed, it is also used to evacuate campers in the event of a bad storm. T.P., 11/3/2020, at 36; T.P., 10/9/2018, at 76.

Based on this testimony, we cannot find that Ulam is entitled to exemption. First, we are not persuaded that Ulam is an actual place of regularly stated worship. The testimony and argument on this issue is



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## **Opinion continued from previous edition of the Franklin County Legal Journal.**

inconsistent. At the bench trial, Mr. Geller testified that Ulam is a “larger building, again, used a lot for rainy day programs for [Reich Village] and the village just north of Reich Village which is Kaufmann Village.” T.P., 10/9/2018, at 76. Further, in its Supplemental Proposed Findings, WJCCC argues that “[p]rayer and worship occur[] in the Ulam[.]” Appellant’s Supp. FF/CL, at ¶236. Yet, at the November 3, 2020, evidentiary hearing, Mr. Geller testified that the camp does not use Ulam for programming. T.P., 11/3/2020, at 36. Further, elsewhere in its Supplemental Proposed Findings, WJCCC contends that Ulam “is used mainly for storage and a safe space to send the campers if necessary to evacuate due to weather conditions[,]” and “is not used for religious programming.” Appellant’s Supp. FF/CL, at ¶186. Due to the inconsistent nature of the testimony on this issue, we cannot find that the primary purpose of Ulam is religious worship.

Nevertheless, WJCCC argues that Ulam is “necessary to support the buildings primarily used as actual places of regularly stated religious worship[.]” *Id.* at ¶236. We are not convinced. The evidence establishes only that Ulam stores items like beds and cubbies, without specifics on how this is essential to allow the camp to continue its religious programs. While storage of these items on the property is beneficial, there is insufficient evidence to establish necessity. See *Four Quarters*, 99 A.3d at 611 (denying exemption for a storage shed located on the religious organization’s property where the tax payer’s witnesses did not testify that the shed was anything more than a convenience.).

We thus conclude that Ulam is taxable.

### **g. Theater**

The theater consists of a stage and an area behind the stage that can fit around forty to fifty campers and staff. T.P., 11/3/2020, at 36. The theater is used for village programming for the 6<sup>th</sup> and 7<sup>th</sup> grade campers; the 8<sup>th</sup> and 9<sup>th</sup> grade campers also sometimes use the theater for programming since there is no gathering space in Kauffman Village. *Id.* at 36-37. In addition the campers eat breakfast in the theater on Shabbat mornings, and Shabbat services are held at the theater. *Id.* The camp also uses the theater for Shabbat Options, as well as general plays and skits, some of which are in Hebrew and others are in English. *Id.* at 37.

WJCCC describes the theater as “a stage with observation areas for 40-50 campers and staff[,]” which “is used for meal service [which is again Kosher] on Shabbat morning, programming for 6th, 7th, 8th and 9th grade campers, as well as Shabbat Options.” Appellant’s Supp. FF/CL, at

¶187-88. WJCCC argues that the primary purpose of the theater is as an actual place of regularly stated worship.

Mr. Geller’s testimony established that the theater should be entitled to an exemption as a place of regularly stated religious worship. While the theater is used occasionally for recreational purposes, we agree with WJCCC that the primary purpose of the theater is for Jewish services and learning. See Evangel Baptist Church, 815 A.2d at 1178 (exempting a Family Life Center that has been used for a youth program, basketball games, and concerts, as the center was primarily used weekly for Evangelenders and AWANA meetings, as well as bible study, Sunday school, and larger religious gatherings.); see also Connellsville Street Church, 838 A.2d at 853 (finding the weekly use of the Fellowship Hall for Wednesday night Bible study to be sufficiently regular and constant to bring the primary use of the building within the Mount Zion standard for a place of regularly stated worship.).

Thus, the theater shall be 100% exempt.

#### **h. The Nest**

The Nest is a storage building where bunk beds, mattresses, toilets, and similar items are stored. T.P., 11/3/2020, at 37. Campers are not allowed in the Nest and it is not in use other than for storage. T.P., 10/9/2018, at 125; T.P., 11/3/2020, at 37.

WJCCC concedes in its Supplemental Proposed Findings that the Nest is properly taxed, given that it is not used for religious worship, nor is it necessary for the conducting of religious worship at the camp. This conclusion is supported by the record.

As such, the Nest shall be taxable.

