

DEED READING BASICS for LISTERS and ASSESSORS PROPERTY VALUATION AND REVIEW

April 21, 2021

Atty. Jim Barlow

A. Documents Transferring Title or Other Rights to Vermont Real Estate

Conveyance of land or of an estate or interest therein may be made by deed executed by a person having authority to convey the same, or by his or her attorney, and acknowledged and recorded as provided in [Chapter 5, Title 27, Vermont Statutes Annotated]. 27 V.S.A. § 301.

Estates or interests in lands, created or conveyed without an instrument in writing shall have the effect of estates at will only. An estate or interest in lands shall not be assigned, granted, or surrendered unless by operation of law or by a writing signed by the grantor or his or her attorney. 27 V.S.A. § 302.

Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a town clerk, notary public, master, or county clerk and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official seal being affixed to his or her signature. 27 V.S.A. § 341(a).

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual to hold such lands against any person but the grantor and his or her heirs, unless the deed or other conveyance is acknowledged and recorded as provided in Chapter 5, Title 27, Vermont Statutes Annotated]. 27 V.S.A. § 342.

1. Warranty Deed

- Warranty deed is the most common instrument to transfer title in Vermont. In other states, Quitclaim Deeds and Limited Warranty Deeds are more common.
- The distinguishing characteristics of a Warranty Deed are the covenants made by the Grantor to the Grantee:
 - Seisin. The Grantor has the possession of the property.
 - Title. The Grantor has title to the property.
 - Against Encumbrances. The Grantor's title is not encumbered by any claims of third parties not listed or disclosed in the deed.
 - Defend. The grantor promises to defend against claims against the title by third parties.

- The elements of the Warranty Deed:

- Preamble

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS, that John Doe and Jane Doe, husband and wife, of the Town of Lakeside, in the County of Washington and State of Vermont, **GRANTORS**, in consideration of One Dollar and other valuable consideration paid to our full satisfaction by the Town of Lakeside, a Vermont municipal corporation in the County of Washington and State of Vermont, **GRANTEE**,...

- Remember, the “or” gives and the “ee” receives.
 - Grantor sells the property, the Granteeee buys the property.
 - The Mortgagor (property owner) gives the mortgage and the Mortgagee (bank) receives the mortgage.

- Granting Language

*... by these presents do hereby give, grant, sell, convey, and confirm unto **GRANTEE**, Town of Lakeside and its successors and assigns forever...*

- Property Description

...a certain piece of land in the Town of Lakeside, in the County of Washington, and State of Vermont, described as follows:

It being all and the whole of the same land and premises conveyed to John Doe and Jane Doe by Quit Claim Deed from Harry E. Quimby and Mabel A. Quimby dated August 8, 1967 and recorded in Book 21, Page 433 of the Town of Lakeside Land Records.

- Habendum:

*TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, and to the said **GRANTEE**, Town of Lakeside, its successors and assigns, to its own use and behoof forever;...*

○ Warranty:

*And we, the said **GRANTORS**, John Doe and Jane Doe, for ourselves and our heirs, executors and administrators, do covenant with the said **GRANTEE**, Town of Lakeside and its successors and assigns, that until the ensealing of these presents we are the sole owners of the premises, and have good right and title to convey the same in manner aforesaid, that they are FREE FROM EVERY ENCUMBRANCE; and we hereby engage to WARRANT AND DEFEND the same against all lawful claims whatever,...*

○ Signature Block:

IN WITNESS WHEREOF, we hereunto set our hands and seals this 14th day of September, 2018.

John Doe

Jane Doe

STATE OF VERMONT
COUNTY OF WINDSOR

At Windsor, Vermont this ____ day of _____, 2018 personally appeared John Doe and Jane Doe, husband and wife, and acknowledged this instrument, by them sealed and subscribed, to be their free act and deed.

