**Court of Appeal for Saskatchewan**
**Docket: CACV4372**

**Citation: *Prince Albert (City) v Embassy Church Inc.*, 2026 SKCA 18**
**Date: 2026-02-03**



Between:

**City of Prince Albert**

*Appellant*
*(Respondent)*

And

**Embassy Church Inc.**

*Respondent*
*(Appellant)*

And

**Saskatchewan Assessment Management Agency**

*Respondent*
*(Non-Party)*

| | |
|---|---|
| Before: | Schwann, Tholl and Kalmakoff JJ.A. |
| Disposition: | Appeal dismissed |
| Written reasons by: | The Honourable Justice Jerome A. Tholl |
| In concurrence: | The Honourable Justice Lian M. Schwann<br>The Honourable Justice Jeffery D. Kalmakoff |
| On appeal from: | 2024 SKMB 21, Regina |
| Appeal heard: | November 27, 2025 |
| Counsel: | Troy Baril and Aden Ritter for the Appellant<br>Philip Fourie and Carla Dombowsky for Embassy Church Inc.<br>No one appearing for the Saskatchewan Assessment Management Agency<br>R. James Fyfe, K.C., for the Attorney General of Saskatchewan |

**Tholl J.A.**

## I. INTRODUCTION

[1] Embassy Church Inc. [Embassy] owns a property in the City of Prince Albert [City]. The main building is used for several different purposes, including a church, a registered independent school, a day care, space leased to third parties, and areas that can be rented on a one-time basis by members of the public for social or business functions. It also contains a second stand-alone building with a convenience store. For the 2023 assessment year, the property was valued at $2,847,700, which is not in dispute. However, the parties disagree on what portions of the property should be exempt from property tax under the provisions of *The Cities Act*, SS 2002, c C-11.1 [*Act*] and *The Cities Regulations*, RRS c C-11.1 Reg 1 [*Regulations*].

[2] The assessor determined that the school portion of the property was exempt, but the remainder was not. This was a dramatic change from the way the property had been dealt with in the past. Historically, the bulk of the property had been exempted from property taxation. Embassy agreed that the portion of the property consisting of the stand-alone convenience store and the space leased to third parties on a long-term basis should be taxable and also agreed with the assessor's determination regarding the school but otherwise disputed the denial of an exemption for the rest of the property. It asserted that the other portions of the main building are exempt as a place of public worship. Embassy unsuccessfully appealed the assessment to the City's Board of Revision [Board]: *Embassy Church Inc. v Prince Albert (City)* (5 July 2023), Prince Albert 2023-36 (SKBOR) [*Board Decision*]. Upon further appeal to the Assessment Appeals Committee of the Saskatchewan Municipal Board [Committee], Embassy's appeal was allowed in part and a further exemption, as a place of worship, was ordered for the disputed portions of the property, except for the portion occupied by the day care: *Embassy Church Inc. v Prince Albert (City)*, 2024 SKMB 21 [*Committee Decision*].

[3] The City applied to this Court for leave to appeal. Embassy's response was treated as an application for leave to cross-appeal. Leave to appeal was granted on a single question of law, which combined two of the City's proposed grounds of appeal and one from Embassy's into the following: What is the correct interpretation of s. 262 of the *Act* and s. 16 of the *Regulations* and how should the statutory exemption apply in cases where places of worship are used for multiple purposes, including, for example, for childcare purposes?

[4] As a bottom line, the City seeks to have the decision of its assessor restored whereas Embassy wants the day care portion of the property exempted in addition to the portions that were exempted by the *Committee Decision*.

[5] For the reasons that follow, I conclude the appeal should be dismissed.



## II. Proceedings

### A. Background

[6] Embassy was incorporated in 1980 as a religious organization. It owns a property located at 888 Central Avenue in the downtown commercial zone of Prince Albert. The main building has two levels, with each containing several different rooms as set out in diagrams filed at the Board hearing. Two uses of the property are particularly contentious.

[7] First, a portion of the main building houses the DaySpring Early Learning Centre. It is a licenced day care that is open to members of the public, regardless of their religious affiliation, and operates during regular and consistent hours. The income entry for "DaySpring Fees" on Embassy's January through December 2021 financial statements is [redacted], with other income sources for the day care being an additional [redacted].