#### **i. Filter and Pump House**

The filter and pump house is used to supply water to the property and camp. While Mr. Geller conceded that he did not have much knowledge of its use, he was able to say “with certainty” that it is not used by any campers or staff from a programmatic standpoint. T.P., 11/3/2020, at 37.

WJCCC confirms that religious worship does not occur at the filter and pump house, but instead argues that the structure is “necessary for facilities.” Appellant’s Supp. FF/CL, at ¶190.

Based on the evidence before us, we must conclude that the filter and pump house is not entitled to an exemption. The evidence is insufficient to establish that this structure is necessary to support the religious activities of the camp. There is no evidence as to what exactly the filter and pump are

used for (e.g., water, sewage, etc.). While its purpose could seem obvious, it is not. WJCCC has the burden; with respect to this structure, that burden has not been met.

For these reasons, the filter and pump house shall remain subject to taxation.

#### **IV. Parcel 23-Q-13-070**

Parcel 13-070 contains the cabins that make up Kauffman Village, as well as Cabin Meir and Shamir.

##### **a. Kauffman Village**

Kauffman Village consists of eight cabins that house the 8<sup>th</sup> and 9<sup>th</sup> grade campers and counselors. T.P., 10/9/2018, at 76, 125; T.P., 11/3/2020, at 38. With respect to religious worship in these cabins, Mr. Geller testified that the campers in Kauffman Village follow the same routine as those in Benjamin Village and Reich Village as far as morning and night prayers. T.P., 11/3/2020, at 38.

WJCCC asserts that “[t]here is religious worship--prayers--by the Kauffman Village campers in these buildings.” Appellant’s Supp. FF/CL, at ¶192. Not only that, but WJCCC argues the Kauffman Village cabins are also necessary to support the religious worship on the property, as the camp could not serve its purpose as an actual place of regularly stated religious worship for its campers without providing housing for the campers and staff. With this second contention, we agree.

For the same reasons discussed with respect to the Benjamin Village and Reich Village cabins, the eight cabins that make up Kauffman Village are entitled to a 100% exemption as places necessary for the religious use of the camp property. See Four Quarters, 99 A.3d at 610-11.

##### **b. Cabin Meir**

Cabin Meir is a structure with three bedrooms, a kitchenette, and a bathroom, and is used to house some of the senior staff members, including the head of athletics and the head of the ropes course. T.P., 11/3/2020, at 38-39. The staff also gather in Cabin Meir for various types of meetings. Id. at 39.

In its Supplemental Proposed Findings, WJCCC notes that this structure is “named after Former Prime Minister of Israel Golda Meir[,]” and “is used for housing of senior staff members.” Appellant’s Supp. FF/

CL, at ¶193.

Based on the evidence available to us, we conclude that Cabin Meir is appropriately taxed. We are unpersuaded that Cabin Meir constitutes an actual place of regularly stated worship. In fact, the testimony established that the building itself is not used for religious worship, outside of personal prayer. However, there was testimony that there is a patio adjacent to Cabin Meir that is used by campers of Kauffman Village for Shabbat Options. Yet, no further details were provided which would allow us to determine whether this religious use is sufficiently frequent to be considered regularly stated. WJCCC has not proven entitlement to exemption on this basis.

We also cannot find that Cabin Meir is necessary to the operation of the camp as an actual place of regular worship. As discussed with respect to the other structures housing members of the camp staff, WJCCC has similarly not shown that the employees that reside in Cabin Meir could not live off of the property. Further, the evidence suggests that the duties of the staff that reside in this building bear little, if any, relation to the religious activities that are conducted at the camp. Accordingly, we conclude that WJCCC's burden has not been met.

Because WJCCC failed to meet its burden of showing that Cabin Meir is either an actual place of regularly stated worship or is necessary to support the camp, no exemption is warranted for this structure.

### **c. Shamir**

Shamir is a building located between the villages and houses some of the camp's senior staff and Jewish programming staff. T.P., 10/9/2018, at 76-77, 81; T.P., 11/3/2020, at 39. In addition to the staff living quarters, there is also a kitchen, a meeting space, and a porch where some of the staff perform guard duty while the campers are asleep. T.P., 11/3/2020, at 39. Members of the senior staff meet in Shamir to plan Shabbat services and Jewish programming. It is also where the campers gather and often do their evening prayer type activities before bed. T.P., 10/9/2018, at 76-77, 81. Campers also use this space for Shabbat Options. According to Mr. Geller's testimony, "there's some programming that goes on right in that." Id. at 81. There is also a space around the side of the building where some of the staff meet. T.P., 11/3/2020, at 39. Typically, the campers do not gather there. Id.

