

**COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT**

BERKSHIRE ss.

MISCELLANEOUS CASE
No. 19 MISC 000386 (DRR)

HUME LAKE CHRISTIAN CAMPS, INC.,

Plaintiff,

v.

THOMAS M. SAWYER, ROGER C. TRYON,
LAWRENCE B. KLEIN, PATRICIA SALOMON,
and NANCY R. MARCUS, as MEMBERS OF
THE PLANNING BOARD OF THE TOWN OF
MONTEREY,

Defendants.

DECISION

The Plaintiff, Hume Lake Christian Camps, Inc. (“Hume”), challenges under Chapter 40A, § 17 a decision (the “Decision”) by Defendants, the members of the Planning Board of the Town of Monterey (the “Board”), denying Hume’s application for site plan approval to construct a 12-site recreational vehicle area (“RV” and “RV Camp”) on Hume’s existing campground. The Board denied Hume’s application, having concluded that the RV Camp was not entitled to the protections of the Dover Amendment under Chapter 40A, § 3 (the “Dover Amendment”). Hume contends that the Board’s decision was legally untenable and/or unreasonable, whimsical, capricious, or arbitrary because its proposed RV Camp is entitled to the Dover Amendment’s religious exemption.

For the reasons discussed below, I find that one of the three proposed uses for the RV Camp is a religious use, entitled to the protections of the Dover Amendment, while the other two

proposed uses are not primarily religious in nature and are not entitled to those protections. Accordingly, the Board’s Decision must be remanded for further proceedings consistent with this decision.

PROCEDURAL BACKGROUND

The Board issued its Decision on July 25, 2019, and Hume timely appealed by filing a complaint in this court on August 9, 2019. Following the close of discovery, a Pre-Trial Conference was held via zoom on March 22, 2021. At that hearing, Hume advised that it had elected not to proceed to trial based on any alleged procedural irregularities with the site plan review process. The parties confirmed two issues for trial: (1) Whether Hume qualifies for a religious use exemption in connection with Hume’s property in Monterey, known as Hume New England (“Hume NE”); and (2) Whether Hume’s proposed construction at Hume NE of an RV Camp to accommodate twelve (12) RV’s for a so-called “Family Camp” program, seasonal staff housing, and volunteer housing is exempt from the Zoning By-Law of the Town of Monterey (the “Bylaw”) pursuant to G. L. c. 40A, § 3.¹ On April 16, 2021, the parties filed Trial Stipulations, agreeing: (1) That Hume’s predecessor-in-interest, New England Keswick, Inc., operated a Christian camp on the properties it conveyed to Hume; (2) At meetings on Hume’s application for site plan review, the Board did not challenge Hume’s status as a religious organization; and (3) Hume waived any claims of procedural defects by the Board related to the site plan review.

I took a view of Hume’s property on April 8, 2021. A videoconference “Dress Rehearsal” was held on April 9, 2021, via zoom with all counsel and witnesses, during which the court

¹ On October 25, 2019, Hume filed a Stipulation of Dismissal of Count II of the Complaint Pursuant to Mass. R. Civ. P. 40(a)(1)(ii), dismissing a claim brought pursuant to Chapter 240, § 14A.

reviewed its Procedural Order for Conduct of Trial By Videoconference to ensure that everyone was prepared for trial by Zoom. Trial proceeded on April 13 and 14, 2021. After receipt of transcripts, the filing of post-trial memoranda, and closing arguments held via Zoom on August 12, 2021, I took this matter under advisement.

FINDINGS OF FACT

Based on the facts stipulated by the parties, the documentary and testimonial evidence admitted at trial, my view of Hume's campground in Monterey, and my assessment as the trier of fact of the credibility, weight, and inferences reasonably to be drawn from the evidence admitted at trial, I make factual findings as follows:

Hume Lake Christian Camps, Inc.

1. Hume is a non-profit, non-denominational, evangelical religious organization professing dedication to the ministry of Christianity, with a particular emphasis on providing Christianity-based programs for all ages. It was founded in 1946, with a mission to evangelize the world through the means of a camping ministry. Its Mission Statement is as follows:

We desire that each person coming into contact with this global ministry will accept Jesus Christ as their personal savior; grow in their faith and Christian character development; establish the priorities of prayer, Bible study, and Christian Fellowship while associating with the local church; devote their lives in service to our Lord Jesus at home and abroad. We will continue to emphasize ministries to youth.

Agreed Statement of Facts, dated April 2, 2021 ("SOF") ¶¶ 1, 3; Trial Transcript ("Tr.") Vol. I, 31-32; Trial Exhibits ("Tr. Exs.") 26, 27, 31-41.

2. Hume is based in California. It operates camps at three permanent locations, two in California and the third at Hume NE in Monterey. The two California camps are located in the Sierra Nevada Mountains (accommodating nearly 2,000 campers) and in the San Bernardino Mountains (accommodating 400 campers). At the Sierra Nevada location,

Hume owns a residential subdivision and leases lots to homeowners, currently with approximately 250 homes. At that location, Hume also operates a general store and gas station, which serve both campers and the general public since the camp is located on the National Forest Road. Tr. Vol. I, 88-93, 107-109.

3. Although Hume's Executive Director is not a pastor in any church, he has a seminary degree and is an ordained elder. Hume is governed by a Board of Directors of twelve to fifteen members. The Board is not comprised of theologians and ordained ministers exclusively, but rather includes a mix of professionals and business people. One member holds a doctorate in theology and some members have ministry experience, while others volunteer in churches. Tr. Vol. I, 30-31, 50-53, 86-88; Tr. Ex. 36.
4. All members of the Board of Directors must affirm their commitment to a shared Statement of Beliefs and meet the requirements for elders as set forth in the Bible, Peter 5:1-4 and Timothy 3:1-7. Tr. Vol. I, 32, 51-53; Tr. Ex. 36.
5. Hume is not a church, but rather hosts groups from evangelical Christian churches and individuals who share a common set of beliefs. Hume describes itself as a "nondenominational," conservative evangelical Christian organization, uniting different denominations who all share an evangelical Christian faith and a set of beliefs. Those beliefs are set forth in the By-Laws of Hume Lake Christian Camps, Inc., as a Statement of Belief, as follows:
 - a. We believe in the Scripture of the Old and New Testaments as verbally inspired by God, inerrant in the original writings, and that they are of supreme and final authority in faith and life.
 - b. We believe in one God eternally existing in three persons: Father, Son, and Holy Spirit.

- c. We believe that Jesus Christ was begotten by the Holy Spirit, born of the Virgin Mary, and is true God and true man.
- d. We believe that man was created in the image of God; that he sinned, and thereby incurred not only physical death but also spiritual death, which is separation from God; and that all human beings are born with a sinful nature, and in the case of those who reach moral responsibility become sinners in thought, word, and deed.
- e. We believe that the Lord Jesus Christ died for our sins according to the Scriptures, as a representative and substitutionary sacrifice; and that all who believe in Him are justified on the grounds of His shed blood.
- f. We believe in the resurrection of the crucified body of our Lord, in His ascension to Heaven, in His present life there for us, as High Priest and Advocate.
- g. We believe in “that blessed hope,” the personal, pre-millennial, and imminent return of our Lord and Savior, Jesus Christ.
- h. We believe that all who receive by faith the Lord Jesus Christ are born again of the Holy Spirit and, thereby, become children of God.
- i. We believe in the bodily resurrection of the just and unjust, the everlasting blessedness of the saved, and the everlasting, conscious punishment of the lost.
- j. We believe in the great commission which our Lord has given to His Church to evangelize the world, and that this evangelization is the great mission of the Church.

SOF ¶¶ 4, 6; Tr. Vol. I, 32-33, 86; Tr. Vol. II, 128; Tr. Ex. 36.