[8] Second, Embassy rents out portions of its main building on a single-use basis to unrelated third parties. Uses include meetings, conferences, trade shows, banquets, wedding receptions, and similar business, social, and community events. The portions available are rented under the name Plaza 88 Event Centre, but this is not a separate entity. It is operated by Embassy. A website provides information about the space available for rent, and the building itself has a large external sign displaying the Plaza 88 Event Centre name. There was no evidence before the Board concerning the number of times per year that any portion of the space was rented to third parties, but the entry for "Plaza 88 Rental Income" on Embassy's January through December 2021 financial statements is [redacted]. In her affidavit, Embassy's pastor, Meghan Mayer, deposed that "[r]oom rentals comprised only 12–14% of Embassy Church's total income in 2020 & 2021".

[9] The City argued before the Committee, as it does on appeal, that all the disputed space is used for commercial purposes and is, therefore, not exempt. It does not agree that any of it should be exempted as a place of public worship. Embassy contended that all the disputed space, including that used for the day care and the portions that are available for one-time rental, is exempt from taxation because the space is broadly used as a place of public worship.

[10] Property can be exempt from taxation under s. 262(1) of the *Act* in several different situations. Section 262(1)(c) describes the exemption for a registered independent school. The following additional portions of that section of the *Act* provide an exemption for places of public worship:

> **Exemptions from taxation**
> **262**(1) The following are exempt from taxation:
>
> …
>
> (e) every place of public worship and the land used in connection with a place of public worship subject to the following limits:
>
> (i) the maximum amount of land that is exempt pursuant to this clause is the greater of:
>
> (A) 0.81 hectares; and
>
> (B) 10 square metres of land for every one square metre of occupied building space used as a place of public worship;
>
> (ii) the place of public worship and land must be owned by a religious organization;
>
> (iii) the exemption does not apply to any portion of that place or land that is used as a residence or for any purpose other than as a place of public worship … .

[11] Embassy has owned the property for many years, and for the majority of that time it has been largely exempt from property taxation. For example, in the prior two years of the assessment cycle, 2021 and 2022, the non-exempt assessed value was $288,200 and the exempt value was $1,716,300. That changed in 2023 when, after re-examining the available information, the assessor determined that a much smaller proportion of the property should be exempted. Only the school was exempted under s. 262(1)(c) of the *Act*, with no exemption being given for any portion of the property as a place of public worship under s. 262(1)(e). As a result, $403,300 of the total value was exempted, leaving a taxable assessed value of $2,444,400.

## B. *Board Decision* and *Committee Decision*

[12] Embassy appealed the assessor's decision to the Board, which dismissed its appeal (i.e., the *Board Decision*). The reasons for that dismissal are not relevant to this appeal because the Committee set aside the *Board Decision* for reasons that concluded as follows (*Committee Decision*):

> [46] Any findings that may be extracted from the Board's analysis fail to provide any justification or transparency, legislative interpretation, or application of facts to applicable legislation and regulation. As a result, us as the reviewing body were not provided with an opportunity to determine whether the decision was intelligible nor was any reader, in our view. We can't determine whether the conclusion is within a range of acceptable outcomes because we'd be guessing as to any reasoning, any analysis of legislation or application of case law, and as to how the Board applied the facts to law (and vice versa).
>
> [47] Therefore, the Board's decision is set aside and we will do what the Board ought to have done by reviewing the evidence and argument on the record, as well as the argument presented directly to us, in arriving at our conclusion(s).

[13] As a result of this finding, the Committee stepped into the shoes of the Board and made its own findings of fact and its own first-instance decision. In doing so, it stated that the overarching issue to be decided could be framed as the following: "Did the City and Board err in determining the liability to taxation of the subject property?" (at para 37). This aspect of the *Committee Decision* is not the subject of the appeal, so there is no utility in further discussing the decision of the Board.

[14] After determining that the *Board Decision* must be set aside for the reasons noted above, the Committee moved on in its analysis. It set out several sections of the *Act*, including s. 262(1)(c) and s. 262(1)(e), noting that "it is entirely the proper application and alleged misapplication of exempt status under subsection 262(1)(e) that is at issue in this appeal" (at para 53). However, the Committee went on to find that s. 16 and s. 17 of *Regulations* were also applicable to the interpretation exercise. Those sections are as follows:

> **Multiple-use property**
>
> **16**(1) If one use of any property is clearly distinct from the property's predominant use and is not integrated with or directly related to the property's predominant use, the city assessor may:
>
> (a) determine that portions of the property that include more than one use, or portions of the property's assessment, belong to different classes established pursuant to these regulations; and
>
> (b) apportion the assessed value of the property among those classes.