WJCCC avers that "Shamir is a space to gather for Kauffman Village[.]" and "houses senior staff and is used for planning of Shabbat and Jewish programming." Appellant's Supp. FF/CL, at ¶194.

Based on the testimony concerning this building, we find that Shamir shall not be exempt. First, the evidence is insufficient to establish

that Shamir is an actual place of regularly stated worship. While Mr. Geller testified that campers use Shamir for Shabbat Options and programming, he did not specify when or how often Shamir is used for these purposes. Simply because religious activities occur in a particular space does not mean that the space is entitled to an exemption. Instead, to be exempt, the frequency of the worship must rise to the level of regularly stated. With the evidence available, we cannot find that this is the case. Moreover, the primary purpose of Shamir appears to be as a place for staff to sleep, eat, and gather among themselves, not as a place of worship. Indeed, Mr. Geller referred to Shamir as “where the senior staff live up the hill.” T.P., 10/9/2018, at 125.

We are similarly unconvinced that Shamir is necessary to the ongoing operation of the camp as an actual place of religious worship. Again, we fail to see why the members of the staff that live in Shamir could not live off of the property, instead. Convenient does not equate to necessary. WJCCC has not met its burden of showing that Shamir’s purpose is anything more than convenient.

For the reasons discussed, Shamir shall be taxable.

## **V. Parcel 23-Q-13-076**

Parcel 13-076 contains the Leadership Center.

### **a. Leadership Center**

The Leadership Center is a very large building with two floors. T.P., 10/9/2018, at 77; T.P., 11/3/2020, at 40. The top floor contains living space for the camp’s counselors-in-training (CITs). T.P., 10/9/2018, at 77. The bottom floor contains a large multipurpose space that is used for many inclement weather activities, including Havdalah services from time to time. T.P., 10/9/2018, at 77; T.P., 11/3/2020, at 40. The area is “kind of like a big basketball court” that is used for aerobics, Zumba, gymnastics, Israeli dancing, camp carnivals, etc. T.P., 10/9/2018, at 77; T.P., 11/3/2020, at 40. The CITs who live on the upper floor gather in this space every evening for meetings and nightly prayer. T.P., 10/9/2018, at 77. There are also a few bedrooms on this floor. T.P., 11/3/2020, at 40.

WJCCC submits in its Supplemental Proposed Findings that “[a] significant portion of the Leadership Center is used for religious prayer and instruction.” Appellant’s Supp. FF/CL, at ¶244. WJCCC explains that the activity center on the bottom floor of the Leadership Center is “used for physical activities such as aerobics, Zumba and gymnastics[,]” as well as learning Israeli dancing. *Id.* at ¶197. Further, according to WJCCC, “[p]rayer services occur each night in that buildings [sic], and Havdalah is performed

in the Leadership Center.” Id. at 199. WJCCC asserts that “[t]he Leadership Center is, from time to time, used for other religious services.” Id. at ¶200.

WJCCC also submits that “[t]he remaining portion of this structure should be exempt, as the Camp could not operate without housing, the facilities for physical education, residence for campers and counselors in training and, very importantly, medical facilities to treat attendees and staff.” Id. at ¶245.

Based upon the facts outlined above, we conclude that the Leadership Center shall be 50% exempt. Specifically, the top floor, as a residence for the CITs, is exempt as necessary to support the sleep-away camp where regularly stated religious worship is conducted. See Four Quarters, 99 A.3d at 610-11.

In contrast, the bottom floor is not exempt, as the evidence does not establish that it is a place of regularly stated religious worship or a necessity of the camp. Instead, we find that the primary purpose of the large space on the ground floor is recreational. WJCCC failed to prove that religious worship or services in this space are anything more than incidental. When asked directly whether the large multipurpose area in the Leadership Center is used for religious services, Mr. Geller responded, “Yes, from time to time. Again, usually in inclement weather.” T.P., 11/3/2020, at 41. This is not sufficient to warrant an exemption. See Mount Zion, 502 A.2d at 1070-71 (citing with approval the court’s application of the primary purpose test in Solebury Township Board of Supervisors v. Bucks County Board of Assessment and Revision of Taxes, 17 Bucks Co.L.Rep. 545 (1968) in determining that the “mess hall, while used as an actual place of religious worship in the winter months, is “not primarily used as a ‘regular place of stated worship,’” but rather “serves as an alternate to the chapel building in the winter months merely as a convenience to the membership because of its better heating facilities.”).