- 6. Hume is recognized by the Internal Revenue Service as a religious charity under 26 U.S.C. § 170(b)(1)(A)(i) and is a 501(c)(3) nonprofit organization. SOF ¶ 5; Tr. Exs. 28-30.
- 7. Two of Hume’s employees testified at trial. The first, Lenny Harris (“Harris”), was the Senior Director of Programs at Hume from 2009 to 2020, predating Hume’s acquisition of the Monterey property. Harris was responsible for overseeing hiring and managing Program Directors for Hume’s camp programs worldwide. Although Harris did not attend seminary formally, he became an ordained elder in the Nazarene Church. His training

included study through the Los Angeles District of the Nazarene Church, with four years of seminary work and a test, followed by an interview with the District Board of Superintendents of the Church of the Nazarene. For 25 years, he worked for a number of different churches in different roles and he now holds the position of Director for Ministry Expansion for Hume. Tr. Vol. I, 27-31.

8. John Szablowski (“Szablowksi”), the second Hume witness, has served as the Senior Camp Director at Hume NE since 2016. He began working full-time in the religious ministry in 2008 as the executive pastor at the Bridge Bible Church in Bakersfield, California, which is part of the Mennonite Brethren Conference of Churches, an evangelical church. Tr. Vol. I, 130-131.
9. Harris described Hume’s “camping ministry” as an “opportunity to teach spiritual principles and to tell people the good news of the Bible in the setting of nature, in the setting of camping.” Tr. Vol. I, 35-36.
10. Each of Harris and Szablowksi shared their personal religious journey during their testimony. The court credits both men as having sincerely held beliefs consistent with the Statement of Beliefs and a commitment to spreading and sharing their beliefs with others through the work of Hume. For instance, Harris explained: “So when students come, or adults come to camp, they experience something unique, something challenging, something inspiring, and under the right circumstances, with the right heart, God speaks to them. Their lives are changed and they leave a different person than what they arrived. Camp is a special place.” Tr. Vol. I, 68.

Hume New England & Campground

11. Hume acquired its first property in Monterey in 2012. Today, Hume NE is operated on over 400 acres of land in Monterey. That land is owned by Hume by virtue of three deeds: (1) a deed of New England Keswick, Inc., dated April 11, 2012, and recorded on April 13, 2012, in the Berkshire Southern District Registry of Deeds (the “Registry”), at Book 2110, Page 118; (2) a deed of Stephen E. McAlister and Rosemary C. McAlister, dated November 26, 2013, and recorded in the Registry on that same date at Book 2229, Page 27; and (3) a deed of Cronk Road LLC, dated December 29, 2016, and recorded January 3, 2017, in the Registry at Book 2397, Page 153 (together, the “Campground Property”). Tr. Vol. I, 64-65; Tr. Exs. 1-3; SOF ¶ 2.
12. The entry to the Campground Property is accessed by taking Cronk Road (which runs east/west), and then proceeding northerly along Chestnut Hill Road (which runs north/south), as depicted on a map and on a Master Plan schematic included as Trial Exhibits 4 and 12, respectively. Several single-family homes are located along the southern side of Cronk Road and the westerly side of Chestnut Hill Road before the entry. The Campground Property includes land on both the east and west side of Chestnut Hill Road. Stedman Pond, a large pond which is used for a number of recreational activities, is located on the southern half of the easterly parcel of land. Both Cronk Road and Chestnut Hill Road are unpaved gravel and dirt roads. Tr. Ex. 44 at 2-4, 18-27.
13. The Campground Property ascends as one drives northerly up Chestnut Hill Road to a high point in the woods toward the rear of the property where a large cross has been installed looking out over a vista, with rustic bench seating. A so-called Trail of Hope leads to this high point. Hume NE uses the trail and scenic lookout with a large cross as a

place for spiritual contemplation. A cell tower is also located toward the north of the property. Tr. Vol. I, 185-186; Tr. Exs. 12, 14, 44 at 31.

14. The Campground Property can also be reached from Main Road in Monterey via Chestnut Hill Road, however, the portion of Chestnut Hill Road running from Main Road into the Campground Property is closed to traffic by the Town during the winter months due to the steep grade. Tr. Vol. I, 135-136, 173; Tr. Ex. 4.
15. Hume NE includes a number of small buildings, as well as a dining hall, two newer and larger residential lodges with gathering space (Lakeview and Pineview), and a small and large chapel. Most of the smaller buildings are older, pre-existing before Hume's acquisition of the campgrounds and serve as housing, as well as for activities, storage, and a snack shop. Tr. Vol. I, 138-139, 158-194; Tr. Exs. 19, 44; View.
16. Hume and Hume NE fulfill their evangelical religious mission by operating camps. Szablowski and Harris describe Hume's work as that of a camping ministry, which brings people away from their everyday lives into nature and recreational activities to discuss the Bible and their spirituality. Tr. Vol. I, 35-36, 144.
17. Szablowski, as Senior Camp Director, is responsible for all hiring at Hume NE and for relations with all the churches whose groups attend Hume NE. He testified that he views it to be his responsibility to protect the religious mission of Hume by screening all job applicants and participating churches to ensure that their theology is consistent with Hume's Statement of Beliefs. Tr. Vol. I, 142, 203, 214; Tr. Vol. II, 143.
18. Hume NE requires that all staff sign and agree to the Statement of Beliefs. This requirement extends to seasonal employees. Szablowski personally determines whether each proposed employee is sufficiently committed to the Statement of Beliefs to work at

the camp. He testified, for instance, that he finds out whether each has been baptized as “public declaration of their faith.” Tr. Vol. I, 210, 214.

19. The Campground Property and its camp facilities are not open to the public. Hume does not host secular corporate retreats or private events on the Campground Property. SOF ¶ 9; Tr. Vol. I, 205.

20. Hume’s model is primarily that of partnering with churches for its camping ministry. Approximately 55 different churches had participated in Hume NE’s camps as of December 2019, and as of the date of the trial, over 65 different churches had participated. The large majority of attendees at Hume NE’s camps participated when their church made arrangements with Hume NE. Out of roughly 4,800 attendees, approximately 60 attended as individuals, rather than through a church. SOF ¶ 7; Tr. Ex. 23.

21. In Hume’s model of primarily partnering with churches, each church brings its own adult counselors with them to Hume NE. Those churches provide the majority of counselors at Hume NE, but Hume does provide a small number of additional counselors. SOF ¶ 8.

22. Currently, Hume NE has a maximum of 307 beds at the Property in a number of buildings located around the Campground Property. Hume has been approved by the Town for an additional lodge, Mountainview Lodge, which would add 80 new beds, for a total maximum of 387 beds. That lodge has not yet been constructed. Hume has developed a master plan for Hume NE with a goal to try to build a camp that would accommodate 500 campers. SOF ¶ 10; Tr. Vol. I, 90-91; Tr. Vol. II, 146-149.

23. At present, Hume NE is not financially self-sufficient, in other words, Hume NE does not generate enough revenue to cover its operating costs on an annual basis. Rather, its parent

organization Hume provides financial support. Hume NE generated just under one million dollars (\$1,000,000.00) in revenue in the years before the coronavirus pandemic, with operating costs of approximately one million five hundred thousand dollars (\$1,500,000.00). If Hume NE needs money to fund a project, such as acquiring land or building a new lodge, it asks Hume for funding and seeks donations. Hume has three sources of income: camper fees, concessions (such as sale of T-shirts, souvenirs, and snacks in camp stores), and donations. Each camp location keeps income from concessions sold at its location. Expansion of a camp location is funded primarily by the Board of Directors of Hume, but individual donors also contribute toward expansion. Tr. Vol. I, 94-96; Tr. Vol. II, 46-48, 136, 139.

24. In order to save money, Hume NE's business model relies on the services of volunteers. Those volunteers assist with operations, maintenance, or new projects. Hume provides volunteers with housing and meals free of charge in exchange for their labor. Volunteers stay anywhere from one day, to a week or longer, while they are working on projects at Hume NE. Volunteers are not required to sign the Statement of Beliefs to work and stay at Hume camps. This business model is used at all three permanent Hume camps. SOF ¶ 11; Tr. Vol. I, 103-106.