> (2) Pursuant to section 175 of the Act, if the city assessor determines that portions of any property, or portions of the property's assessment, belong to different classes established pursuant to these regulations, the property may be entered more than once in the assessment roll for the purpose of indicating the assessed value of each portion of the property within a class.
>
> …
>
> **Date of classification**
>
> **17**(1) Subject to subsections (2) and (3), in each year as of January 1, properties, and the assessments of properties, are to be classified as belonging to the classes established pursuant to these regulations.
>
> (2) A new improvement or a newly subdivided parcel is to be classified as of the date that it is added to the assessment roll.
>
> (3) If there is a change in the use of a property, the property is to be classified as of the date that the change is made to the assessment roll.



[15] After some further discussion, the Committee turned to the nature of Embassy. It found that it was a church and that its operations were church-like. In doing so, it stated the following (*Committee Decision*):

> [58] For that reason, we agree with the Board's finding on the face of it. Having said that, the history and mission within the City of the subject's owner does contribute to a finding that Embassy is a church, and that its operations generally are church-like. The evidence placed before the Board, including the Affidavit of Meghan Mayer and the Constitution and Bylaws of Embassy, confirm that in our view (HB pp. 63–65 and HB pp. 95–126). For example, below is an excerpt from the Constitution of Embassy taken from "Article 2 Purpose". The quote lists the initial activities for Embassy to obtain its objects as follows (HB p. 96):
>
> > Without limiting the generality of the foregoing objects, for the attainment of such objects and incidental thereto:
> >
> > > a) to deepen and strengthen the spiritual life of its congregants and members and the family of each member and congregant at local Church services, meetings, re treats and conferences, through:
> > >
> > > > i. The Study of God's Word;
> > > >
> > > > ii. Communing with God in Prayer;
> > > >
> > > > iii. Fellowship with one Another;
> > > >
> > > > iv. Worship … .
>
> [59] The wording of the excerpt corroborates with Embassy's submissions and position taken that the main and dominant use of its property is for public worship. In essence, the fact that the subject property is Embassy's main and sole place of public worship has not been disputed by the City makes its failure to allot any exemption under subsection 262(1)(e) to any part of the property puzzling. Moreover, this information was available to the City Assessor both in advance of and during the Board appeal.

> [60] To summarize, while we agree with the Board's statement on the face of it that the history and mission of the church "in the City" have no bearing on its classification, it exposes the Board's error in failing to grapple with the dominant, prevailing use of the property. We find that the subject is best described as a multi-use property. Therefore, the City and the Board ought to have considered and made determinations about whether **any use** of those portions of the property in question were **clearly distinct** from the **predominant use** of the property (bolding is our emphasis – see s. 16(1) of the *Regulations*).
>
> [61] We framed Issue c) as, "Did the Board err when it found the fact that rental money and day care income used for church worship purposes, and financial records showing no evidence of for-profit commercial activities, did not have bearing on the taxable-exempt status of the property?" We find this question or issue as framed is answered within the *Act*, and via the language employed in subsection 162(1)(e)(iii). That is, the exempt status afforded to "every place of public worship" at the outset of that section "does **not** apply to any portion of that place … that is used … **for any purpose other than as a place of public worship**". There is no mention made of the use of any income derived from the use, or who may be operating the portion of a building so used. The focus is on a use **other** than as a place of public worship (bolding is our emphasis throughout this paragraph).
>
> [62] The answer to this question or issue is, when considering the findings made in paragraph [60] above, regardless of what purpose or purposes the income is used, if the predominant, clearly distinct use is something other than as a place of public worship, then the exemption in subsection 162(1)(e) is unavailable. The portion of land or buildings so otherwise used, becomes taxable.
>
> (Bold emphasis in original)

[16] The Committee then addressed the definition of the term "place of public worship", which is not defined in the *Act*. The Committee looked for assistance in the City's *Zoning Bylaw* (Bylaw No. 1 of 2019) [*Bylaw*], discussing the nature of this guidance as follows (*Committee Decision*):

> [64] The definition for place of worship from the City's Zoning Bylaw (No. 1 of 2019) is shown below (HB p. 130):
>
> > "means the use of a building, or a portion thereof, where people assemble for religious or spiritual purposes, which includes rooms for administrative functions, child care services, classrooms for religious instruction, a kitchen and eating areas, recreation facilities, and may include a single a dwelling unit known as a parsonage"
>
> [65] We are cognizant that the definition is taken from a bylaw used to control and administer planning and zoning in the City, and not for purposes of determining the taxable-exempt status of properties. However, in the absence of applicable definitions for taxation purposes, this definition should be examined as a useful, non-binding guide for the City to consider, particularly when considering the direction found in the *Act* and *Regulations*. We accept that the first part of the definition, referring to "the use of a building, or a portion thereof, where people assemble for religious or spiritual purposes" basically aligns with the intent of applicable legislation as the predominant use or activities of Embassy. In the least, the definition provides a starting point for contemplation purposes.