Moreover, to the extent WJCCC argues that the bottom floor of the Leadership Center is necessary to the religious undertakings of the camp, we disagree. We fail to see how the large, multipurpose space on the bottom floor of this building can reasonably be deemed necessary to enable the camp to provide religious services to the campers. Facilities for physical education, while advantageous to the campers, do not rise to the level of necessity as, say, residence, food, and restroom facilities do.

In light of our conclusion that the top floor of the Leadership Center is entitled to an exemption, while the bottom floor is taxable, the Leadership Center shall be 50% exempt.

## VI. Parcel 23-Q-13-196

Parcel 13-196 consists of a pavilion, the Aquatic Center, a bath house, and the Executive Director cabin.

### a. Aquatic Center

The Aquatic Center consists of a swimming pool with a fence around the perimeter. T.P., 10/9/2018, at 78. The pool has two slides, a diving board, and goals for water polo, and is used for both recreational swimming and instructional swim; there is also free swimming offered in the afternoons and pool parties at night. T.P., 10/9/2018, at 46, 78; T.P., 11/3/2020, at 44. Further, there is a lot of open grass space between the edges of the pool and the fence, which Mr. Geller testified is used for “all kind[s] of programming.” T.P., 10/9/2018, at 78. Specifically, he explained:

[F]or instance, on Saturday morning when we have Shabbat services we offer a yoga Shabbat service by the pool and we do some Jewish meditation in that area for a more calm type service, and there’s nature service and other things, traditional service and contemplative service and things like that.

T.P., 10/9/2018, at 78. Campers also throw the ball around in the open area. T.P., 11/3/2020, at 44. In addition, there are picnic tables and umbrellas in this space, which the staff use to conduct meetings. Id.

WJCCC asserts that “[t]he [s]wimming [p]ool is used for swimming for campers, but also, consistent with the prior testimony, for many Jewish activities and worship[.]” particularly Shabbat Options and Jewish yoga services. Appellant’s Supp. FF/CL, at ¶218. As such, WJCCC argues that “[t]he [s]wimming [p]ool is primarily used as an actual place of regularly stated religious worship and, therefore, should be exempt.” Id. at ¶258.

We conclude that the Aquatic Center is not entitled to an exemption. Although WJCCC presented testimony that Jewish yoga and meditation occurs at this location, we cannot find that its primary purpose is religious. Instead, we find that the primary purpose of the Aquatic Center is recreational--swimming, playing ball, using the slides and diving board, etc. See Four Quarters, 99 A.3d at 608 (While baptisms and other religious rites were performed at a river that runs through the taxpayer’s property, the court denied an exemption for the river, where recreational swimming occurs, finding that “the [t]axpayer uses the river...primarily for recreation and only incidentally for religious rites.”).

Moreover, WJCCC does not argue, and we do not find any evidence to indicate, that the Aquatic Center is somehow necessary to the functioning



of the camp.

As such, the Aquatic Center is taxable.

### **b. Pavilion**

As WJCCC notes, this pavilion is essentially a shelter located next to the swimming pool. The testimony regarding the Shabbat Options and Jewish yoga discussed above with respect to the Aquatic Center carry over to this structure. T.P., 11/3/2020, at 44.

WJCCC appears to argue that the pavilion constitutes an actual place of regularly stated worship, asserting that “[i]t is used for Jewish programming, Shabbat Options and Jewish themed yoga.” Appellant’s Supp. FF/CL, at ¶217. However, we conclude that the evidence is insufficient to enable us to make such a finding regarding this structure.

As with the Aquatic Center, we are unaware of any argument that the pavilion is necessary to the camp’s operations, nor does the record suggest that is the case.

Accordingly, the pavilion is taxable.

### **c. Bath House**

Mr. Geller testified that the bath house is “basically used for evacuation if there were a terrible storm but not for religious purposes.” T.P., 11/3/2020, at 45.

We do not find sufficient grounds for exemption of the bath house. WJCCC admits that the bath house is not used for religious programming, but argues that it “is also properly exempt as a structure necessary to support the [s]wimming [p]ool.” Appellant’s Supp. FF/CL, at ¶259.