Camp Programs at Hume NE/ Program Camp and Guest Retreats

25. Hume runs two types of camps, program camps and guest retreats, as described below ("Program Camps" and "Guest Retreats"). In addition to a wide array of recreational activities, each camp program includes chapel and devotional times, as well as additional opportunities for religious teachings and guidance. All camp programs are designed with the Mission Statement and Hume's evangelical religious mission in mind. For instance,

each one week camp session would include a Gospel message with thematic discussions centered around that message. Tr. Vol. 1, 38-39.

26. There are a broad array of recreational activities at Hume NE. Hume views these recreational activities as an important part of its camping ministry. Harris testified that recreational activities are important, because no one would be interested in attending a camp that had day long chapel and religious discussion groups. Harris and Szablowski testified that Hume NE has designed its camp programs so that individuals may engage with the secular recreational activities and camaraderie as a path towards developing a greater spiritual awareness, interest, and ultimately faith. Harris shared his personal experience as an example of how the combined benefit of recreational and religious activities provided a pathway to his religious commitment. Specifically, Harris testified that during a troubled time in his youth, he was invited to a church and played basketball with a young pastor who became a friend and mentor and took him on camping trips. “And through a relationship with somebody, and activities that I did, he lived out the Gospel to me. He lived out Jesus to me. And my life changed.” Tr. Vol. I, 78-81.
27. Program Camps are youth camps that typically run for one-week sessions during the summer (“Summer Camp”) and over weekends during the winter (“Winter Camp). Each year, Hume NE hosts five (5) weeks of Summer Camp and approximately six (6) weekends of Winter Camp. During Program Camp, Hume provides religious instruction, chapel sessions, and performances by worship bands, in addition to recreational activities such as canoeing, kayaking, archery, basketball, pool tables, ping-pong, foosball, broom hockey, high ropes course, hiking trails, mountain biking, ax throwing, horseshoes,

frisbee gold, volleyball, water trampoline, and a water/snow slide. SOF ¶ 13-14; Tr. Vol. I, 200, 221-224; Tr. Exs. 14, 18-19.

28. Each year, Hume develops a Biblical theme and program for the Program Camp with input from youth pastors in order to choose an appropriate theme that will connect with youth and encourage them toward faith. Each theme is reviewed and approved by a credentialed theologian. Tr. Vol. I, 59-64.
29. For Program Camp, Hume NE programs the entire camp experience. Hume NE provides the worship, the speaker, the food, the lodging, and the activities. When churches sign up to participate in the Program Camp, they typically bring their congregation members, including adult counselors. SOF ¶ 13; Tr. Ex. 45; Tr. Vol I, 146-147.
30. Individual campers can also sign up directly to attend Summer Camp, not in connection with a church. When individual campers who are not associated with a participating church attend Summer Camp, they are placed with one of Hume NE's independently hired counselors for the summer. Hume NE does not require attendees at Program Camps to sign a Statement of Beliefs, or even be believers in those tenets. However, attendance is mandatory at all activities, including all chapel sessions. Szablowski explained that the reason for this flexibility is because Hume's mission is to bring religious faith to nonbelievers. As he explained, Hume seeks to "evangelize the world." SOF ¶ 17; Tr. Ex. 14; Tr. Vol. I, 217-220.
31. A typical day at Program Camp begins at 7:15 A.M., with early morning devotions and worship. This is an optional session. Breakfast is served at 8:00 A.M. After a 15-minute organizational meeting for counselors at 9:00 A.M., morning chapel is held and runs approximately ninety minutes long. Morning chapel includes a pastor with a message, as

well as worship music. After each chapel session, campers return to their lodging for a breakout session to discuss the sermon with their counselor and other campers. Hume NE provides written materials to help guide these periods of reflection. The campers then return to chapel to prepare for an hour-long recreation session, which runs up until lunchtime. Lunch is scheduled for an hour, followed by “free time,” during which time the campers choose whether to participate in activities, read, sleep, and/or meet with their counselor. Free time is followed by dinner, which is typically at 5:00 P.M. After dinner, there is another chapel session of approximately ninety minutes at 7:30 P.M. Weekend Program Camps in the winter are similarly scheduled. SOF ¶¶ 15-16; Tr. Vol. I, 223 - 232; Tr. Exs. 17-22

32. Hume rents out its facilities for Guest Retreats, where a church, ministry, or a mission organization provides its own speaker, worship band, and some activities. These Guest Retreats take place over a weekend, approximately (40) weeks each year. Hume provides staffing, lodging, meals, and recreation. Individuals attend these Guest Retreats through a participating organization, and each organization is required to sign a Statement of Beliefs before the organization is permitted to attend. Each guest group must allow a representative of Hume NE to make a presentation and share Hume’s ministry. SOF ¶ 18; Tr. Vol. I, 74-75, 200, 207-228; Tr. Exs. 24-25.

33. Szablowski personally screens all groups interested in the Guest Retreats to ensure that secular organizations are prohibited from Hume NE. He independently investigates each group and its own statement of beliefs to ensure there is doctrinal consistency with Hume’s mission, discusses the Statement of Beliefs with each group’s ministry leader, requires each group to sign both the Statement of Beliefs and a Guest Group Contract,

and ensures that each group's schedule includes religious components such as chapel sessions. While each participating church must sign the Statement of Beliefs, individual campers are not so required because, according to Harris, Hume welcomes unbelievers to come to camp and "hopefully experience the spiritual nature of it." Szablowski testified that has rejected at least three groups that wanted to use the Hume NE facilities: Red Bull, MassMutual, and a Springfield College Leadership Group, the first two because they were secular organizations and the third because its humanist theology did not align with Hume's Statement of Beliefs. SOF ¶ 18; Tr. Vol. I, 58-59, 116-117, 205-228; Tr. Vol II, 113; See Guest Group Contract, Tr. Ex. 25.

The Application and Proposed RV Camp

34. On or about May 17, 2019, Hume submitted to the Board an Application for Site Plan Review (the "Application") for the construction of the RV Camp. Hume described the proposed project as a 12-space "Family Camp" to accommodate "temporary travel trailers, motorhomes, tents, and seasonal staff housing trailers." SOF ¶ 29; Tr. Ex. 7, and supporting materials, Tr. Ex. 8-12.
35. According to the Application, Hume's draft master plan for the RV Camp includes forty-four (44) RV sites. With the Application, however, Hume initially only sought approval for twelve (12) RV sites. Tr. Ex. 7.
36. As detailed in the Application, the RV Camp would be used by three distinct groups for three distinct purposes: (1) An opportunity for families to have a Christian camp experience, while allowing them to remain together in their own accommodations; (2) The opportunity to host volunteers (mostly retirees) who travel around the country in their own motorhomes and travel trailers; and (3) Fill an increasing demand for

temporary seasonal staff housing during the summer when permanent housing is filled by paying guests and year-round staff. SOF ¶ 31; See Tr. Ex. 7, ¶ 3.

37. With respect to volunteers, the Application further stated:

Hume heavily depends on volunteer labor throughout the year to accomplish its mission and provide significant savings to our operating expenses. Many volunteers are retired and prefer to stay in their own trailers and motorhomes while traveling and working at camp. This would also provide them a place to stay when permanent housing is not available due to the camp being otherwise full.

Tr. Ex. 7.

38. The Application further explained: “Although permanent buildings are part of Hume New England, they are significantly more expensive and require much more construction activity over a longer period of time. Benefits to the Town of Monterey with the Family Camp would include less traffic impacting our neighbors’ safety and convenience, and less wear and tear on the gravel roads to and from camp.” Tr. Ex. 7.

39. Plans were submitted with the Application for 12-RV sites, including a Site Layout Plan, a Site Details Plan, a Site Location Plan, and a Site Grading Plan, showing an access driveway off of Chestnut Hill Road, as well as a graphic entitled Hume New England – Master Plan, showing all 44 RV-sites in a potential full-build scenario. SOF ¶ 29; Tr. Exs. 8-12.

Proposed Family Camp Program

40. Hume proposes to use the RV Camp for a new Family Camp Program. All families using the RV sites would be required to participate in the Family Camp Program. According to Hume NE’s Application and Szablowski’s testimony, the Family Camp Program would provide families with a Christian camp experience, while allowing them to remain in their own RV’s. By permitting families to bring their own RV’s instead of paying to stay

at Hume NE's lodges, Hume intends that the cost would be lower than traditional housing and the Christian programs more accessible. SOF ¶¶ 19, 30, 31; Tr. Vol II, 34-35, 44, 82; Tr. Ex. 7.