[17] The relevant portions of the remainder of the Committee's analysis regarding the space that was also used for one-time use rentals consisted of the following:

> [67] So to directly respond to the allegation of error made to us by Embassy, we can say that it was an error for the City and Board not to have considered what constitutes a place of public worship. That would include contemplation of applicable definitions it uses for other purposes, such as planning and zoning. However, consideration must also be given to whether the ancillary use of any area of the property generates a situation where the use would be deemed to be clearly and distinctly other than for the predominant use of public worship. That would include ancillary areas or uses mentioned in the Zoning Bylaw definition, including childcare services, kitchen/eating areas, and recreation areas.
>
> …
>
> [70] We have further found it puzzling that the City neither provided any exempt status, nor appeared to consider what areas were predominantly used for the purposes of public worship. This is an error of the City, whether it be based on an error involving pure legislative interpretation and thereby, was incorrect, or whether it was an error in involving mixed fact and law and was unreasonable.
>
> …
>
> [72] Embassy, via the Affidavit of Meghan Mayer and her presentation at the Board hearing (see particularly Transcript pp. 66–68 (HB pp. 757–759)), acknowledge that the church is actively attempting to rent vacant space within its building to third parties. However, Ms. Mayer and counsel for Embassy, Mr. Fourie, steadfastly maintained throughout the Board record and during our hearing that public worship is the primary, dominant and precedential function of the non-leased spaces. Although rented periodically, the use and occupancy by third parties is sporadic. We further confirmed this fact via questioning at our hearing. This evidence and argument went largely unchallenged by the City.
>
> [73] We find the Affidavit of Meghan Mayer and supporting evidence submitted by Embassy compelling. Further, Ms. Mayer was present at the Board hearing and made a brief statement on behalf of Embassy. …
>
> [74] We cannot say, regardless of the methods and business names employed by Embassy to facilitate periodic rentals of the space for which no exemption has yet been provided by the City, that the space's predominant use is not for public worship. Regardless of the end employment of rental income or the methodology of marketing, legislation, regulation and case law lead us to understand that making determinations on taxable-exempt status are rooted in predominant and prevailing use of space.
>
> [75] We acknowledge the positions of the City. As noted earlier, we are concerned that the initial starting point for 2023 in the determination of taxable-exempt status for the subject offered no subsection 262(1)(e) exemption whatsoever. It is clear to us that Embassy has made an operational decision to employ multi-use spaces within its place of public worship. In our view, as time has progressed there are fewer and fewer pews-and altar spaces dedicated (and sitting empty most of the time) solely to public worship. That does not mean that Embassy is not fully engaged in offering spiritual services in a place of public worship.

[18] Turning to its analysis of the space used to house the day care centre, the Committee came to a different conclusion regarding whether it qualifies for an exemption:

> [76] We are unconvinced, however, that the space dedicated to the housing and operations of the DaySpring Early Learning Centre day care facility is in any way predominantly used as a place of public worship. The City's statements in its submissions at paragraph [48] to the Board (partially reproduced below, Exhibit R-1, HB pp. 305–306) in this regard were not challenged by Embassy (the City also appended excerpts from DaySpring's website to supplement its submission). Rather, when we questioned Embassy representatives at our hearing, the City's statements were confirmed. We were told the day care is open to all citizens regardless of religious affiliation and operates its service regularly and consistently, during dedicated hours. The space's predominant use is clearly as a day care, not for public worship. What any profit or revenue streams are used for is irrelevant.
>
> > The DaySpring Early Learning Centre, see Appendix S, is a government licensed and subsidized childcare facility. This childcare facility is open to the public and accepts children at 6 weeks old and up to the day they start grade one. There is a charge for the services of this facility making this a commercial use. This area is not considered as being used primarily as a place of public worship, therefore does not meet the requirements of s. 262(e) [sic].

[19] The Committee concluded as follows:

> [77] We find the City and Board erred by providing no exemption pursuant to subsection 262(1)(e) where the predominant use of the subject property is as a place of public worship. It is a service that Embassy seeks to offer, and it clearly manages the appropriate spaces to be available predominantly for that use.
>
> [78] Embassy's appeal is allowed. The assessment of the dedicated, leased space to third parties is taxable. The assessment of the dedicated space utilized for the DaySpring Learning Centre is also taxable. In both cases, those spaces are utilized for purposes other than for public worship. Further, the assessment of the space currently exempted under subsection 262(1)(c) as being owned and occupied by registered independent school is correctly exempted. The assessment of the remaining space on the property is to be exempted pursuant to the provisions of subsection 262(1)(e).
>
> [79] This decision is sent to the City to implement revised taxable-exempt status in good faith and in accordance with the order contained in the immediately preceding paragraph. Common areas that factor into assessed value such as public hallways, washrooms and parking lots are left to be dealt with in accordance with standard and accepted assessment practice, and again, in good faith subject to the discretion of the Assessor.

