

## **Scituate levies tax on disputed church Parishioner vigil blocking closure**

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By Raja Mishra, Globe Staff | July 29, 2005

The Scituate tax board concluded this week that St. Frances Xavier Cabrini Church is no longer a church and thus should pay property taxes, a decision that could cost the Catholic Archdiocese of Boston thousands of dollars in unforeseen tax bills.

The archdiocese, whose properties are exempt from taxes by state law, opposes the ruling. It has been trying to shut down St. Frances, but since October parishioners have been holding a vigil to keep it open. While the Vatican debates the church's fate, the archdiocese has paid no taxes on the 30 acres of choice South Shore real estate nestled among tony houses and seaside bungalows.

On Tuesday, the Scituate Board of Assessors voted 2 to 1 to require the archdiocese to pay \$42,000 in taxes annually on St. Frances, determining that the property was worth \$4.45 million.

"My feeling is if they decided they no longer want to use it as a church, I would consider it a taxable property," board chairman Fred Avila said yesterday.

The archdiocese, facing a dwindling membership and struggling with financial fallout from the clergy sexual abuse scandal, has closed 62 parishes, with another 14 slated to be closed, while six await word on appeals to the Vatican, including St. Frances. Currently, all properties still owned by the church remain tax-exempt until they are sold.

Scituate tax officials said they expected their decision to be challenged by the archdiocese, which could go before the state Appellate Tax Board and the state courts after that.

A church spokesman would not comment specifically yesterday on the archdiocese's next move.

"We certainly disagree with the position" of the Scituate tax board, said archdiocese spokesman Terrence Donilon. "It is still a blessed church. People are still in vigil there."

But parishioners participating in the St. Frances vigil questioned the archdiocese's argument.

"They tell us face to face it's only a building and not a church," said Jon Rogers, a leader of Friends of St. Frances, which organized the vigil. "They raise doublespeak to an art form."

Avila, the chairman of the Scituate assessors, agreed, saying that the archdiocese had taken steps to strip St. Frances of its status as a church. "They have done what they felt would no longer make it a church," he said.

Board member Timothy O'Brien dissented. "Until it's decided by the Vatican what to do with the church, I don't feel comfortable deciding," he said.

Nonprofit law specialists said it was unclear how the Appellate Tax Board and state courts would view the case.

The concepts cited by the Scituate board do "ring true," said Richard C. Allen, a nonprofit specialist with the Casner & Edwards law firm in Boston and for 12 years head of the state attorney general's Public Charities Division.

"The argument is over whether it's still a house of religious worship, and that's in question," Allen said.

The Scituate case, said Secretary of State William F. Galvin, who registers nonprofits, "invites a broader and interesting question about how we decide what's nonprofit and what isn't."

Though he supports the decision, Galvin said its legal road ahead could be rocky: "The state statutes have been very generous to nonprofits" such as churches.

Tax officials in other municipalities with churches that have been closed but are occupied by parishioners keeping vigils offered a range of views on the Scituate decision.

"We have thought about it," Wellesley chief assessor Donna McCabe said of St. James the Great Church in Wellesley, also slated for closing but kept open by a vigil. In fact, it was the vigil itself that stopped her from pursuing the idea. "I feel our church is still being used for religious purposes," she said. "It may change in a year."

But her counterpart in Everett, George Keverian, was adamant that no taxes would be levied until a developer buys his town's St. Therese Church. "I'm surprised [Scituate] is doing that," he said. "Are they that cash hungry? We would never insult [the protesters keeping vigil] that way."

Framingham's chief assessor, Michael Flynn, said that his town has a similar situation in St. Jeremiah Church, but that he had not contemplated revoking its tax-exempt status. "I could see doing it," he said.

The situation in Scituate also has Sudbury's chief assessor, Maureen Hafner, thinking. She has refrained from stripping the exemption of St. Anselm Church, citing the fact that protesters still pray there, often accompanied by a priest.

But she said she might change her mind. "I'm sure we're going to have to go back and look at the property if [the vigil] doesn't continue," she said. "If churches are not being used, they are not supposed to claim an exemption."

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