41. The so-called "Family Camp" program might also be used for adult camps hosted in RV's, such as a men's retreat or a women's retreat. Tr. Vol. II, 35-38.

42. Families participating in the Family Camp Program would enjoy the dining and recreational facilities at Hume NE, as well as family religious activities. Hume's design for the Family Camp Program includes chapel and worship, religious instruction, and periods where each family can meet in its own RV for follow up religious family discussion and spiritual reflection. The Family Camp would feature "family oriented worship" with a focus on the "family spiritual life and the health of families." SOF ¶ 19; Tr. Vol. II, 34, 39-42; See Family Camp schedule, Tr. Ex. 22.

Proposed Volunteer Housing

43. Hume also proposes to use the RV Camp to house volunteers at Hume NE. Volunteers would arrive in their own RV's, park, and connect to utilities at the RV Camp, including electricity, water, and sewer connections. Hume reports that the majority of its volunteers are committed to the Christian faith, but concedes that not all volunteers are so committed. Hume NE does not require volunteers to agree to the Statement of Beliefs. Szablowski testified that he is hopeful that the volunteers may someday become faithful. According to Szablowski, including non-believers is part of the evangelical mission of Hume "to share the gospel with those that don't yet know Jesus Christ." Tr. Vol. I, 103-14; Tr. Vol. II, 44-48.

44. Volunteers are a critical part of the business model of Hume NE, and are heavily relied upon. At present, Hume NE hosts approximately 200 volunteers each year, those volunteers providing services for free, such as working in the dining hall or assisting with outdoor projects and maintenance such as picking up leaves, building benches, and the like. Volunteers stay anywhere from one day, to a week or longer and some stay for a good part of the summer. Harris explained that sometimes groups of volunteers will travel together in their RVs and spend a week at a camp, working in exchange for use of an RV site. Szablowski testified that one couple arriving in an RV and staying for eight weeks during the summer would save Hume NE eight thousand six hundred dollars (\$8,600.00), which he considered to be a sizable sum. Tr. Vol. II, 44-52, 104-106.
45. Szablowski further testified that most, but not all volunteers, have a connection with some church or religious institution or have been invited to accompany a volunteer with such a connection. Notably, Szablowski did not testify to vetting these volunteers with the same level of care as he vets participating church groups, but rather focused in his testimony on the value of volunteer services and the aspiration of reaching new believers. Volunteers need not sign the Statement of Beliefs. Some volunteers may attend chapel services while at Hume, but Szablowski did not know with any precision how many of the volunteers did so. I find that volunteers are not carefully screened for doctrinal consistency with Hume's mission and Statement of Beliefs. Tr. Vol. II, 44-52, 104-106.
46. The primary purpose of the volunteer component of the RV Camp is to save money.

Proposed Temporary Staff Housing

47. The third proposed use of the RV Camp is to house seasonal, temporary staff during the summer months. Hume plans that temporary staff would occupy two to three RV's for

eight weeks during the summer, with bunk beds set up in the RV's such that each RV would accommodate 8 seasonal staff. Hume would provide those RV's. According to Hume, the reason it needs this supplemental housing is because Hume NE does not have enough existing housing for seasonal staff and it does not want to use its limited bed capacity for staff instead of paying campers, such that the staff trailers would provide inexpensive overflow housing. Tr. Vol. II, 53-58; Pl.'s Post Trial Br. 32.

48. Seasonal staff must sign the Statement of Beliefs. Job postings for counselors and food service assistants include as requirements that applicants agree "with the theological positions, philosophy, and policies of HLCC." Tr. Vol. I, 115-116; Tr. Exs. 16, 17.

49. The primary purpose of the seasonal staff component of the RV Camp is to save money.

Proposed Location and Design of RV Camp

50. Hume proposes to construct the RV Camp in an area somewhat distant from the rest of the campgrounds, but still within walking distance, at the northerly end of the campground closer to Main Road and on the west side of Chestnut Hill Road. While the proposed area is wooded and would be largely wooded on all sides, based on my observations during the view, I conclude the RV Camp will be visible through the trees from Chestnut Hill Road as it traverses through the campground, particularly where the access driveway would be located. SOF ¶ 32; Tr. Ex. 12; View.

51. In prior years, Hume purchased a number of the houses closest to the campground such that at this point, there is only one nearby single family home, which is located not far from the proposed RV Camp. That house is located with frontage on Chestnut Hill Road (depicted in white rather than green on the Master Plan schematic plan), but the RV

Camp would not be visible from that property. Tr. Vol. I, 137-138; Tr. Vol. II, 63-71; SOF ¶ 32; Tr. Exs. 12, 44 at 19-30; View.

52. A Site Location Plan for the RV Camp, dated March 11, 2019, shows the layout for the initial 12-site RV Camp, as well as the layout for an additional 32 future sites that Hume hopes to build some day. The RV Camp would include both back-in sites and pull-in sites. Each of the twelve proposed sites for the first phase of the RV Camp would include a concrete pad with a picnic table and would be seventy-seven feet long and twelve feet wide constructed from a six-inch gravel layer over a soil base. The initial construction would also include a waste dump station, where wastewater would be dumped and treated by Hume NE's septic system, and electrical hook-ups for some or all spaces if funding allowed. Water and sewer hook-ups were designated as "future improvements." Tr. Exs. 7-11; Tr. Vol. II, 63-78.

53. Access to the RV Camp would be via Cronk Road and Chestnut Hill Road. Tr. Exs. 8-11.

2017 Site Plan Review (Multi-Purpose Building and Lodge)

54. In 2017, Hume submitted a Site Plan Application to the Board for the construction and use of a multi-purpose building and lodge at Hume NE. In a decision dated April 6, 2017, the Board granted the Site Plan Application subject to several conditions, but Hume appealed to this Court pursuant to G.L. c. 40A, §17, arguing that the conditions were improper under G.L. c. 40A, § 3. SOF ¶ 20, Tr. Ex. 6.

55. The Land Court remanded the matter to the Planning Board for a re-hearing, at which point the Board voted to approve the Site Plan Application, removing the four contested conditions and issuing a supplemental decision dated July 24, 2017. SOF ¶ 21; Tr. Ex. 6.

56. The initial April 6, 2017, decision included a determination that there was “adequate access for fire and service equipment.” Tr. Ex. 6.

57. Hume requested and was granted two waivers from the Bylaw’s parking requirements: (1) that there be 1 space per every 3 participants based on maximum capacity “of building”; and (2) that parking areas shall be within three hundred feet of the building to be served. SOF ¶ 26; Tr. Ex. 6.

The Decision

58. In a letter dated July 25, 2019, the Board denied the Application for the RV Camp, stating: “After careful consideration, the board voted at the meeting of 7/11/19 to reject the site plan on the grounds that the trailer park is not a customary religious use and should not fall under the umbrella of the Dover Amendment” (the “Decision”). SOF ¶ 40; Tr. Ex. 13.

59. The Board closed its Decision by stating: “The next step is to get clarification from the Mass. Land Court on this matter for the future planning clarity.” SOF ¶ 41; Tr. Ex.13, ¶ 3.

The Bylaw

60. The Bylaw specifically addresses religious uses in Section 7.4, entitled “Non-Municipal Educational or Religious Use.” SOF ¶ 33; Tr. Ex. 5.

61. As set forth in Section 7.4, religious uses are subject to site plan review by the Planning Board. There are three specific regulations addressing dimensional requirements, access requirements, and parking requirements. SOF ¶ 33; Tr. Ex. 5.

62. Hume’s property is located in the Agricultural-Residential Zoning District. SOF ¶ 35; Tr. Ex. 5. The Decision found and the parties have stipulated that: (a) the Property complies

with the area and land coverage requirements of the Bylaw; and (b) the structures on the campground comply with all dimensional requirements of the Bylaw (frontage, setback, and building height requirements. SOF ¶¶ 22-25; Tr. Ex. 6; Town of Monterey's

Proposed Findings of Fact and Rulings of Law 2, n.1.