## III. ANALYSIS

### A. Challenge under the *Canadian Charter of Rights and Freedoms*

[20] At the time of the appeal hearing, Embassy raised an issue under the *Charter*. It gave notice to the City and the Attorneys General (Saskatchewan and Canada) in advance of the hearing in this Court, but there is no indication that it had raised this issue with the Committee. The crux of its argument is that the City's proposed interpretation of s. 262(1)(e) of the *Act* has the potential to

infringe on Embassy's rights under s. 2(a) (freedom of conscience and religion) and s. 15 (equality rights), and it wants this Court to interpret the *Act* in a *Charter*-compliant manner. It is not seeking a declaration of any kind.

[21] Leaving aside the question of whether Embassy, as a corporation, can even assert these rights, this is a new argument on appeal that was not raised at the Committee level, so there is no evidentiary basis for the assertions and no decision to review: see *Meier v Saskatchewan Institute of Agrologists*, 2016 SKCA 116 at para 28, and *Yashcheshen v Teva Canada Ltd.*, 2022 SKCA 49 at paras 54-56. Additionally, Embassy's arguments on the proposed *Charter* issue appear to have very little merit: see *Osborne v Canada (Treasury Board)*, 1991 CanLII 60, [1991] 2 SCR 69 (SCC), and *R v Rogers*, 2006 SCC 15. Accordingly, I will address this issue no further.



### B. Interpretation of s. 262(1)(e) of the *Act*

[22] Section 262(1)(e) of the *Act* permits an exemption from taxation for every place of public worship provided that three conditions are met. First, under s. 262(1)(e)(i), the maximum amount of land that can be exempt is specified. The property in question here does not exceed that limit. Second, pursuant to s. 262(1)(e)(ii), the property must be owned by a religious organization. The City concedes that Embassy is a religious organization. Third, under s. 262(1)(e)(iii), "the exemption does not apply to any portion of that place or land that is used … for any purpose other than as a place of public worship". This last requirement is the focus of the controversy. As such, I must determine what "place … that is used … for any purpose other than as a place of public worship" means in the context of the *Act*. In engaging in this interpretative exercise, using the modern approach, I am guided by s. 2-10 of *The Legislation Act*, SS 2019, c L-10.2, and the principles set out in *Regina Bypass Design Builders v Supreme Steel LP*, 2021 SKCA 82 at paras 23-28.

[23] The City points out that the disputed portions of the property consist of what the Committee described as a multiple-use space. It acknowledges that one of those uses is that of public worship but contends the rentals that arise as part of the Plaza 88 Event Centre operations makes it a commercial for-profit use that competes in the market with other taxable entities. It makes similar arguments regarding the day care centre. The City submits that s. 262(1)(e) must be interpreted as requiring that the property be "predominantly used as a place of public worship and … not used

for any other purposes". It posits that the analysis must focus on the use of the space (space-centric), not the characteristic of the owner (owner-centric). The City says that mixed-use spaces are not entitled to an exemption because they are self-evidently used for purposes other than public worship. Despite referencing the term *predominantly used*, the second part of the City's position is akin to saying that there must be exclusive use as a place of public worship and if the property is used for any other purpose, even rarely or occasionally, then an exemption is not available under the *Act*.

[24] Embassy agrees that the disputed portions of the property are used for multiple purposes, describing the rentals of the Plaza 88 Event Centre as "limited commercial rental activities". It submits that, as long as the predominant purpose of a property is that of a place of public worship, even if other uses occur, it qualifies for an exemption. Regarding the part used for the day care, Embassy contends that the space is predominantly used to serve the families of the church attendees and is used for Sunday school and childcare during church services and activities. It asserts that the public availability of the day care centre is one of its ministries. Overall, Embassy argues that other secondary uses of space predominantly used as a place of public worship is essential in modern times for religious organizations to remain financially viable.

[25] I pause at this juncture to address the other extensive arguments that were made by Embassy regarding the work that it engages in for the community and the associated social benefits for persons who reside in Prince Albert. It argues that the crux of its concern with the City's position is that it will make many religious institutions, including itself, financially non-viable, thereby decreasing the socio-economic benefits these organizations create in Prince Albert. Embassy questions the City's motives in what it characterizes as creating financial barriers that effectively ban all means of raising funds except through donations. It also speculates about a net negative effect on the City from an increase of taxes on religious organizations and an erosion of community cohesion.