*Before me, _____
Notary Public
My commission expires: _____*

2. Quit Claim Deed

- Use of the Quit Claim deed is becoming more common.
- The Quit Claim Deed passes only that title the Grantor has at the time of the making of the deed.
- Quit Claim Deeds are also commonly used to release claims or interests in property when the grantor has less than a complete title or is unsure of the quality or quantity of title.

- The elements of the Quit Claim Deed:
 - Preamble - Typically the same as a Warranty Deed.

QUIT CLAIM DEED

KNOW ALL PERSONS BY THESE PRESENTS, that John Doe and Jane Doe, husband and wife, of the Town of Lakeside, in the County of Washington and State of Vermont, **GRANTORS**, in consideration of One Dollar and other valuable consideration paid to our full satisfaction by the Town of Lakeside, a Vermont municipal corporation in the County of Washington and State of Vermont, **GRANTEE**,...

- Granting Language - Different from a Warranty Deed.

...by these presents do hereby remise, release and quitclaim unto the **GRANTEE**, the Town of Lakeside, and its successors and assigns forever...

- Property Description - The same as a Warranty Deed.

...a certain piece of land in the Town of Lakeside, in the County of Washington, and State of Vermont, described as follows:

- Habendum – Typically the same as a Warranty Deed.

TO HAVE AND TO HOLD said granted premises, with all the privileges and appurtenances thereof, and to the said **GRANTEE**, Town of Lakeside, its successors and assigns, to its own use and behoof forever;...

- No Warranty.

AND FURTHERMORE, the said **GRANTORS**, John Doe and Jane Doe, for ourselves and our heirs, executors and administrators, do covenant with the said **GRANTEE**, Town of Lakeside and its successors and assigns, that until the ensealing of these presents we shall have and claim no right in or to the said quitclaimed premises.

- Signature Block. The same as a Warranty Deed.

3. Limited Warranty Deed, a.k.a. Special Warranty Deed

- The Limited Warranty Deed generally looks like a Warranty Deed with a different warranty clause.

- In a Limited Warranty Deed, the grantor will only covenant that the grantor has done nothing to encumber the title and takes no responsibility for the state of the title prior to the time the grantor acquired the title:

AND FURTHERMORE, the said **GRANTORS**, John Doe and Jane Doe, for ourselves and our heirs, executors and administrators, do covenant with the said **GRANTEE**, Town of Lakeside, and its successors and assigns, that from and after the ensembling of these presents, we, the said John Doe and Jane Doe have good right and title to convey the same in the manner aforesaid, that the premises are free from every encumbrance, except as aforesaid. The **GRANTORS** hereby engage to WARRANT and DEFEND the same only against all claiming by, through, or under the **GRANTORS**.

4. Easement Deed

- A Warranty Deed, Quitclaim Deed, or Limited Warranty Deed conveys fee title to property. An Easement Deed generally conveys a right to use property for a specific purpose. For example, the right to travel over property (an easement for right-of-way) or the right to develop property (a conservation easement).
- An Easement Deed will typically take the form of a Warranty Deed of Easement or a Quitclaim Deed of Easement. A Warranty Deed of Easement will have the same covenants (Seisin, Title, Encumbrances, Defend) as a Warranty Deed. A Quitclaim Deed of Easement will not.

5. Deed By, or Deed To, a Trust

- A deed to or from a trust may be any form of deed (e.g., Warranty, Quit Claim, Limited Warranty).
- Vermont law does not recognize a trust as a “person” therefore title to real estate held by a trust must be vested in the trustee of the trust. Property held in trust can only be conveyed by the current trustee.

6. Divorce Judgment

- A Divorce Judgment can be effective to convey property when recorded.

7. Probate Decree

- A Decree of Distribution from the Probate Division (a.k.a. Probate Court) will transfer property of a deceased person to persons entitled by law or a will to receive the property.

8. Tax Collector's Deed

- Conveys title from a municipality to a purchaser who purchased the property at tax sale.