Based on the evidence before us, we fail to see any necessity of this structure. Unlike the bath house on Parcel 052, which the Mack’s Village campers use for their ordinary bathing and restroom needs, there is no similar testimony offered regarding this bath house. Instead, the testimony on this structure was limited to its use as an evacuation site during storms. While WJCCC suggests that the bath house also has utility with respect to the swimming pool, we are without any specifics. Even assuming the bath house is necessary to the swimming pool, since the pool is not necessary to the functioning of the camp, the bath house is similarly not necessary for that purpose.

Therefore, the bath house is taxable.

#### **d. Executive Director Cabin**

The Executive Director cabin is where Mr. Geller, as Executive Director of the camp, resides with his family. T.P., 11/3/2020, at 41. On the ground floor of the cabin is a large living room where all kinds of programming and Jewish education has been held, as well as staff meetings and leadership development programming. Id. at 41-42. Clergy from the communities the camp serves come to the cabin during the leadership training and learn with the camp, including rabbis, assistant rabbis, and directors of Jewish education. Id. at 43. Kaddish, a prayer for those who have passed away, that requires ten people to perform, was conducted in this space in 2019 for one of the guests who had just lost his father. Id. at 42. Mr. Geller testified that the counselors use the ground floor “all the time.” Id. The camp also had a spa day there for the senior staff where they turned the house into a quiet space for the counselors to go and relax. Id. Mr. Geller testified that the campers “sometimes” have Shabbat Options in this room, where they would typically have Kiddush, the Blessing over the Loin, right before or right after Shabbat services, depending on the timing. Id. Moreover, orthodox rabbis visit the camp throughout the year and conduct services in this space once a week, usually on Shabbat morning. Id. at 42-43.

WJCCC argues that “[t]he Executive Director [c]abin is a place of regular worship--prayer and instruction--as well as necessary to support the actual places of regularly stated religious worship.” Appellant’s Supp. FF/CL, at ¶260. WJCCC emphasizes that “[t]he large space on the ground floor of the Executive Director [c]abin is used for programming[,]” including Shabbat Options and Kaddish and Kiddush, Jewish prayers. Id. at ¶213. WJCCC also notes that “Orthodox rabbis visit [c]amp during the year and perform Shabbat services in the Executive Director [c]abin[,]” and the cabin is further “used for the leadership development program where clergy from the communities participate in training and services.” Id. at ¶215-16. In their Supplemental Proposed Findings, the Taxing Authorities concede that “[s]ervices with Orthodox rabbis take place in the Executive Director’s [c]abin once a week on Shabbat morning.” Appellant’s Supp. FF/CL at ¶34. With respect to the top floor, WJCCC states only that it is where the Executive Director resides.

Upon review of the testimony concerning this structure, we have determined that, with the exception of the large living room on the ground floor, where weekly Shabbat services are conducted by Orthodox rabbis, in addition to other types of Jewish programming and services, the Executive Director’s cabin is not entitled to an exemption. WJCCC has not demonstrated that regularly stated religious worship occurs in the remaining

areas of the structure--instead of religious worship, the remaining areas appear to be residential in purpose and use.

WJCCC has also failed to prove that the remaining rooms in the cabin are necessary, versus merely desirable, to support the camp. Though Mr. Geller, as Executive Director of the camp, is undoubtedly valuable to the successful operation of the camp, like the other senior members of the camp staff, it is not necessary that he live on the property. WJCCC has not demonstrated any different. See First Baptist Church of Pittsburgh, 20 A.2d at 213 (“[t]he word ‘necessary’ does not import an absolute necessity, but its meaning cannot be broadened so as to comprehend that which is merely desirable.”).

As such, the large living space on the ground floor shall be exempt; we will assign a 50% exemption to this space. The rest of the Executive Director’s cabin shall remain taxable.

## **VII. Parcel 23-Q-19-129**

Parcel 19-129 is located across the road from the main camp, and the campers and counselors never enter this area. T.P., 11/3/2020, at 45. This parcel includes a trailer, a garage, and the food staff house.

### **a. Trailer/Mobile**

The trailer is used for storage. Mr. Geller’s testimony also suggested that some of the food service staff reside in the trailer. T.P., 10/9/2018, at 128.

This structure shall not be exempt. First, the testimony establishes that worship does not occur in the trailer.

