

**Matter of Altman v Assessment Review Commn. of
the County of Nassau**

2011 NY Slip Op 32419(U)

September 6, 2011

Sup Ct, Nassau County

Docket Number: 408348/10

Judge: Thomas A. Adams

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SHORT FORM ORDER

SUPREME COURT - STATE OF NEW YORK

Present:

HON. THOMAS A. ADAMS,
Acting Supreme Court Justice

TRIAL/IAS, PART 33
NASSAU COUNTY

In the Matter of the Application of
RENNI ALTMAN,

Petitioner(s),

INDEX NO.: 408348/10

-against-

ASSESSMENT REVIEW COMMISSION OF THE COUNTY
OF NASSAU,

Respondent(s).

Decision After Trial

Petitioner commenced this proceeding pursuant to RPTL Article 7 to review the respondent, Assessment Review Commission of Nassau County's (ARC) denial of a partial clergy exemption pursuant to RPTL § 460.

The petitioner is an ordained rabbi and the owner of premises located at 2 Old Colony Lane in Great Neck (Section 1, Block 183, Lot 71) which she utilizes as her primary residence. She was previously employed as Associate Rabbi at Temple Beth El of Great Neck and received a partial clerical exemption (see RPTL § 460[1]) for the tax year 2008/2009. On or about January 1, 2008, she voluntarily resigned her position as Associate Rabbi and accepted employment as Associate Dean of the Hebrew Union College (HUC) and Director of its Rabbinic School.

Petitioner seeks an order granting partial clergy exemption pursuant to RPTL § 460 for her primary residence located at 2 Old Colony Lane, Great Neck, NY (the subject property) for the 2009/2010 assessment roll, based on her employment as the Associate Dean of the Hebrew Union College Jewish Institute of Religion (HUC). Petitioner asserts that she is entitled to receive the partial clergy exemption under RPTL § 460.

RPTL § 460(1) provides that:

Real property owned by a minister of the gospel, priest or rabbi of any denomination, an actual resident or inhabitant of this state, who is engaged in the work assigned by the church or denomination of which he or she is a member, or who is unable to perform such work due to impaired health or is over seventy years of age, and real property owned by his or her unremarried surviving spouse while an actual resident and inhabitant of this state, shall be exempt from taxation to the extent of fifteen hundred dollars.

The petitioner received her *semikha*, or ordination, from the Hebrew Union College Jewish Institute of Religion [HUC]. A rabbi's rigorous training and expert knowledge of the Torah, the Talmud, and the Codes of Law, along with her personal faith and piety is the basis for granting of *semikha* or ordination. The Union for Reform Judaism [formerly the American Hebrew Congregation] is an umbrella organization of which the majority of reform synagogues in the U.S. are dues paying members. The Union for Reform Judaism [URJ] provides educational resources for religious schools, tools for synagogue management, as well as rabbis who guide the lay leadership of reform synagogues. The URJ is funded by dues from affiliate reform synagogues and donations. The HUC is similar to a seminary. It is directly affiliated with the reform movement and the URJ. In fact, when the predecessor to the URJ was established in the mid 19th century, its primary function was to create and fund a seminary which today is the HUC. The third organization that makes up what can be considered the reform movement of Judaism in the United States is the Central Conference of American Rabbis, consisting of rabbis trained in the teaching and practices of the reform movement. The vast majority of those rabbis who are members of the Central Conference were ordained by HUC.

The Hebrew Union College, the seminary; the Central Conference of Reform Rabbis, the organization of reform rabbis;

and the Union for Reform Judaism, the reform synagogues and their members are the constituents that make up the denomination known as Reform Judaism in the United States.

Petitioner has established that she is a rabbi of the denomination known as Reform Judaism.

After a search committee's recommendation and that of the Dean of the HUC, she was appointed to her position by the Board of Governors of HUC, the seminary of the denomination for reform Judaism in the United States. The Board of Governors of HUC is made up of approximately 45 individuals selected from the Union for Reform Judaism, the Central Conference of American Rabbis and lay leaders in the reform movement.

The petitioner has met the burden of proof to establish entitlement to the exemption under RPTL § 460(1). *Ingham v Town of Dickinson*, 192 AD2d 813. She has demonstrated as a matter of law that she was assigned her position at HUC by the denomination known as Reform Movement of Judaism of which the HUC is an integral part.

The petitioner testified that as Dean of the seminary she was directly involved with the pastoral training of students enrolled to become rabbis. She is an integral part of the daily worship services at the seminary and plays an active part in enhancing the students' role in daily proffer services. A rabbinic student must demonstrate his or her ability to deliver a sermon to a congregation. Petitioner plays a part in this aspect of rabbinic training by having pre and post discussions and critiques with students regarding their sermons. In addition, she delivers sermons to the student congregation at HUC.