9. Corrective Deed

- Corrects or clarifies a previous deed.

10. Lease

- A lease conveys to a tenant the right to possess and use property for a term of years, generally so long as the tenant pays rent and complies with other conditions of the lease.
- A lease with a term of 50 years or longer or containing a right to purchase and allowing the tenant to construct a building or make a major capital improvement, requires filing of a property transfer tax return.
- The parties may record a memorandum of lease when the lease has a term longer than one year.

B. Concurrent Ownership, Interests of Multiple Owners, and Rights of Survivorship

1. Tenants in Common – the Default Presumption

- Two or more persons (or entities) who acquire property will take as tenants in common unless another provision is made.
- A tenant in common has equal rights to possess the property with the other co-tenants.
- A tenant in common can convey his/her interest to another person, independently of the other co-tenants.
- A creditor can attach the interest of one tenant in common.
- There is no right of survivorship – if a tenant in common dies, the ownership interest does not pass automatically to the other co-tenants.
- To sell a specific portion of the property, a tenant in common must have the property partitioned by the court.

2. Joint Tenants – the Right of Survivorship

- Two or more persons (not entities) may hold property as joint tenants.
- Joint tenants have a right of survivorship. When one joint tenant dies, that person's interest is passed to the surviving joint tenants by operation of law. There is no need for a decree of distribution, deed, etc.
- The interest of a joint tenant can be transferred, but the person or entity acquiring the interest takes as tenant in common. The joint tenancy of other owners remain.

3. Tenants by the Entirety – Married Couples and Civil Union Partners

- Married couples and partners in a civil union may hold property as tenants by the entirety.
- Tenancy by the entirety has the same survivorship as a joint tenancy.
- If two persons acquire title to real estate before the marriage or civil union is completed, the property does not convert to tenancy by the entirety.
- The law treats the couple holding the property as a separate legal person, so that claims of creditors of one spouse or partner do not attach to the property.

4. Life Estate

- The life tenant has the right to occupy and use the property for the measuring life, and when that life expires, the life estate ends. The tenant cannot sell, lease, mortgage or convey the property. The property passes to the holder of the remainder interest when the measuring life ends.
- Under an "Enhanced Life Estate Deed" or "Lady Bird Deed", all present ownership rights including the right to sell, lease, mortgage or convey the property is retained by the life tenant. This keeps control of the property with the original owners during their lives, but passes the property outside probate on their deaths.

C. Property Descriptions and Acreage

- A single deed can be used to convey multiple separate parcels of land.
- Multiple description types (i.e., Prior Deeds, References to Monument) can be used.

1. Description by Reference to Prior Deeds

- The most common form of description.

It being all and the whole of the same land and premises conveyed to John Doe and Jane Doe by Quit Claim Deed from Harry E. Quimby and Mabel A. Quimby dated August 8, 1967 and recorded in Book 21, Page 433 of the Town of Lakeside Land Records.

- Legally valid and effective, so long as it references the proper prior instrument(s).

2. Description by Reference to Monuments

- Monuments can be man-made or natural items, with described distances and directions between them. References may also be made to the boundaries of adjoining landowners.

Being 1 acre of land, more or less, with the improvements thereon, described as follows:

Commencing at an iron pin, set in the westerly boundary Lake Road, at the northeast corner of lands now or formerly of Ed Smith;

Thence proceeding generally westerly along the northerly boundary of the property Ed Smith a distance of 100 feet, more or less to a 15" diameter maple tree;

- Difficulties arise when there are several similar monuments (in 1900 the forest was full of maple trees), or one or the monument can no longer be found (sometime in the last 120 years, the maple tree died). Property owners change (Ed Smith passed away in 1956) and other things just happen.

3. Description by Reference to Course and Distances (Metes and Bounds)

- Directions are measured either by compass directions, in degrees, minutes, and seconds (N 37°28' 03" W) or internal or external angles between adjoining boundary lines ("thence turning an internal angle to the left of 37°28' 03")

4. Description by Reference to a Survey

- A deed or other conveyance of land which includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded. 27 V.S.A. § 341(b).