Second, there is insufficient evidence to establish that the trailer is reasonably necessary to support the camp. No information has been provided to the Court concerning what, exactly, is stored in the trailer. However, in its Supplemental Proposed Findings, WJCCC argues that Parcel 129 in general shall be fully exempt, since, “[w]ithout an ability to house its employees and dining workers, the [c]amp could not function or support its purpose of religious worship rendering this parcel property exempt as necessary to support the religious worship use of the Property.” Appellant’s Supp. FF/CL, at ¶249. WJCCC does not distinguish between the three structures on this parcel with respect to this argument. Nevertheless, we cannot find that the trailer is necessary for this purpose, for the same reasons provided with respect to other camp staff housing. See Four Quarters, 99 A.3d at 611.

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**Opinion continued from previous edition of the Franklin County Legal Journal.**

Based on the above, the trailer shall be taxable.

**b. Garage**

This structure is used as a typical garage.

There is no indication that religious worship occurs in the garage or that the garage is a necessity, as opposed to merely useful. See Four Quarters, 99 A.3d at 611. Without more information concerning the specific purpose and use of the garage, we cannot find that the garage is necessary to support the religious use of the camp property.

As such, the garage is taxable.

**c. Food Staff House**

This building is used to house the kitchen staff and some senior staff members. These individuals are third-party contractors, not employees of the camp. T.P., 11/3/2020, at 46. To get into the camp, they drive onto the property and enter the Welcome Center, where they must go through security. Id. at 45-46.

WJCCC contends that “[t]he individuals employed to cook and serve the food to the campers reside in [this building][,]” which is located “across the road and not used by campers.” Appellant’s Supp. FF/CL, at ¶202-03. WJCCC does not argue the food staff house is a place of regular worship, but rather claims that “housing for crucial dining personal [sic] are necessary to support the [c]amp and its religious activities, mission and vision.” Id. at ¶204.

The food staff house shall not be exempt. WJCCC has not sufficiently demonstrated either that the building is used for regularly stated religious worship or that it is necessary to the operation of the camp. There is no evidence that prayer or worship occurs in the food staff house. Further, as with the kitchen staff that reside in the cook’s cabin, the cooks that live in the food staff house could reside elsewhere, off property. WJCCC has not met their burden of proving necessity. See First Baptist Church of Pittsburgh, 20 A.2d at 213 (“[t]he word ‘necessary’ does not import an absolute necessity, but its meaning cannot be broadened so as to comprehend that which is merely desirable.”).

**VIII. Parcel 23-Q-19-139**

Parcel 19-139 was the location of Old Benjamin, the old camp from

the 1980's that has mostly been torn down or left unused. T.P., 11/3/2020, at 47. It contains the TEVA Shack, a razed building, a tennis court, a shed, Moadon, an art house, the old cabin, two other cabins, a pavilion, buildings demo, a storage building, a sheep pen, a dwelling, and a boat house.

**a. Nature/TEVA Shack**

The TEVA Shack is where the camp keeps all of its camping gear, sleeping bags, a stove, and the propane for camping trips. T.P., 10/9/2018, at 128.

There is insufficient evidence to establish that either regularly stated worship occurs in this structure or that it is necessary, versus merely desirable, to support the camp. WJCCC admits that religious worship does not occur in this structure, and we fail to see how storage of camping equipment can be considered necessary to the camp's religious purpose. WJCCC does not argue that the TEVA Shack shall be exempt.

This structure is thus fully taxable.

**b. Razed Building**

This building was razed and is no longer in existence or used. T.P., 11/3/2020, at 47. We find that no exemption is warranted under either grounds, a conclusion with which WJCCC concurs.

**c. Tennis Court**

As to this tennis court, Mr. Geller testified only that the camp "ha[s] the Fourth of July carnival there, and [does] some other activities there." T.P., 11/3/2020, at 47.

The tennis court shall not be exempt. There is no evidence of religious worship occurring at this location, nor has WJCCC demonstrated that the tennis court is at all necessary to the camp. WJCCC concedes the tennis court is taxable, and we agree.

**d. Shed**

WJCCC concedes that no religious worship occurs here. Further, the lack of testimony concerning this structure and its purpose precludes a finding of necessity to the camp.

This shed is taxable.