Respondent argues that since petitioner was engaged in administrative duties she should not be entitled to an exemption. The Court finds that even if petitioner performed administrative duties, they were *de minimis* in nature and sufficiently interconnected with her rabbinic duties as to vitiate respondent's argument. In addition to the previously

mentioned functions which were clearly not administrative, the petitioner also engaged in the following rabbinic activities in her role as Associate Dean of HUC: guiding and educating rabbinical students in their professional development; addressing the spiritual needs and growth of the students; advising and providing leadership development for the Student Association through such programs as the annual retreat and day-long symposia.

Respondent offers no rational basis for its strained construction and the corresponding denial of the RPTL § 460 exemption in the context of the within proceeding. The only witness to testify for the respondent was Thomas Albanese, a financial systems administrator for the Nassau County Department of Assessment. He testified that "the exemption is primarily for the clerical leader of a congregation." He further testified that if ARC determines or believes that the position is primarily administrative in nature, it does not warrant and/or qualify for an exemption under RPTL § 460. Mr. Albanese noted that "You could have a situation whereby somebody who is a clergy-person trading stock downtown Wall Street could theoretically apply for a clergy exemption that has nothing to do with their work, has nothing to do with actually being a clergy, if you want to, you know, narrowly interpret the statute that way."

In interpreting a statute, the starting point of analysis must be the plain meaning of the statutory language, since it is the " 'clearest indicator of legislative intent.' " *Matter of Pro Home Bldrs, Inc. v Greenfield*, 67 AD3d 803, 805 quoting *Majewski v Broadalbin-Perth Cent. School Dist.*, 91 NY2d 577, 583. The "legislative intent is to be ascertained from the words and language used, and the statutory language is generally construed according to its natural and most obvious sense, without resorting to an artificial or forced construction." *Frank v Meadowlakes Dev. corp.*, 6 NY3d at 692, citing McKinney's Cons Laws of NY, Book 1, Statutes § 94. Respondent has submitted no credible documentary evidence to establish that the petitioner's work was predominantly administrative, rather than rabbinic and pastoral in nature.

ARC's interpretation of RPTL § 460 is in conflict with existing administrative rules and regulations. For example, in 1970 NY Opp Atty Gen. No. 48, 1970 WL 197050 (NYAG), the New York State Attorney General opined that an "exemption is applicable if the rabbi is assigned to the teaching work in the **Yeshiva** by the denomination of which he is a member." Counsel to the State Board of Equalization and Assessment, the agency charged with supervising all of the assessment activity in New York State also issued a comparable opinion holding that the proper interpretation of RPTL § 460 included eligibility for a member of the clergy who is assigned to work by her religious organization, even if she is not an officiating clergy person.

Unlike the aforementioned section 462, there is no requirement in section 460 that the applicant be an officiating clergyman of a religious corporation. Thus, the fact that the property owner does not preach on a regular basis is not determinative as to his right to receive an exemption pursuant to section 460. Rather, the key phrase is "engaged in the work assigned to him by the church or denomination of which he is a member." For example, the Attorney General has held that a regularly ordained minister, priest, or rabbi meeting all other requirements of the section, is entitled to the tax exemption if the work he is engaged in was assigned to him by the church or denomination of which he is a member even if such work may be teaching in a seminary (1970, Op. Atty. Gen. 48). The facts submitted do indicate that the applicant is an ordained minister. Thus, if he has been assigned to his administrative post by the Presbyterian Church, he is entitled to a \$1,500 exemption. 1976 Opinion of counsel SBEA No. 54.

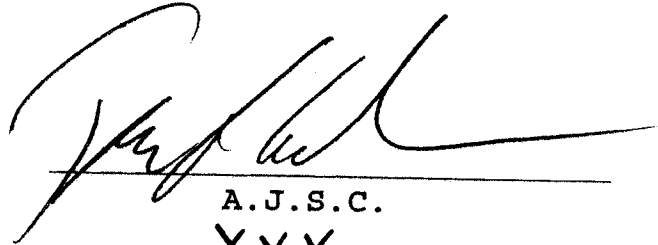
Petitioner has established that as Associate Dean of the

Reform Movement of Judaism's official seminary for training of rabbis, she has been assigned her position at HUC by the Reform Movement of Judaism, the denomination of which she is a member.

Petitioner shall therefore be granted an exemption pursuant to RPTL § 460 for the period in dispute.

This decision is the order of the court and terminates all proceedings under index number 408348/2010.

DATED SEP 06 2011



A. J. S. C.

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ENTERED

SEP 13 2011

NASSAU COUNTY
COUNTY CLERK'S OFFICE