5. Determining Acreage for Listing Purposes.

- Determining acreage is often very difficult, though it is has gotten better with recorded surveys and digital parcel maps.
- Occasionally, there can be a significant discrepancy between deeded acreage and a survey.
- Listers and assessors must do their best with the information available.
- Generally, a survey by a registered surveyor is the preferred source of acreage information, followed by a parcel map, and then a deed description. But all of the available information should be considered.

VERMONT REAL PROPERTY TAX EXEMPTIONS PROPERTY VALUATION AND REVIEW

April 21, 2021

Atty. Jim Barlow

A. General Principles of Property Tax Exemptions.

- Listers determine whether a property is taxable or exempt. The Listers' decision can be appealed to the Board of Civil Authority. A taxpayer must grieve the Listers' decision and appeal to the B.C.A. before the taxpayer can bring a legal action in Superior Court. *Vermont Coll. of Fine Arts v. City of Montpelier*, 2017 VT 12.
- Under Vermont law, exemptions are strictly construed. It is the taxpayer's burden to prove eligibility for an exemption. If there is any doubt about the application of an exemption, it must be interpreted against granting the exemption. *Zlotoff Found., Inc. v. Town of S. Hero*, 2020 VT 25, ¶ 37
- Property tax exemptions are not static. Some properties, depending on the exemption and use, may require annual review and determination by the Listers. See *Our Lady of Ephesus House of Prayer, Inc. v. Town of Jamaica*, 2005 VT 16, ¶ 35. Vermont law requires listers to assess all property as of April 1. 32 V.S.A. §3651. It is the use of the property on that date that controls for purposes of assessment, and when determining whether a property qualifies for an exemption under 3802(4), "future use is...unavailing; the relevant test is based on the use of the property during the tax years in question." *Vermont Coll. of Fine Arts v. City of Montpelier*, 2017 VT 12, ¶ 25.
- Consistency is essential. Always strive to treat similar properties similarly. Don't be afraid to look outside the boundaries of your town to see how comparable properties are treated in other municipalities.
- To understand an exemption, it is essential to read the Superior Court and Supreme Court decisions interpreting the exemption. Property tax exemptions are among the most litigated matters in Vermont.

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- Think strategically about the exemption appeal process (i.e., Listers, BCA, then Court).

B. Property Tax Exemptions.

1. Real estate owned by the State of Vermont or the United States. 32 V.S.A. §3802(1).

Real estate owned by the State of Vermont or the United States is likely to be exempt even when the property leased to a private corporation and used for commercial purposes. See, e.g., *Sherburne Corp. v. Town of Sherburne*, 145 Vt. 581(1985); *D.P.C. Reconstruction Fin. Corp. by NL Indus. v. Assessor of Town of Johnsbury*, 135 A.D.2d 224 (1988). In both cases, the controlling factor seems to be ownership of the property, rather than its use, that determines eligibility for the exemption. See also, *Vermont Div. of State Bldgs. v. Town of Duxbury*, 145 Vt. 508 (1985) holding that state-owned land leased to a private individual using it to produce dairy products for sale in the general market was exempt under 32 V.S.A §3802(1).

2. Real estate owned by a municipality.

On the other hand, in the case of property owned by a municipality, exemption from property tax depends not only on municipal ownership but also on the location of the property and the use to which the property is put. Property owned by a municipality that is located within that municipality and which is used for municipal purposes, including the provision of utility services is exempt from statewide education tax. See 32 V.S.A. §5401(10)(F).

Real estate owned by a municipality and located outside its territorial limits is taxable by the municipality in which it is located under a special statutory formula. 32 V.S.A. §3659. See also, *Styles v. Vill. of Newport*, 76 Vt. 154, 163-164 (1904), *City of Burlington v. City of South Burlington*, 1222-11-13 CNCV, at 16 (Mar. 03, 2016).