### **e. Moadon**

Moadon is one of the few structures on this parcel that is still used. T.P., 11/3/2020, at 47. It is a big, open-air shelter next to the farm that is used for teaching campers about sustainability and farming in Israel. It is also where the farmers set up their equipment for farming. *Id.* Moreover, some of the older campers gather in Moadon to have their evening program, especially when it rains. T.P., 10/9/2018, at 79, 127; T.P., 11/3/2020, at 46. Mr. Geller further testified:

The essence of what we're trying to do at camp as I mentioned earlier is build communities where we can gather small groups, larger groups to do things together including religious based programming. That's where we do it.

T.P., 10/9/2018, at 79.

WJCCC argues that “[r]eligious programming occurs in the Moadon Open Air Shelter, as older campers gather for evening programs.” Appellant’s Supp. FF/CL, at ¶207.

On these facts, we cannot find that the worship that occurs in the Moadon is regularly stated. The evidence regarding the frequency of the worship in this structure is vague and uncertain. At best, the testimony reflects that the Moadon was only used for worship occasionally, particularly in inclement weather. This is not sufficient to constitute regularly stated worship. See Mount Zion, 503 A.2d at 1068-69 (noting that “stated means fixed, established, occurring at regular times...not occasionally.”); see also Order of St. Paul, 873 A.2d at 38 (stating that “*sporadic use*...for religious classes or meeting would not bring it within the scope of the exception.”) (emphasis retained).

The testimony also fails to establish that the Moadon is necessary to the functioning of the camp as a place of regularly stated worship, and WJCCC does not appear to make this argument.

As such, this structure is not exempt from taxation.

### **f. Art House**

The art house is another unused structure. T.P., 11/3/2020, at 47. There is no evidence, nor has WJCCC contended, that religious worship occurs in the art house or that it is necessary to the camp.

The art house shall not be exempt.

### **g. Old Cabin**

The old cabin is in poor shape and is not used by the camp. T.P., 11/3/2020, at 47. WJCCC does not argue it should be exempt; we are in agreement, as the record is devoid of testimony establishing entitlement under either grounds for exemption.

The old cabin is fully taxable.

### **h. Two Cabins**

Mr. Geller confirmed that these cabins are no longer in use. T.P., 11/3/2020, at 47. Therefore, they are not actual places of worship or necessary to the camp.

No exemption is warranted.

### **i. Pavilion**

The pavilion is used only to store wood for campfires.

The pavilion shall not be exempt. No religious worship occurs there, and the storage of wood for campfires is in no way necessary to the operation of the camp.

### **j. Buildings Demo**

These structures have been demolished and are not used. T.P., 11/3/2020, at 47.

As no religious worship occurs there, and the space is not necessary, the exemption does not apply.

### **k. Storage Building**

The camp does not use this building. It is not entitled to an exemption under either grounds.

### **l. Sheep Pen**

The sheep pen is used for animal shelter. There is no indication that campers use this structure or engage in worship there. Moreover, shelter for animals is not necessary for the camp to provide religious services.

The sheep pen is therefore taxable.

### **m. Dwelling**



The dwelling is no longer used. As it is not an actual place of religious worship or necessary, it shall be taxable.

#### **n. Boat House**

Unlike most of the other structures on this parcel, the boat house is relatively new and is still in use. T.P., 11/3/2020, at 47; .T.P., 10/9/2018, at 126. However, its primary purpose is storage of the kayaks, canoes, and life-jackets for the campers, T.P., 10/9/2018, at 126-27, not religious worship. In addition, the boat house facilitates recreation at the camp, not religious activities. There is no indication that it is necessary for religious purposes. WJCCC concedes that the boat house is not deserving of an exemption under either grounds.

As such, the boat house is taxable.

### **IX. Parcel 23-Q-19-139C**

Parcel 19-139C contains only the shop.

#### **a. The Shop**

The shop is a large two-story maintenance building used to store trucks, backhoes, tools, and anything else the maintenance workers need to take care of the camp. T.P., 10/9/2018, at 126; T.P., 11/3/2020, at 48. It is also where the entire maintenance staff meets. T.P., 11/3/2020, at 48. Attached to the building is a laundry area where the camp does all of the wash. T.P., 11/3/2020, at 48-49.

In its initial Proposed Findings of Fact and Conclusions of Law of Appellant Washington Jewish Community Camp Corporation, filed November 30, 2018, following the bench trial, WJCCC stated: “Tax Parcel 23-Q-19-139C is not utilized for religious purposes, but Appellant was challenging the assessed value of that tax parcel. At this time, Appellant withdraws its Appeal concerning that tax parcel leaving eight parcels at issue in this consolidated Appeal.” Appellant’s FF/CL, at ¶18.