[26] I note that public-good activities form part of the reasons for why the Legislature determined that places of public worship qualify for exemptions; however, the interpretation of s. 262(1)(e)(iii) does not depend on the amount of good works or community involvement of any particular religious organization, the need in the community, the financial viability of any specific

entity, the alleged motivation of the City, or whether denying exemptions will have negative budgetary effects on the City. The Legislature decided to permit a property tax exemption for all places of public worship as a matter of policy. The interpretative question for this Court to determine is the nature and scope of the use required to maintain that exemption.



[27] Section 262(1)(e)(iii) is capable of multiple interpretations, in that the phrase "place … that is used … for any purpose other than as a place of public worship" does not clearly indicate what level or frequency of use is required. It might be interpreted to mean that a single use for any purpose other than a place of public worship displaces the right to an exemption. It might also mean that, as long as it is used even minimally as a place of public worship, qualification for an exemption is met. There is room for interpretation anywhere between those two polar opposites. As such, I will continue in the interpretative exercise.

[28] First, I must respectfully disagree with the Committee that s. 16 and s. 17 of the *Regulations* are relevant to the analysis. Section 16 of the *Regulations* relates to apportionment among multiple classifications of properties under the *Act*, such as residential, commercial and industrial, or other classifications, as set out in s. 12 of the *Regulations*. The matter at hand is not one of apportionment between classifications; it is one of exemption for a property that has a single classification. No one suggested a different classification for any portion of the property. It is merely the exemption that is at stake. Section 17 is likewise irrelevant.

[29] Next, I would move on to a review of the applicable jurisprudence starting with *Canadian Ruthenian Catholic Mission of St. Basil the Great in Canada v Mundare School District No. 1603*, 1924 CanLII 22, [1924] SCR 620 (Westlaw) (SCC). In that case, a seminary maintained that its building was exempt from property tax as it was used for church purposes. In dissent, but not on this point, Rinfret J. examined the purpose for providing churches with an exemption from property taxation, stating as follows:

> [58] In the case of *The People v. Muldoon,* to which reference is made by Stuart J. in the Appellate Division, it is pointed out that
>
> > exemption from taxation rests on a general public benefit and that in the case of property used for religious purposes a compensation is afforded for the exemption which is not a mere gift to religion, but for a public purpose.

[30] This Court in *Episcopal Corporation of Saskatchewan v Saskatoon (City)*, 1936 CanLII 145, [1936] 2 WWR 91 (WestLaw) (SKCA) [*Episcopal Corporation*], analyzed a previous iteration of the legislation – s. 453 of *The City Act, 1934*, SS 1934, c 17 – which read as follows:

> **453.** The following property shall be exempt from taxation:
>
> …
>
> **4**. Every place of public worship and the land used in connection therewith, not exceeding one acre, of which a religious organization is the owner, except such part as may have any other building thereon … .

[31] A majority of this Court held that exclusive use was not required for a property to be exempt from taxation. It sufficed that the dominant or principal use of the building was that of public worship for the exemption to apply: *Episcopal Corporation* at para 15.

[32] In 1971, this Court examined a related but substantially different issue in a case where the appellant claimed an exemption for a school: *Sacred Heart Academy and Turner, Re*, 1971 CanLII 849, 20 DLR (3d) 220 (SKCA). Relying on *Episcopal Corporation*, albeit in a very different context, Woods J.A., writing for the Court, affirmed the principle that exclusive use is not required for the property to be exempt and reiterated that it is the dominant or principal use to which the premises are put that matters.

[33] In *Archiepiscopal Corporation of Regina v Regina (City)*, 1996 CanLII 4917, 141 Sask R 10 (Westlaw) (SKCA) [*Archiepiscopal Corp.*], this Court addressed the following provisions of *The Urban Municipality Act, 1984*, SS 1983-84, c U-11, which, while structured differently, contain the same elements as s. 262(1)(e) of the *Act*. Section 275 provided as follows:

> **Exemptions from taxation**
> **275**(1) The following are exempt from taxation:
>
> …
>
> (d) every place of public worship and the land used in connection therewith to a maximum of:
>
> (i) 0.81 hectares; or
>
> (ii) 10 square metres of land for every one square metre of occupied building space used as a place of public worship;
>
> whichever is greater, that is owned by a religious organization, except any portion of that place or of that land that is used as a residence or for any purpose other than a place of public worship;