Real estate owned by a municipality and used for urban renewal purposes is exempt. 24 V.S.A. §3216(b).

The property of a consolidated water district is exempt from taxation by any town within the district. 24 V.S.A. §3352. The property of a consolidated sewer district is exempt from taxation by any town. 24 V.S.A. §3683.

3. Real property owned by a post of a veteran's organization chartered by an act of Congress, or a corporation the members or stockholders of which are members of a veteran post or its auxiliary, that is used for its purposes only, used as its principal meeting place, and is not leased or rented for profit. 32 V.S.A. §3802(2).

This would include, for example, a VFW hall or an American Legion post building. It would also include property owned by a corporation whose members or stockholders are members of the VFW or American Legion, which is used for the corporation's purposes and as its principal meeting place and is not leased or rented for profit.

"The statutory purpose of the exemption for congressionally chartered organizations in subdivision 3802(2) of this title is to support certain organizations with a patriotic, charitable, historical, or educational purpose." 32 V.S.A. §3800(a).

4. Real property owned by and used for the purpose of its work by a nonprofit organization chartered by an act of the Congress of the United States. 32 V.S.A. §3802(2).

This would include, for example, property owned by the Red Cross, Boy Scouts of America, Girl Scouts of America, or Little League Baseball, Inc., which is directly and substantially used for the purpose of the organization. Lists of other federally-chartered nonprofit organizations can be obtained online.

"[A]n organization specified in 32 V.S.A. §3802(2) must show that the property for which it seeks an exemption under that section is directly and substantially utilized in furtherance of its organizational purposes. While the generation of income will not defeat exemption, the lands must be put to some other use that directly serves the goals sought to be fostered by the exemption. Furthermore, that use must be bona fide and provable; a token use will not meet the threshold of substantiality." *Governor Clinton Council, Inc. v. Koslowski*, 137 Vt. 240, 248 (1979).

5. Real estate granted, sequestered, or used for public, pious, or charitable uses. 32 V.S.A. §3802(4).

To qualify for the "public, pious, or charitable use" exemption, the property must meet the three-part *American Museum of Fly Fishing* test. First, "the property must be dedicated unconditionally to public use." Second, "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." Third, "the property must be owned and operated on a not-for-profit basis." *American Museum of Fly Fishing, Inc. v. Town of Manchester*, 151 Vt. 103 (1989).

"The statutory purpose of the exemption for public, pious, and charitable property in sections 3832 and 3840 and subdivision 3802(4) of this title is to allow these organizations to dedicate more of their financial resources to furthering their public-service missions." 32 V.S.A. §3800(b).

A. Is the property dedicated unconditionally to public use?

“Public use” in this context does not mean that members of the public must physically use the property; instead, the property must be put to some primary use that benefits the public. *Ft. Ticonderoga Ass’n, Inc. v. Town of Orwell*, No. 220-9-11 ANCV (Vt.Super. Nov. 05, 2012). The benefit derived by the public from the use of the property must be “direct and immediate, rather than remote or incidental.” *Id.*, quoting *Kingsland Bay School, Inc. v. Town of Middlebury*, 153 Vt. 201, 205 (1989).

In determining whether the property has been “unconditionally dedicated,” legal documents such as articles of incorporation and corporate bylaws of the entity owning the property may be considered. See *Vermont Youth Conservation Corps, Inc. v. Town of Richmond*, No. 1125-10-12 CNCV (Vt.Super. Oct. 14, 2013).

Typically, a statement in the nonprofit owner’s articles of organization to the effect that its property is “irrevocably dedicated to the charitable and educational purposes” of the organization and that upon dissolution, the assets of a corporation will be distributed to “one or more domestic corporations, societies, or organizations that are qualified for nonprofit and tax-exempt status under Section 501(c)(3) of the [Internal Revenue] Code” would be sufficient to find that the property has been “unconditionally dedicated.”

