

COURT RULES ICE RINK PROVIDES RECREATION, NOT EDUCATION

In a recent Washington Superior Court decision, Judge Mary Miles Teachout held that the Washington West ice rink in Waterbury is devoted primarily to recreational purposes and is not entitled to a property tax exemption under 32 V.S.A. § 3802(4). This statute exempts from property tax “[r]eal and personal estate...used for public, pious, and charitable purpose.”

The Town of Waterbury treated the ice rink as exempt from property tax until 2006, when the Vermont Department of Property Taxes took the position that such rinks are not exempt because they are “used primarily for...recreational purposes” and therefore not qualified for the exemption. 32 V.S.A. § 3832(7). The Ice Center of Washington West, Inc., the non-profit organization that owns the rink, brought suit seeking a declaration from the court that the rink was exempt from property taxation.

According to the Court, exemptions from property tax set out at 32 V.S.A. § 3802(4) are limited by the provisions of 32 V.S.A. § 3832. Property owners seeking an exemption under 3802(4) must first prove entitlement to the exemption at section 3802(4) and then must prove that the exemption is not limited by section 3832. Section 3832(7) provides that the exemption for public, pious or charitable uses does not exempt real and personal property used primarily for recreational purposes unless the town approves the exemption at a regular or special town meeting.

The Court rejected the owner’s assertion that the rink is used primarily for education purposes because it is rented to area schools for extracurricular activities such as ice hockey. Instead it found that ice skating and extracurricular activities based on ice skating are principally recreational in nature.

While these activities may provide some educational value, that value is insufficient to convert recreational activity to an educational purpose. Because the rink is primarily dedicated to a recreational activity, section 3832(7) would apply and the rink would not be tax-exempt under 32 V.S.A. § 3802(4). While this Superior Court decision is not binding on other ice rinks in the state, it does give a strong indication of how these tax exemption disputes will be resolved in the future. Those municipalities considering a vote on an exemption for an ice rink or other recreational facility should remember that the locally-voted exemption will not remove the rink from the state grand list. Under 32 V.S.A. § 5404a, taxpayers will still be obligated to pay the statewide education property tax attributable to the property.

Jim Barlow, Attorney, VLCT Municipal Assistance Center

VLCT News, August/September 2007