63. As to access requirements, Subsection 7.4.3 provides:

Principal access roads and principal parking areas subject to frequent day or night use shall be approved by the Planning Board to meet subdivision requirements for safety and health of the community. Principal roads shall be at least eighteen (18) feet wide and shall not exceed a seven-and-one-half (7.5) percent grade.

Tr. Ex. 5.

64. Site Plan Review is governed by Subsection 9.5 of the Bylaw. Section 9.5.7 lists eight factors to be considered and addressed by the Planning Board in its site plan review.

These factors, in sum, concern tree removal/vegetation displacement, pedestrian/vehicular safety, obstruction of scenic views, visual intrusion, light intrusion, maintaining the character of the vicinity, and groundwater contamination, as well as compliance with other Bylaw provisions. To promote those objectives, the Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees. SOF ¶ 34; See Tr. Ex. 5.

65. The Bylaw's Use Regulations are set forth at Section 3. Section 3.1.1 of the Bylaw provides that no dwelling, structure or land or any part thereof shall be used for any purpose unless authorized:

1. As a use by right in the specified district in this section of the By-law;
2. Under a special permit or variance granted by the Board of Appeals;
3. Under applicable law at such time such use began, and provided such use has continued until the present time;
4. By state or federal law.

Tr. Ex. 5.

66. According to the Table of Use Regulations at Subsection 3.1.3, the principal use of “Trailer or mobile home park” is prohibited in all zoning districts in Town. SOF ¶ 36; See Tr. Ex. 5.

67. The Bylaw at Subsection 3.2.1 defines an “Accessory Use” as: “An accessory use located on the same lot with, and customarily incidental to, any of uses set forth in the Table of Uses as allowed or allowed by special permit shall be permitted.” SOF ¶ 37; Tr. Ex. 5.

68. “Accessory use[s] or structure[s] incidental to a permitted main use” are permitted in all zoning districts in Monterey. SOF ¶ 38; Tr. Ex. 5.

2019 Site Plan Approval for Mountainview Lodge

69. While this case was pending, on or about August 7, 2019, Hume submitted to the Board another application for Site Plan Review, specifically for construction of a third lodge building, called Mountainview Lodge. Hume’s application for Mountainview Lodge addressed parking needs by noting that most adults carpool for adult retreats and for youth camps, most groups use buses and vans for transportation. The Board granted Site Plan Approval for the Mountainview Lodge. SOF ¶ 44; Tr. Exs. 41-43.

DISCUSSION

The Board denied Hume’s Application because it concluded the RV Camp was not a customary religious use entitled to the protections of the Dover Amendment. I first consider whether Hume and Hume NE are entitled to the protections of G. L. c. 40A, § 3, and then consider each of the three proposed uses of the RV Camp individually, because I conclude those uses vary in material ways. Chapter 40A, § 3 states, in pertinent part:

No zoning ordinance or by-law shall . . . prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by . . . a religious sect or denomination, or by a nonprofit education corporation; provided,

however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements.

In enacting the Dover Amendment and limiting the restrictions municipalities may place on uses for religious purposes, the Legislature sought to ensure that a town could not “exercise its preferences as to what kind of . . . religious denominations it [would] welcome.” *Bible Speaks v. Bd. of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979). The Dover Amendment seeks to “strike a balance between preventing local discrimination against [a religious] use . . . and honoring legitimate municipal concerns that typically find expression in local zoning laws.” *Martin v. Corp. of Presiding Bishop of Church of Jesus Christ of Latter-Day Saints*, 434 Mass. 141, 148 (2001) (quoting *Trs. Of Tufts Coll. v. City of Medford*, 415 Mass. 753, 757 (1993)). This balance is struck by allowing certain reasonable regulation, but prohibiting local officials from applying zoning requirements where to do so would “unreasonably impede the protected use without appreciably advancing critical municipal goals.” *Id.*

What constitutes a “religious use” or “religious purpose” is a matter of interpretation for the court, with reference to the everyday use of the terms and free from the court’s own conceptions of expediency. *Needham Pastoral Counseling Ctr., Inc. v. Bd. of Appeals of Needham*, 29 Mass. App. Ct. 31, 33 (1990). By its plain language, religious purpose is “something in aid of a system of faith and worship, usually of a higher unseen power entitled to reverence,” and “[f]idelity to a set of principles or rituals is a central characteristic.” *Id.* A two-part analysis is employed to determine whether a use is entitled to protection under Chapter 40A, § 3. First, the use must have as its “bona fide goal something that can reasonably be described as educationally [or religiously] significant,” and second, that “goal must be the primary or

dominant purpose for which the land or structures will be used.” *McLean Hosp. Corp. v. Town of Lincoln*, 483 Mass. 215, 220 (2019) (internal quotations omitted).

A. Hume, Hume NE, and the Existing Camp Programs

I first consider whether Hume is a religious organization, in other words, whether its articles of organization allow it to engage in religious activities. *Timothy Hill Children’s Ranch Inc. v. Webb*, 20 LCR 63, 68 (2012) (Misc. Case No. 08 MISC 382531) (Sands, J.) (citing *Gardner-Athol Area Mental Health Ass’n, Inc. v. Zoning Bd. of Appeals of Gardner*, 401 Mass. 12, 15 (1987)). The Board does not dispute that Hume is classified as a religious corporation and is organized as such when viewing its Articles of Incorporation. Town of Monterey’s Proposed Findings of Fact and Rulings of Law 6. Based on the trial testimony and exhibits and because the term “religion” is not to be read narrowly, I concur and conclude that Hume is a religious organization entitled to the protections of the Dover Amendment. I so conclude despite the fact that Hume does not consider itself to be a church. Rather, Hume is non-denominational, Christian evangelical organization with a camping ministry, and with a shared Statement of Beliefs, which is documented in Hume’s Bylaw. That Statement of Beliefs, together with Hume’s Bylaws, mission statement, and leadership structure evidence a religious purpose. Harris and Szablowski testified credibly as to how the camping ministry advances that religious purpose. “It may be that the formal trappings of religious and educational institutions assist in the determination that the intended use is for the appropriate limited purposes, but as we read § 3, the exemption is not restricted to religious sects.” *Worcester Cnty. Christian Commc’ns, Inc. v. Bd. of Appeals of Spencer*, 22 Mass. App. Ct. 83, 87 (1986).

The Board disagrees, however, that the Hume NE campground can be reasonably described as predominately religious. The Board views the primary purpose of the campground

as recreational and sees the religious elements as nothing more than minor supplements to a traditional camp experience. The Board points to the beautiful setting of the camp, its idyllic pond, and the broad array of recreational activities which are offered, such as archery, kayaking, paintball, and basketball. According to the Board, the proposed RV Camp is even further afield from a religious use and much more akin to housing or a trailer park, which is a prohibited use under the Bylaw.

Whether the Hume NE campground is exempt from local zoning as a religious use turns on the primary purpose of the land. *Fitchburg Hous. Auth. v. Bd. of Zoning Appeals of Fitchburg*, 380 Mass. 869, 874 (1980). The use of the campground must have as its bona fide goal something that can be described as religiously significant, and that goal must be the primary or dominant purpose for which the land or structures are used. *McLean Hosp. Corp.*, 483 Mass. at 220. “To determine whether the plaintiff’s intended use is for religious or educational purposes and, hence, within the protective ambit of § 3, focus must be placed on the use of the structure rather than on the structure itself.” *Worcester Cnty Christian Commc’ns, Inc.*, 22 Mass. App. Ct. at 87. There must be more than merely an element of religious or educational use, *Whitinsville Ret. Soc’y, Inc. v. Town of Northbridge*, 394 Mass. 757 (1985), but the fact that participants may spend part of their time in recreational activities will not undermine a use that is otherwise for an educational or religious purpose. *Cumington Sch. of the Arts, Inc. v. Assessors of Cumington*, 373 Mass. 597, 603-05 (1977).