Conditions and covenants in deeds and other land records may also establish that the property is dedicated unconditionally to public use.

B. Is the property owned and operated on a not-for-profit basis?

To be entitled to a tax exemption under the third prong of the *American Museum of Fly Fishing* test, the owner must own and operate the property on a not-for-profit basis. While obtaining certification as a tax-exempt charitable organization under Section 501(c)(3) of the Internal Revenue Code is helpful, it is not strictly necessary. The property owner’s incorporation as a Vermont domestic nonprofit is sufficient to conclude that the property is owned and operated on a not-for-profit basis.

C. Does the primary use of the property directly benefit an indefinite class of persons who are part of the public, and also confer a benefit on society as a result of the benefit conferred on the persons directly served?

Under the second prong of the *American Museum of Fly Fishing* test, the property must “directly benefit an indefinite class of persons who are part of the public,” thereby conferring a benefit on society. “The indefinite-class-of-persons test is intended ‘to distinguish uses that benefit the public from uses that benefit only a selected few.’” *Vermont Studio Center, Inc. v. Town of Johnson*, 2010 VT 59, ¶ 8, quoting *Sigler v. Town of Norwich*, 174 Vt. 129, 134 (2002). In other words, the focus is not on the number of beneficiaries, but rather the extent to which the property is only available to a discrete segment of the public.

In *Trustees of Vermont Wild Land Found. v. Town of Pittsford*, 137 Vt. 439 (1979), a tax exemption was sought for an undeveloped parcel of wilderness property. The primary use of the property was for scientific research by college-level students and professors from a nearby college. The owner strictly controlled access to the land and permitted entry only based on a detailed application, and the public at large could not use the property. The Supreme Court deemed these selection criteria overly restrictive, holding that “the determination as to which particular researchers may use the land is under the control, and at the discretion of, the plaintiffs. Thus, the beneficiaries of the use of the land are restricted to a small, select number of students, professors, and researchers chosen by the plaintiffs for their own reasons... This is not a public use.” *Id.* at 444.

Similarly, in *Vt. Studio Ctr., Inc. v. Town of Johnson*, the Vermont Studio Center (“VSC”) operated an artists' residency program. Individuals interested in the program had to submit an application, a \$25 fee, a portfolio of their work or a manuscript, a resume, and three references. VSC exercised sole discretion over who qualified for the program. The Supreme Court held that the primary use of VSC's property did not serve an indefinite class of persons because VSC's beneficiaries were a “finite and limited” group selected to receive benefits based on each individual's demonstrated proficiency in the arts. *Id.* at ¶ 8.

By contrast, in *Sigler v. Town of Norwich*, the property owner operated a dairy farm that was open to farmers, 4-H organizations, scientists, agriculture students, school children, and the public at large. No one had to submit an application, attend an interview, or meet any selection criteria or prerequisites to visit the facilities. The Supreme Court held that that the farm benefited an indefinite class of persons because the specific individuals who benefited from the farm were unidentifiable. *Id.* at 135.

D. Considering 32 V.S.A. §3832.

The exemption at 32 V.S.A. §3802(4) must be read in conjunction with 32 V.S.A. §3832, which limits the application of §3802(4) for several uses of properties. For example, 32 V.S.A. §3832(2) narrows the pious-use exemption of 32 V.S.A. §3802(4) by eliminating exemptions for, “Real estate owned or kept by a religious society other than a church edifice, a parsonage, the outbuildings of the church edifice or parsonage, a building used as a convent, school, orphanage, home, or hospital, land adjacent to any of the buildings named in this subsection, ... playground, or garden, and the so-called glebe lands.” *Brownington Ctr. Church of Brownington, Vermont, Inc. v. Town of Irasburg*, 2013 VT 99.