As a result, in our January 31, 2019, Opinion and Order of Court following the bench trial, we deemed WJCCC’s appeal withdrawn with respect to Parcel 139C and considered the other eight parcels as the only ones at issue in the present appeal. However, at the subsequent evidentiary hearing held November 3, 2020, following the submission of the Amended Tax Cards, WJCCC presented testimony regarding this parcel. Moreover, in its Supplemental Proposed Findings filed thereafter, WJCCC argued for Parcel 139C’s exemption.

While it would appear that WJCCC's appeal with respect to this parcel was withdrawn, because of the murky record in this matter, it is not so clear. At the time WJCCC submitted its initial Proposed Findings of Fact and Conclusions of Law where it purported to withdraw the appeal concerning Parcel 139C, the evidence and arguments related to the tax cards as they existed at the time of the bench trial. Those tax cards were indisputably incorrect, which is why we declined to perform the appropriate legal analysis on those tax cards and remanded to the Board for correction. The testimony at the bench trial is unclear as to exactly which parcel WJCCC believed the Shop to be located on. If anything, it appears that the Shop was considered with respect to Parcel 139, not Parcel 139C. See T.P., 10/9/2018, at 126. Regardless, now that the Board submitted the Amended Tax Cards, the record accurately reflects the structures located on each parcel, including Parcel 139C. As WJCCC withdrew its appeal concerning Parcel 139C based on erroneous records, we will not consider it withdrawn at this time.

With that being said, WJCCC is not entitled to exemption for this parcel. The shop is plainly used for non-religious purposes, see T.P., 11/3/2020, at 48, and shall not be accorded exemption as an actual place of religious worship.

Nevertheless, Mr. Geller testified that this structure is "very much" a necessity to support the camp. T.P., 11/3/2020, at 49. Similarly, in its Supplemental Proposed Findings, WJCCC argues that "[t]he [m]aintenance building is used to store tools and supplies needed by the maintenance staff to perform maintenance and repair of the [c]amp structures." Appellant's FF/CL, at ¶210. As such, WJCCC argues that the maintenance shed "should be exempt as necessary to support the structures used for actual places of regularly stated religious worship." Id. at ¶255.

Despite WJCCC's argument, we fail to see how the shop is necessary, rather than merely convenient. While it is likely true that the presence of the shop on the property is beneficial to the camp, the evidence does not support a finding that this storage cannot reasonably occur off-property. As such, WJCCC shall not be entitled to an exemption for the shop. See First Baptist Church of Pittsburgh, 20 A.2d at 213 ("[t]he word 'necessary' does not import an absolute necessity, but its meaning cannot be broadened so as to comprehend that which is merely desirable.").

## CONCLUSION

Based upon the foregoing, WJCCC's consolidated tax assessment appeals are granted in part and denied in part. An order follows.

## ORDER OF COURT

**AND NOW**, this 20th day of April, 2021, following a bench trial on the consolidated tax assessment appeals initiated by Appellant Washington Jewish Community Camp Corporation, and pursuant to the attached Opinion,

**IT IS HEREBY ORDERED** that Appellant's consolidated tax assessment appeals shall be **DENIED**, except as to the following:

1. The living quarters in Mack's Village shall be 100% exempt;
2. The bath house located on Parcel 23-Q-13-052 shall be 100% exempt;
3. The dining hall located on Parcel 23-Q-13-052 shall be 100% exempt;
4. Nesiya Lodge shall be 70% exempt;
5. Tsfat Pavilion shall be 100% exempt;
6. The Benjamin Village cabins shall be 100% exempt;
7. The amphitheater located on Parcel 23-Q-13-068 shall be 100% exempt;
8. Lodge Bet shall be 50% exempt;
9. The Reich Village cabins shall be 100% exempt;
10. The theater located on Parcel 23-Q-13-069 shall be 100% exempt;
11. The Kauffman Village cabins shall be 100% exempt;
12. The Leadership Center shall be 50% exempt; and
13. The Executive Director's Cabin shall be 50% exempt.

*Pursuant to Pa.R.C.P. 236, the Prothonotary shall give written notice of the entry of this Order, including a copy of this Order, to each party, and shall note in the docket the giving of such notice and the time and manner thereof.*