In *McLean Hosp. Corp.*, 483 Mass. 215, the Supreme Judicial Court considered whether the purpose of a residential facility for adolescent males was primarily educational or whether its purpose was primarily medical or therapeutic. The curriculum of the McLean program was “designed to instill fundamental life, social, and emotional skill in adolescent males who are

deficient in these skills, who experience severe emotional dysregulation, and who have been unable to succeed in a traditional academic setting.” *Id.* at 217. The court reasoned that the word educational as used in the Dover Amendment was a “broad and comprehensive term,” (quoting *Mount Herman Boys’ Sch. v. Gill*, 145 Mass. 139, 146 (1887)), and “education is the process of preparing persons for activity and usefulness in life.” *Id.* at 220 (quoting *Fitchburg Hous. Auth.*, 380 Mass. at 875). The court concluded that the McLean program had an educationally significant component and that although the curriculum might encompass elements of teaching emotional regulation, the predominate purpose was educational. *Id.* at 225.

By contrast, the use at issue in *Whitinsville Ret. Soc’y, Inc.*, 394 Mass. 757, a nursing home with some educational programming, was not entitled to protection under the Dover Amendment. The proposed project called for the more capable residents of a retirement facility to aid other residents “psychologically as well as physically,” along with outside staff who would “teach crafts, to provide entertainment and stimulus to the persons confined in the complex.” *Id.* at 760. The Supreme Judicial Court found that the dominant purpose of the facility would be a retired living community rather than an educational facility. “Merely an ‘element of education,’ however, provided not by a formal program or trained professionals, but only informally gleaned from the interplay among residents of the nursing home community, is not within the meaning of ‘educational purpose.’” *Id.* at 761.

The circumstances in *Timothy Hill Children’s Ranch Inc.*, 20 LCR 63, were similar in certain respects to the present case. There at issue was an “educational outdoor camp to teach children and families leadership skills and life skills with a spiritual foundation which includes bible studies and church services.” *Id.* at 66. A day at the *Timothy Hill* camp began with bible study and team building activities, followed by recreational activities, and a devotional bonfire.

The entire experience, including recreational activities, was imbued with spiritual elements. Each week followed a theme focused on the Bible, the curriculum was developed by the Connecticut Valley Church of Christ in connection with the plaintiff non-profit corporation, and counselors were selected based on religious education and work experience. The Land Court (Sands, J.) found that the camp “could not be described in any other way than as . . . purely Christian in nature, directed at Christian participants, even though secular education (such as vocational training) is also present, because religious education is the motivating factor for all activities.” *Id.* at 70. Further, “the religious and educational uses . . . build the foundation of the camp programs offered by Plaintiffs.” *Id.* However, Judge Sands went on to find that use of the camp property for corporate retreats or family reunions was secular, non-educational, and non-religious and would not be entitled to Dover Amendment protections. *Id.*

I conclude that the use of the Hume NE campground has a bona fide and religiously significant goal, and that religious goal is the primary or dominant purpose for which the campground is used. This is so even though Hume NE’s model of partnering with churches means that the camp is open to different church and religious groups, rather than being affiliated with one church. All participating churches and groups share Hume’s Christian evangelical mission and sign the Statement of Beliefs. Attendees can participate in either a Program Camp or a Guest Retreat, both of which are designed around Hume’s evangelical mission.

For its Program Camps, Hume develops a biblical theme for each week, with input from youth pastors, and which theme is reviewed by an accredited theologian. When a participating church bring its congregation members to Program Camp, it also brings its own counselors, but the entire camp experience is provided by Hume NE, including worship sessions. Each day includes both religious and recreational activities, beginning with a chapel session and

discussion, followed by recreational activities, free time, and another 90-minute chapel session. Hume views the recreational activities as part of a path towards developing a greater spiritual awareness, interest, and faith. Individuals who are not part of a participating church are also welcome to attend Program Camp and need not sign a statement of beliefs, however, they are paired with one of Hume NE's counselors and are required to attend all chapel sessions. The majority of attendees at Program Camp are members of church groups.

For its Guest Retreats, Hume NE provides meals, lodging, staffing, and recreation, but the participating church ministry or a mission organization provides its own speaker, worship band, and other activities. Each participating group must also allow a Hume NE representative to share Hume's ministry through a presentation. Individuals have to attend through a participating organization, and each organization must sign a Statement of Beliefs. I credit Szablowski's testimony that he personally screens all organizations to ensure doctrinal consistency with Hume's mission and make sure the programming includes religious components, even though sole discretion lies in his hands. Szablowski testified that on a few occasions he has denied requests to use the campgrounds by organizations he deemed unworthy. Three such rejections being Red Bull, MassMutual, and a Springfield College Leadership Group, the first two because they were secular organizations and the third because its humanist theology did not align with Hume's Statement of Beliefs.

Although Hume is not a church and its officers and employees are not ministers, the programming for Hume NE is designed either by participating churches or reviewed by an accredited theologian selected by Hume. The daily schedule at Hume NE incorporates theological teachings throughout each day, with religious instruction and worship interspersed with recreational activities. I am convinced by testimony from Harris and Szablowski, along with

the numerous trial exhibits, that the camp is primarily religious. I credit their testimony that Hume views the recreational activities to be part of the religious experience. Although foosball, paintball, and canoeing are nontraditional religious activities, “it is not permissible for a judge to determine what is or is not a matter of religious doctrine.” *Martin*, 434 Mass. at 152. Religious purpose has been described as “something in the aid of system of faith and worship.” *Id.* at 150. Hume NE’s existing programming, developed in accordance with its evangelical mission, meets this standard.

B. Proposed RV Camp

I now consider whether each component use of the proposed RV Camp also satisfies the standards articulated in *McLean Hosp. Corp.*, 483 Mass. 215. To do so, each component of the RV Camp must have as its bona fide goal something that can be described as religiously significant, and that goal must be the primary or dominant purpose for which the land is used. Hume’s 2019 Application for a proposed RV Camp contemplates use of the RV Camp by three distinct groups for three distinct purposes: (1) a Family Camp for families seeking a Christian camp experience while staying together in their own RV’s; (2) housing for volunteers (mostly retirees) who travel around the country in their own RV’s; and (3) RV’s owned by Hume to house temporary seasonal staff during the summer when existing permanent housing is filled by paying guests and year-round staff. Because each use is materially different, I discuss them separately below.

Even though an RV site does not come to mind as a typical religious use, I am mindful that in assessing “whether the plaintiff’s intended use is for religious or educational purposes . . . focus must be placed on the use of the structure rather than on the structure itself.” *Worcester Cnty Christian Commc’ns, Inc.*, 22 Mass. App. Ct. at 87 (rejecting the notion that a radio station

could never be educational pursuant to G.L. c. 40A, § 3.) As discussed in *Martin*, it “is not for judges to determine whether the inclusion of a particular architectural feature is ‘necessary’ for a particular religion.” *Martin*, 434 Mass. at 150. In this context, it was improper for the Board to determine in its Decision that the RV Camp was not entitled to Dover Amendment protections “on the grounds that the trailer park is not a customary religious use.” That determination focused too much on whether trailer or RV parks are traditionally used for religious purposes, instead of whether the RV Camp at issue would in fact be used primarily for religious purposes.

Hume contends that the RV Camp is not to be viewed in isolation, but as part of the larger Hume NE camp experience. I concur and consider the RV Camp in the context of Hume’s religious campground, just as the steeple in *Martin* was evaluated as part of the proposed Mormon temple and just as Tufts University’s proposed parking garage was evaluated together with the campus improvements there at issue. *Martin*, 434 Mass. at 149; *Trs. Of Tufts Coll.*, 415 Mass. at 754-55. However, adding a new use or structure to land with a pre-existing religious purpose does not automatically imbue that new use or structure with the benefit of a religious exemption under G.L. c. 40A, § 3. See *Shrine of Our Lady of La Salette, Inc. v. Bd. of Assessors of Attleboro*, 476 Mass. 690 (2017) (rejecting an all or nothing approach and finding that a Catholic shrine, along with its welcome center and maintenance buildings, had a dominant religious purpose, but the affiliated wildlife sanctuary and women’s shelter on the same property did not). Each additional use must be considered anew. For instance, in *Needham Pastoral Counseling Ctr., Inc.*, 29 Mass. App. Ct. 31, the Appeals Court examined whether proposed renovations within a church to house a psychological counseling center were entitled to Dover Amendment protections. Although the church had a clear religious purpose, the Appeals Court

concluded that the proposed counseling center did not qualify as a religious use because, among other things, the center was open to the general public and non-believers:

Some theological, inspirational or spiritual content does not automatically imbue any activity with religious purpose. An element of religion subsidiary to the dominant secular use does not convert that use to one which is for religious purposes any more than an element of education converts a residential facility for elderly persons to a use for educational purposes.