Also, property owned or kept by an orphanage, home, or hospital, including diagnostic and treatment center not used for the purpose of such institution but leased to others for income or profit, whether or not the institution is conducted by or connected with a religious society” is not exempt unless the municipality where the property is located votes to exempt the property from taxation. 32 V.S.A. §3832(6).

A similar municipal vote is required to exempt, “[r]eal and personal property of an organization when the property is used primarily for health or recreational purposes” 32 V.S.A §3832(7). See *In re Aloha Found., Inc.*, 134 Vt. 239 (1976). However, this voting requirement does not apply to “buildings and land owned and occupied by a health, recreation, and fitness organization, which is: (i) exempt from taxation under 26 U.S.C. §501(c)(3); (ii) used its income entirely for its exempt purpose; and (iii) promotes exercise and healthy lifestyles for the community and serve citizens of all income levels. 32 V.S.A. §3832(7)(A).

A vote is also not required under 32 V.S.A. §3832(7)(B) to exempt “real and personal property operated as a skating rink, owned and operated on a nonprofit basis, but not necessarily by the same entity, and which, in the most recent calendar year, provided facilities to local public schools for a sport officially recognized by the Vermont Principals' Association.”

E. Charitable organizations, including fraternal organizations, and volunteer fire, and ambulance and rescue companies. 32 V.S.A. §3840.

Real estate owned by a charitable organization, such as a fraternal organization, or volunteer fire, and ambulance or rescue company, and which is used exclusively for the purposes of such society, body, or organization, may be exempted from taxation, either in whole or in part, for a period not exceeding ten years, if a town votes for the exemption.

Upon the expiration of the exemption, the town may vote additional periods of exemption not exceeding five years each. 32 V.S.A. §3840.

Fraternal organizations include, for example, the Independent Order of Odd Fellows, Benevolent and Protective Order of Elks, Knights of Columbus, Fraternal Order of Eagles, Shriners, Grand Army of the Republic, Fraternal Order of Police, and hundreds of others.

F. Nonprofit concurrence of mission.

When the property is owned by one nonprofit organization and leased and used by another, there must be a “concurrence of nonprofit ownership and use between the owner and the lessee such that the two have a single mission.” The two nonprofits must share a single mission for the property to be exempt from taxation under 32 V.S.A. 3802(4). *Vermont Coll. of Fine Arts v. City of Montpelier*, 2017 VT 12, ¶ 27. If this concurrence of mission is not present, the property cannot be exempt, even if the owner and tenant might otherwise qualify for an exemption separately.

6. Real estate owned by churches or church societies or conferences and used as parsonages. 32 V.S.A. §3802(4).

A parsonage is commonly defined as a residence for an ordained minister who is serving a congregation's needs. It does not include apartments on church property used by the public or by visiting clergy. *Our Lady of Ephesus House of Prayer, Inc. v. Town of Jamaica*, 2005 VT 16.

7. Real estate set apart for library uses and used by the public and private circulating libraries, open to the public, and not used for profit. 32 V.S.A. §3802(4).

8. Lands leased by towns or town school districts for educational purposes. 32 V.S.A. §3802(4).

This exemption applies to real property both owned by a town or a town school district and leased to raise money for educational purposes. See discussion in *Broughton v. Town of Charlotte*, 134 Vt. 270, 272 (1976), overruled on other grounds by *American Museum of Fly Fishing, Inc. v. Town of Manchester*, 151 Vt. 103 (1989). But note that since the passage of Act 60 in 1997, “Funds received by a municipality other than a school district may not be used directly or indirectly for education expenses.” 16 V.S.A. §4029(b). Thus, town-owned land cannot be leased to raise funds for educational expenses.

9. Lands owned or leased by colleges, academies, or other public schools. 32 V.S.A. §3802(4).

“Public” as used in this exemption means an institution incorporated for the purposes of general education and operated without any intention of profit, not just those schools supported by public taxation and free to the public without charge. See, e.g., *Mountain View Cmty. Sch., Inc. v. City of Rutland*, 2011 VT 65; *Town of Williston v. Pine Ridge Sch., Inc.*, 132 Vt. 439 (1974).