[34] In *Archiepiscopal Corp.*, this Court upheld the Committee's decision to allow an exemption for the chapel that was housed within the building but not the educational centre located in the same building. The Court observed that "s. 275(1)(d) differs materially in wording and intent from the earlier provision in *The City Act*" and, under the new provisions, "a building, and the land associated with it, may be notionally divided into portions that are liable to taxation and portions that are tax exempt because they are 'places of public worship'" (at paras 19-20). In this regard, *Episcopal Corporation* was found to "no longer [be] the controlling authority" given the changes in the legislation (at para 22). However, this commentary applied only to the new regime that permitted one building to be partially exempted, whereas *Episcopal Corporation* had not allowed for such a division in the exemption status of the same building. In short, *Archiepiscopal Corp.* cannot be read to stand for the proposition that exclusive use of the entire building must exist before an exemption can be granted. To the contrary, the Court did not disturb the Committee's decision that had endorsed "for a property to be exempted from taxation, as a place of public worship, its *principal use* must be a place of public worship" (emphasis added, at para 11).

[35] The history of analogous provisions, as interpreted in the decisions I have reviewed, leads to the conclusion that the purpose of s. 262(1)(e) is to provide for an exemption from property taxation for those portions of a building that is owned by a religious organization and principally used as a place of public worship. This is, at least in part, in recognition of the public benefit provided to the community by such organizations. The availability of an exemption removes one of the financial barriers to a religious organization carrying out its work for the good of the community. It would be incongruent with this purpose to demand exclusive use to qualify for exempt status. If such exclusivity were required, a single bake sale by a community group held in a church basement, for which the church was paid $50 for the use of its space, would thwart the tax exemption for that building. Such a result is not in line with the purpose of the section in question.

[36] I see no significant difference between the term *principal use* and the terms *dominant use*, *prevailing use*, or *predominant use* of the property, which were the various iterations of the wording used by the Committee. While the Committee erroneously relied on the *Regulations* in its interpretative exercise, it did not err in determining that exclusive use was not required and that it was the predominant use that mattered.

[37] This brings me to the interpretation of the phrase *place of public worship*, which is not defined in the *Act*. The Committee defined it as "the use of a building, or a portion thereof, where people assemble for religious or spiritual purposes", relying in part on the definition of *place of worship* in the City's *Bylaw* (*Committee Decision* at para 64). The Committee determined that the *Bylaw* was a "non-binding guide" that assisted in its analysis (at para 65). I must respectfully disagree with the Committee's use of the *Bylaw* in this way; it has no application to the interpretation of s. 262(1)(e)(iii). The propriety of using a single City's bylaw to interpret legislation that applies throughout the province is dubious. However, this does not mean the Committee erred in its statement of the definition of the term in question. To the contrary, I would adopt its definition with a slight modification.

[38] The definitions of the words *place* and *public* in s. 262(1)(e)(iii) are not controversial. "Place" in the context of the *Act* refers to the property in question, or portion thereof, in any particular matter. The question is *what* is entitled to the exemption rather than *who* is entitled to it. Section 262(1)(e)(ii) sets out the *who* precondition. The word *public* is as contrasted to private and must have a sufficient communal aspect.

[39] The verb *to worship* is defined as to "honour or revere as a supernatural being or power, or as a holy thing; to regard or approach with religious veneration" (*Oxford English Dictionary Online* (Oxford University Press, 2025) "worship"). In *Episcopal Corporation*, as seen in the reasons of McKenzie J.A., the definition of public worship was not limited to only use for formal church services:

> [13] Every Sunday morning after mass the members of the club meet in the large room in the basement where they have breakfast together and converse on religion and kindred subjects. Otherwise, they go to the hall as they may be required by the officers of the club or as they individually see fit, to participate in discussions, listen to addresses, read books, play cards, or engage in impromptu recreational or social entertainment, using for this purpose such facilities as the building may afford.
>
> [14] The learned trial Judge seems to have been impressed with the view that the above activities, especially those of the Newman Club, stamp Newman Hall as being in reality a club house for that organization, and consequently that it is mainly a secular institution. I have been unable to come to the same conclusion. It seems to me that all such activities have been designed and are maintained for the purpose of engaging the interest of the Roman Catholic students at the University and in order to encourage them to come to the hall, where they will find a spiritual atmosphere which will quicken them to a due appreciation and satisfactory performance of their religious duties, for which the fullest opportunities are provided, and so insure the regularity of their assistance in the celebration

> of the mass, which has been termed the central supreme rite of their form of worship: *Bourne v. Keane*, [1919] A.C. 815, 89 L.J. Ch. 17. It follows, since the public may and do attend the services, that the hall is dominantly a place of public worship, while the activities which have been referred to, though prominent, are nevertheless collateral and subsidiary thereto.

