Vermont Superior Court
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Windham Unit

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 26-CV-02582

Serendipitous Shepherdess Sanctuary et al v. Townsend Board of Civil Authority

DECISION ON APPEAL

Petitioner Serendipitous Shepherdess Society, Inc. holds an interest in a property in Townshend that is used as an animal sanctuary. Petitioner sought an exemption from property taxation. The Listers denied the request, and a subsequent appeal to the Board of Civil Authority also resulted in a written denial issued on April 29, 2026. Petitioner has appealed to the Civil Division.

A hearing was held before the undersigned in the Civil Division on September 28, 2026. Shiloh Tedrow, President of the Petitioner Serendipitous Shepherdess Society, Inc. appeared on its behalf. With her was Elizabeth Swenn Martin who also holds an interest in the real property as described below. The Town of Townshend was represented by Attorney Steven Ankuda. Present with him was a member of the Townshend Board of Listers.

Facts

The pertinent facts are not in dispute.

Prior to the transactions described below, the real estate was owned solely by Elizabeth Swenn Martin. She is the mother of Shiloh Tedrow, who is the founder and President of Serendipitous Shepherdess Society, Inc., the Petitioner in this case.

It is a non-profit organization organized for charitable and educational purposes including:

- The rescue, rehabilitation, and lifelong sanctuary care of farm and domestic animals
- The prevention of cruelty to animals
- The promotion of humane animal husbandry
- Providing public education in agriculture, wool processing, fiber arts, traditional skills, and related educational programming.

The organization has been in operation since 2018. It rescues and cares for animals, including sheep, goats, chickens, ducks, and geese. It also gives classes in wool processing and animal husbandry and conducts workshops on many aspects of the work of the sanctuary. Many members of Ms. Martin's family live there and/or are actively involved in sanctuary work. There are fields, fenced areas and shelters for animals and a dwelling house where members of the family live and in which animals are also often kept and provided shelter and care. The property is open to the public and hundreds of people visit it every year.

In 2020, Ms. Martin conveyed the real estate to Shiloh Tedrow subject to a reserved life estate to herself. The Serendipitous Shepherdess Society, Inc became exempt from federal income tax in March of 2024.

Several months before April 1, 2026, the statutory valuation date for property tax purposes, Ms. Tedrow contacted the Townshend listers about obtaining a tax exemption for the property. In the spirit of trying to be helpful, a lister they said she would look into it, as the listers had no prior experience with exemptions, and would get back to her. The lister was aware that listers in a neighboring town had dealt with the issue and wanted to contact them. She did not communicate back to Ms Shiloh prior to April 1, 2026.

On March 11, 2026, Ms. Martin executed a Conditional Warranty Deed with a Reserved Enhanced Life Estate to Serendipitous Shepherdess Society, Inc. In this deed, Ms. Martin specifically reserved the following Enhanced Life Estate:

> *Notwithstanding the foregoing, the Grantor hereby expressly reserves unto herself a life estate in the above described Property for and during her natural lifetime, with full and exclusive possession, use, control, and enjoyment of the Property.*
>
> *The life estate reserved herein shall include, without limitation, the following rights:*
>
> *1.The exclusive right to reside in and occupy the dwelling, and to use the land and all improvements thereon.*
>
> *2. The right to garden, farm, cultivate, raise animals, conduct sanctuary-related operations, and to generate, collect, and retain all income, rents, profits, proceeds, and benefits derived from the Property during her lifetime.*
>
> *3. The full power and authority, without joinder or consent of the Grantee, to sell, convey, lease, mortgage, encumber, or otherwise transfer all or any portion of the Property, including the power to extinguish the future interest of the Grantee.*
>
> *4. The power to revoke, amend, or terminate the future interest granted herein.*

5. During the lifetime of the Grantor, the Grantee shall have no right of possession.

The life estate reserved herein shall automatically terminate upon the death of the Grantor.

Under a heading entitled "Responsibility for Taxes and Maintenance," the Deed provides: *During her lifetime, the Grantor, as life tenant, shall be responsible for ordinary maintenance of the Property. Responsibility for payment of property taxes shall be governed by applicable law unless otherwise agreed in writing between the parties."* Other provisions in the Deed provide for reversion to the Grantor upon the occurrence of defined events such as use of the property for non-charitable purposes consistent with the mission of the Grantee.

After the valuation date of April 1, 2026, on April 13, 2026, Ms. Martin executed a 99 year Ground Lease of the real estate to Serendipitous Shepherdess Society, Inc. It provided for exclusive use and control of the property by the Lessee with rent at $1.00 per year. As to "Taxes and Costs," it states: "The Lessor shall remain responsible for property taxes unless exempted."