Id. (citing *Whitinsville Ret. Soc’y, Inc.*, 394 Mass. at 760-761). Accordingly, this decision considers each of the three proposed components of the RV Camp and how each use would be incorporated into Hume NE.

i. Family Camp

Hume first proposes that the new RV Camp will be used by attendees of a new Family Camp Program. Attending families will arrive with their own RV, park at the RV Camp with access to its utilities, and participate in Hume NE’s programming and facilities. Hume proposes to use the RV Camp to welcome traveling families to share in the Hume experience.

Programming would be similar to that provided during the Program Camps, including both recreational activities and chapel, worship, and religious instruction. Hume NE’s design for the Family Camp contemplates periods where each family would return to its RV for family discussion and spiritual reflection. Like the existing Program Camps, the proposed Family Camp would be centered around Hume’s evangelical faith, with chapel, worship, and religious instruction interspersed with recreational activities throughout each day. As discussed above, those existing programs reflect Hume’s evangelical mission. The Family Camp would allow families to stay together in their own RV’s, a familiar space, while also providing a special experience for them to recreate and worship as a family, in furtherance of Hume’s Christian ministry

Szablowski testified that he expected the Family Camp would be less expensive for participating families than other Hume housing because families would stay in their own RV's. This in turn, according to Szablowski, would make Hume NE accessible to more families. Although Hume presented no evidence of the relative cost for a family to stay in its own RV compared to the cost of paying to stay at Hume NE's permanent lodging, I credit Szablowski's testimony as a genuinely held belief. The Family Camp aims to promote the spirituality of the family unit, which would then aid the religious lives of participating families when they leave Hume NE, much like the participants in *Fitchburg Hous. Auth.*, 380 Mass. 869, where residents were taught life skills so they could later live independently. I conclude that Hume's use of the RV Camp for Family Camp has a bona fide and religiously significant goal and that religious goal is the primary or dominant purpose for which this component of the RV Camp is used. Accordingly, I conclude this component of the RV Camp is a religious use protected under G.L. c. 40A, § 3.

i. Proposed Use as Volunteer Housing

Hume also proposes to use the RV Camp to host volunteers at Hume NE, for durations from several days, to several weeks or the entire summer season. While staying at the RV Camp, volunteers would do work for Hume NE, such as assisting in the dining hall, or with maintenance tasks or outdoor projects. Those tasks are secular in nature and bear no relation to Hume's religious mission other than reducing Hume NE's operating costs. Although volunteers would be welcome to participate in chapel services and other religious activities, they would not be required to do so. Nor would volunteers be required to believe in Hume's evangelical mission or sign the Statement of Beliefs. While Hume hopes that volunteers may also be inspired by

Hume's religious mission, I find that this hope is aspirational, speculative, and lacking evidentiary support.

I first turn to *Needham Pastoral Counseling Ctr., Inc.*, 29 Mass. App. Ct. 31, for guidance. In that case, a church sought to remodel some of its space to use as a psychological counseling center "with a spiritual component." In determining that the renovation project was not entitled to the protections of the Dover Amendment, the Appeals Court focused on the use at issue rather than the nature of the sponsoring organization, concluding that religious purpose was not the dominant element of the counseling center. It explained: "Some theological, inspirational or spiritual content does not automatically imbue an activity with religious purpose. An element of religion subsidiary to the dominant secular use does not convert that use to one which is for religious purposes . . ." *Id.* at 36. The Appeals Court noted a number of factors militating against a finding of religious use: the counseling services were not significantly different from those provided by a traditional mental health center; although the counselors were ordained clergy or trained in theology, they were independent contractors and not employees of the church; the clientele was not limited to believers in God; and the counseling sessions extended to encompass all of life's problems. *Id.*

Also instructive is *Collins v. Melrose-Wakefield Hosp. Ass'n.*, 4 LCR 178 (1996) (Misc. Case No. 206667) (Cauchon, J.). In that case, this court considered whether a church which rented out its parking lot to a nearby hospital in exchange for monetary compensation was entitled to the protections of the Dover Amendment. Because the parking arrangements themselves did not fulfill a religious purpose, the church's receipt of income from the agreement, did not "in and of itself imbue the activity with religious purpose." *Id.* at 180 (citing *United Church of Religious Sci. v. Bd. of Assessors of Attleboro*, 372 Mass. 280 (1977)). Judge Cauchon

concluded that the commercial factors outweighed any religious aspects and that the parking agreement with the hospital was primarily a commercial venture not entitled to Dover Amendment protection. As the court went on to explain, “churches and other religious institutions must raise funds to survive, but to endorse every fund raising activity of such institutions with the zoning cloak of ‘religious purpose’ would enable religious groups to freely engage in business enterprises whenever and wherever they chose in derogation of the zoning ordinance.” *Id.* Nor was Judge Cauchon persuaded by the church’s argument that the parking arrangements were a religious use because they were “an important part of their outreach and/or evangelical purpose, central to their religious purpose, introducing visitors to the church property and exposing them to the signs and spiritual messages” or that the “parking arrangements furthers the social gospel aspects of their religious mission, serves church members, and assists the community.” *Id.*

In *Shrine of Our Lady of La Salette, Inc.*, 476 Mass. 690, the Supreme Judicial Court considered the applicability of the religious worship exemption to property tax relative to two uses in connection with a religious shrine, the use of a maintenance building and women’s shelter.² The maintenance building was held to be tax exempt because its dominant purpose was in connection with religious worship and instruction, storing equipment used for religious festivals as well as maintenance vehicles used on the property. *Id.* at 699-700. The women’s shelter, on the other hand, was not tax exempt. Although the shelter was incidental to the overall religious use of the property and furthered the religious mission of performing charitable work in the community, the shelter, specifically, did not have a dominant purpose of religious worship. *Id.* at 700-01.

² In construing the Dover Amendment, the Supreme Judicial Court has often looked to decisions addressing tax exemptions. *Regis Coll. v. Town of Weston*, 462 Mass. 280, 289 n.12 (2012).

Viewed in this context, it becomes clear that although the Hume NE campground is itself a religious use, the use of the RV Camp to house volunteers is not. Volunteers who hold no religious beliefs would be welcome to park their RV's at the RV Camp. During their stay, volunteers would have the benefit, free-of-charge, of the RV site and Hume NE's recreational activities and could do so without ever setting foot in the chapel or engaging with any religious content. While the volunteers would provide free labor to Hume NE, no evidence was provided as to how many hours of work per day (or days per week), the volunteers would work. Although Szablowski testified that including non-believer volunteers is part of the evangelical mission of Hume "to share the gospel with those that don't yet know Jesus Christ," I find that sentiment to be aspirational, speculative, and lacking evidentiary support. Further, as in *Whitinsville Ret. Soc'y, Inc.*, 394 Mass. at 761, an element of religious use "only informally gleaned from the interplay among residents," or in this case from volunteering at Hume, is insufficient to constitute a religious purpose.