[40] As noted above, in *Archiepiscopal Corp.*, this Court mainly addressed the question of whether a portion of the same building could be exempted or if the entire building must be exempted. However, in the course of examining that issue, it endorsed a decision of the Committee which found that an educational centre where centralized religious activities and training took place was not a place of public worship. In essence, in that case, a *place of public worship* was identified by what it was not used for. On this basis, an educational centre was determined to not be a place of public worship.

[41] Additionally, as I have already observed, it is illogical to conclude that the use of revenue from a particular space cannot convert an otherwise unqualifying space into an exempt property. The facts of this matter illustrate that point. Any profits from the convenience store and dedicated leased space are undoubtedly used to support Embassy's religious goals, but no one argued the convenience store portion of the property should attract an exemption as a place of public worship. This would likewise apply to profits from the other uses to which the property is put.

[42] Taking all of this into account, the definition set out by the Committee for *place of public worship* not only accords with the statutory language but also fits well within the purpose of the *Act*; it ensures that exemptions are granted where appropriate and are not allowed for properties that merely have a connection to a religious institution but are not places of public worship. To make the definition more adaptable to future circumstances, I would state it as this: *the use of a property, or a portion thereof, where people assemble for religious, spiritual, or analogous purposes*.

[43] The Committee did not err in its bottom-line interpretation of s. 262(1)(e) of the *Act*. A place of public worship refers to the use of a building, or a portion thereof, where people assemble for religious, spiritual, or analogous purposes. The use of the building in this manner need not be exclusive, but it must be the principal use.

[44] The further question is whether the Committee erred in its application of s. 262(1)(e).

### C. The Committee did not err in its application of s. 262(1)(e) of the *Act*

[45] The application of s. 262(1)(e) depends on the circumstances of the matter in question. Whether a particular property, or portion thereof, is being used principally as a place of public worship is a question of fact. Leave was not granted regarding whether the Committee erred in law by misapprehending the evidence or on any other ground that would permit this Court to interfere with findings of fact.

[46] Regarding the space that is used for one-time rentals under the name Plaza 88 Event Centre, the Committee determined that its primary, dominant, and precedential function was for public worship. Its conclusion was grounded in the following findings of fact:

(a) Embassy is a church and its operations generally are church-like;

(b) excerpts from the Constitution of Embassy taken from "Article 2 Purpose", support Embassy's submissions and position that the main and dominant use of its property is for public worship;

(c) Embassy is fully engaged in offering spiritual services in a place of public worship;

(d) the property is Embassy's main and sole place of public worship;

(e) the property is a multiple-use property;

(f) Embassy has made an operational decision to employ multiple-use spaces within its place of public worship;

(g) Embassy actively attempts to rent vacant space within its building to third parties;

(h) although rented periodically, the use and occupancy of other portions by third parties through one-time rentals is sporadic; and

(i) the predominant, clearly distinct use of the disputed space – leaving aside the portion used for the day care – is not something other than a place of public worship.

[47] Turning to the space used for the day care, on the evidence before it, the Committee was unable to conclude that it was predominantly used as a place of public worship. In relation to that space, it found as follows:

(a) the DaySpring Early Learning Centre is a government licenced and subsidized childcare facility;

(b) the day care is open to all citizens regardless of religious affiliation and operates its service regularly and consistently during dedicated hours, and there was nothing on the record that otherwise identified the operation of the day care as part of Embassy's religious programing;

(c) the day care is open to the public and accepts children at six weeks of age and up to the day they start grade one; and

(d) there is a charge for the services offered at this facility.

[48] Having found that the Committee did not err in its interpretation of the requirements of s. 262(1)(e) of the *Act*, and given its findings of fact, there is no room for the Court to interfere with the Committee's conclusions on exemptions for any portion of the property and its remittal for implementation. Based on its findings of fact, s. 262(1)(e) was correctly applied by the Committee. As such, the appeal must be dismissed.

## IV. CONCLUSION

[49] The appeal is dismissed with costs payable to Embassy from the City in the reduced amount of $3,000. This reduction in costs reflects Embassy's lack of success on its arguments regarding an exemption for the day care portion of the property. No costs are awarded on the leave application. No costs are awarded in relation to the Attorneys General.

"Tholl J.A."

Tholl J.A.

I concur. "Schwann J.A."

Schwann J.A.

I concur. "Kalmakoff J.A."

Kalmakoff J.A.