At the hearing before the Board of Civil Authority, a Town Lister apologized for the delay in the listers' response and for slowing down the process. Nonetheless, the listers' position at the grievance hearing and the appeal to the Board of Civil Authority was that the charitable organization was not the owner of the property on April 1 and therefore the property did not qualify for an exemption.

On behalf of Serendipitous Shepherdess Society, Inc., Ms. Tedrow's position is that the 99 year lease provides the basis for an exemption from property taxes, and that the fact that it was not in effect on April 1, 2026 is due to delay on the part of the listers themselves. The Town's position is that not only was the ground lease not in existence as of April 1, even if it had been its terms do not qualify it for exemption from property taxation.

Conclusions of Law

Determination of the status and value of real estate for property tax purposes is made each year as of April 1. 32 V.S.A § 4041 Eligibility for tax exempt status is established in 32 V.S.A. §3802. Subsection (4) identifies "Real and personal estate granted, sequestered, or used for public, pious, or charitable uses" as eligible. This clause has been interpreted by the Vermont Supreme Court in *American Museum of Fly Fishing v. Town of Manchester,* 151Vt. 103 (1989) to require a three part test:

> In *American Museum of Fly Fishing,* 151 Vt. at 110, 557 A.2d at 904, the Court examined the "public use" component of § 3802(4) ("Real and personal estate granted, sequestered or used for public, pious or charitable uses") and laid out a

> three-part test distilling criteria "explicitly stated" or "implicit in the prior decisions of this Court" for determining tax exempt "public uses." In keeping with the legislative intent, the Court held that in order to qualify for tax exemption, a "public use" must meet the following criteria: (1) the property must be dedicated unconditionally to public use; (2) the primary use must directly benefit an indefinite class of persons who are part of the public, and must also confer a benefit on society as a result of the benefit conferred on the persons directly served; and (3) the property must be owned and operated on a not-for-profit basis.

Herrick v. Town of Marlboro, 173 Vt. 170, 173–74 (2001)

In this case, the status of the real estate as of April 1, 2026 was that it was subject to an enhanced life estate held by Elizabeth Swenn Martin in which she retained all the rights and responsibilities of ownership: to occupy and use the property; to receive any rents, income and benefits of property ownership; to sell, lease, or convey the property; to extinguish her daughter's future interest; to exercise responsibility for maintenance; and to pay the property tax. While she was allowing and enabling Serendipitous Shepherdess Society, Inc. to use the property for its non-profit charitable and educational purposes, she retained all legal rights of individual ownership. The Society held no legal interest in the property. One of the necessary requirements for exemption from taxation is that the property must be dedicated *unconditionally* to public use. This requires ownership: "the concurrence of nonprofit ownership and use is necessary to make the statute as a whole effective." *Id.* at 174.

Petitioner also relies on 32 V.S.A. §3802 (15), which grants exemption to "Real and personal property owned by a charitable, nonprofit organization devoted to the welfare, protection, and humane treatment of animals, including any premises of a custodian or caretaker that are attached to or are located on the grounds of such an animal shelter." Again, this exemption requires ownership by the non-profit organization.

In this case, ownership, and all the rights and responsibilities of ownership, remained with Ms. Martin as of the valuation date. The real estate was not owned by the Society on April 1, 2026, and at no time had the responsibility to establish tax exempt status for the property shifted to the listers. Therefore, the decision of the Board of Civil Authority was proper.

Because the 99 year ground lease was executed after April 1 and was therefore not in effect on that date, it is unnecessary to determine whether it would support an exemption for the tax year in question, 2026-2027. Any conclusion from such an analysis would be only an advisory opinion as to the future. The current existence of the 99 year lease does not present the court with an actual case or controversy for the appeal as tax status for April 1, 2026. Vermont law does not authorize a court to issue an advisory opinion. "Unless an actual or justiciable

controversy is present, a declaratory judgment is merely an advisory opinion[,] which we lack the constitutional authority to render." *Echeverria v. Town of Tunbridge*, 2024 VT 47, ¶ 18 (citation omitted).

For the foregoing reasons, the court denies the Petitioner's appeal and request for exemption from property taxation for the tax year April 1, 2026.

Electronically signed October 20, 2026 pursuant to V.R.E.F. 9 (d).

Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned

Lamont Barnett
Assistant Judge

Carolyn Partridge
Assistant Judge