Because volunteers are not required to be believers, attend chapel or participate in any meaningful way in religious activities, I conclude Hume's use of the RV Camp for volunteers does not have a bona fide and religiously significant goal. In addition, I find that the true goal of the proposed volunteer component is financial. Hume argues that this proposed use of the RV Camp is entitled to Dover protections simply because the cost savings help Hume manage its finances and spread its mission. I disagree. Indeed, based on the evidence presented at trial, volunteers might use the RV Camp free of charge as a launching pad for sightseeing in scenic Berkshire County, in exchange for performing a minor amount of volunteer work. This use of the RV Camp is little different than engrafting a pay-as-you-go RV park onto a religious use as a money making operation, just as Hume's California camp operates a gas station. As in *Needham*

Pastoral Counseling Ctr., Inc., 29 Mass. App. Ct. at 37, “[t]he readiness to give psychological counseling to nonbelievers illustrates that, depending on the reaction of the particular client, religion may be absent from certain counseling sessions altogether.” Having determined that the predominant purpose of the volunteer proposal is financial, I conclude that Dover protections are not available for this use.

I also decline to consider the proposed housing of volunteers to be an accessory use encompassed within the religious purpose exemption. An accessory use may be protected if it is “‘incidental’ to a permissible activity that is ‘necessary, expected or convenient in conjunction with the principle use of land.’” *Timothy Hill Children’s Ranch Inc.*, 20 LCR at 70 (quoting *Henry v. Bd. of Appeals of Dunstable*, 418 Mass. 841, 844 (1994)). *Needham Pastoral Counseling Ctr., Inc.*, 29 Mass. App. Ct. at 37, details the types of activities that have qualified as accessory to a religious institution, including public affairs programs, art and music programs, drug rehabilitation programs, and recreational programs. In *Needham Pastoral Counseling Ctr., Inc.*, however, the Appeals Court concluded that the counseling center was not an accessory religious use in part because although the counselors were ordained clergy or trained in theology, they were independent contractors and not employees of the church. For an activity to qualify as an accessory to a religious institution, the members and staff of those institutions are generally involved in the activity. *Id.* at 35, 37.

Providing free-of-charge RV sites to volunteers whose only connection to Hume NE is to perform some amount of labor, does not qualify as a use incidental or accessory to the camp’s religious mission. Such an arrangement is not necessary, expected, or convenient in conjunction with use of the land for a religious camp. For these reasons, I conclude this proposed component of the RV Camp is not entitled to protection under G.L. c. 40A, § 3.

ii. Proposed Use as Temporary Staff Housing

Hume's third and final proposed use of the RV Camp is to house seasonal, temporary staff during the summer. Here again, I find that the primary motivation for this proposed use is financial, to reduce operating and construction costs. During his testimony, Szablowski explained that housing seasonal staff in RV's would allow paying camp attendees to stay in the permanent lodging. This is consistent with Hume's statement in its Application: "Although permanent buildings are a part of Hume New England, they are significantly more expensive and require much more construction activity over a long period of time." As Szablowski acknowledged on multiple occasions, the predominant purpose of this component of the RV Camp is to defray costs.

Because Hume's goal is to save money by housing seasonal staff in RV's, it is much like the volunteer use discussed above or the parking arrangements in *Collins v. Melrose-Wakefield Hosp. Ass'n*, 4 LCR 178. However, one distinction from the volunteer use is that job postings for counselors and food service assistants include a requirement that applicants agree with the theological positions of Hume, and once hired, seasonal staff must sign the Statement of Beliefs. In addition, Szablowski testified that seasonal staff would benefit from the religious environment by virtue of exposure to Hume's ministry.

While use of the RV Camp for temporary staff housing is a closer call than the volunteer use, on balance, I conclude the dominant factors are primarily financial rather than religious. I turn again to *McLean Hosp. Corp*, 483 Mass. 215, and *Regis Coll.*, 462 Mass. at 285-291, for guidance. Those cases articulate a two-pronged test to determine whether a proposed use falls within the protections of the Dover Amendment:

First, the use must have as its "bona fide goal something that can reasonably be described as 'educationally significant.'" *Id.* at 285, quoting *Whitinsville Retirement Soc'y, Inc. v. Northbridge*, 394 Mass. 757, 761 n.3 (1985). Second, the educationally significant goal must be the "'primary or dominant' purpose for which the land or structures will be

used.” *Regis College, supra*, quoting *Whitinsville Retirement Soc’y, Inc., supra* at 760. The primary or dominant purpose requirement “helps ensure that a party invoking Dover Amendment protection does so without engrafting an educational component onto a project in order to obtain favorable treatment under the statute.” *Regis College, supra* at 290.

McLean Hosp. Corp, 483 Mass. at 220.

Considered in this context, Hume has been clear that its primary reason for this component of the RV Camp is as an inexpensive alternative to constructing new housing for paying campers. This is understandable from a pragmatic perspective since Hume is not financially self-sufficient and relies on donations. However, as to the first prong, I conclude this reason is not a bona fide religiously significant goal. Like the women’s shelter in *Shrine of Our Lady of La Salette*, Hume has not demonstrated that the genuine goal of the seasonal housing use is something that can be described as religiously significant. See 476 Mass. 690. As to the second prong, although the seasonal staff sign the Statement of Beliefs and work within the structure of Hume NE’s religious camps, I conclude the dominant purpose of the RV’s themselves is inexpensive and alternate bunk housing. While Hume would argue that staff housing is more akin to the maintenance building in *Shrine of Our Lady of La Salette*, which was tax exempt, I disagree. While both the goal and dominant purpose of that maintenance building were in direct connection with religious worship and instruction (such as storing equipment used for religious festivals and maintenance vehicles), the dominant purpose of the housing trailers is primarily as a budgeting measure. *Id.* at 699-700.

In addition, I note that little evidence was presented at trial regarding the amount of potential costs savings resulting from using RV’s for seasonal staff housing. Unlike Family Camp attendees or volunteers who would all arrive with their own RV’s, Hume would need to purchase or rent RV’s for seasonal staff. Those acquisition costs are unknown, as is the

comparative cost to construct housing for seasonal staff. Notably, the Board recently approved Hume's application to construct a new Mountainview Lodge at Hume NE with 80 beds.

Although work on that project had not yet commenced as of the date of trial, the new lodge would increase housing capacity. Nor was there any evidence as to the cost to renovate or expand any number of the smaller, older buildings scattered around the campgrounds. At this point, based on the record before the court, any cost savings would be speculative.

Lastly, I consider whether use of the RV Camp for seasonal staff housing is protected as an accessory use, in other words whether housing seasonal staff in RV's is "necessary, expected or convenient in conjunction with the principle use of land." *Timothy Hill Children's Ranch Inc.*, 20 LCR at 70 (quoting *Henry*, 418 Mass. at 844). Although providing housing to kitchen staff, grounds people, and counselors may be part and parcel of a typical camp operation, I am not convinced that using RV's for that purpose elevates the RV's to a religious use. As explained in *Needham Pastoral*, "[s]ome theological, inspirational or spiritual content does not automatically imbue any activity with religious purpose. An element of religion subsidiary to the dominant secular use does not convert that use to one which is for religious purposes any more than an element of education converts a residential facility for elderly persons to a use for educational purposes." *Needham Pastoral Counseling Ctr., Inc.*, 29 Mass. App. Ct. at 37 (citing *Whitinsville Ret. Soc'y, Inc.*, 394 Mass. at 760-761). Focusing attention on the use of the RV Camp for staff housing reinforces my conclusion that the predominant purpose of this use of the RV Camp is not primarily religious. Rather, the dominant purpose is to save money. For these reasons, I conclude this proposed component of the RV Camp is not entitled to protection under G.L. c. 40A, § 3.

CONCLUSION

I find that the Board’s Decision with respect to two of the proposed uses of the RV Camp, for volunteers and staff housing, is supported by the evidence at trial. The Board’s determination that use of the RV Camp for attendees of the Family Camp is not a religious use is, however, unsubstantiated and is therefore overturned. *Wendy’s Old Fashioned Hamburgers of N.Y., Inc. v. Bd. of Appeal of Billerica*, 454 Mass. 374, 383 (2009). The matter is remanded to the Board for further proceedings consistent with this decision, so as to permit Hume to submit an application for site plan approval consistent with decision and for the Board to review that application, again consistent with decision. Remand order to issue.

SO ORDERED

By the Court (Rubin, J.)
/s/ Diane R. Rubin

Attest:

/s/ Deborah J. Patterson
Deborah J. Patterson
Recorder

Dated: April 27, 2022