A college, academy, or public school must own the property. Property owned by a private individual and leased to a public school does not qualify for this exemption. See *Broughton v. Town of Charlotte*, 134 Vt. 270 (1976), overruled on other grounds by *Am. Museum of Fly Fishing, Inc. v. Town of Manchester*, 151 Vt. 103 (1989).

A college, academy, or public school must use the property for an educational purpose to qualify for the exemption. Thus, a headmaster's house qualifies for the exemption, but a converted dormitory used for commercial rental purposes does not. *Burr & Burton Seminary v. Town of Manchester*, 172 Vt. 433 (2001).

If property owned by a college, academy, or public school is used primarily for recreational purposes, it is subject to the exception at 32 V.S.A. §3832(7) and not exempt without a town vote. See *President & Fellows of Middlebury Coll. v. Town of Hancock*, 147 Vt. 259 (1986).

If a college or university acquired the property after April 1, 1941, the property is taxable, unless the voters of the municipality vote to exempt the property from taxation, either in whole or in part. 32 V.S.A. §3831(a). Also, note the distinctive assessment methodology for college and university property in that statute. Also note that this applies only to college and university property, not “other public schools.” If no courses are offered at a college or university level., the exception to the exemption does not apply, and the property is exempt. *Stowe Preparatory Sch., Inc. v. Town of Stowe*, 124 Vt. 392, 396 (1964).

The last sentence of 32 V.S.A. 3802(4) must also be given consideration: “The exemption of lands owned or leased by colleges, academies, or other public schools, shall not apply to lands or buildings rented for general commercial purposes, nor to farming or timberlands owned or leased thereby; but this provision shall not affect the exemption of so-called school or college lands, sequestered to such use prior to January 28, 1911.” 32 V.S.A. §3802(4). See discussion at *Vermont Coll. of Fine Arts v. City of Montpelier*, 2017 VT 12, ¶ 20, 204 Vt. 215, 224, 165 A.3d 1065, 1072 (2017).

10. Real estate owned by the University of Vermont. 16A V.S.A. §1-15.

Real and personal property now held or owned or hereafter acquired by the University of Vermont and State Agricultural College for educational purposes shall be exempt from taxation. 16A V.S.A. §1-15.

Buildings owned by UVM and used as housing facilities available to faculty members but not used for classrooms or instructional purposes were not exempt from real estate taxes as property acquired for “educational purposes,” even though such property conferred an incidental benefit on the University in that ability of the University to offer living quarters to its personnel at a reduced cost. *Univ. of Vt. v. Town of Essex*, 129 Vt. 607, 285 A.2d 728 (1971).

11. Lands...leased by towns for the support of the gospel. 32 V.S.A. §3802(4).

Most Vermont town land grant charters contain reservations, usually amounting to one share of land, for the support of a church. Historically, towns raised funds for the support of the church through perpetual leases of the property. Most towns relinquished their ownership of these lands to the current lessee under 24 V.S.A. §2409.

12. Buildings, land, and personal property owned and occupied by a Young Men's Christian Association or a Young Women's Christian Association for the purposes of its work, the income of which is entirely used for such purposes. 32 V.S.A. §3802(6).

“The statutory purpose of the exemption for Young Men's and Women's Christian Associations in subdivision 3802(6) of this title is to allow these organizations to dedicate more of their financial resources to furthering their public-service missions.” 32 V.S.A. §3800(d).

13. Lands used for cemetery purposes and the structures thereon, trust funds and other property belonging to or held by cemetery associations, and the lots of the proprietors thereof. 32 V.S.A. §3802(7).

“The statutory purpose of the exemption for cemeteries in subdivision 3802(7) of this title is to lower the cost of establishing and maintaining cemeteries.” 32 V.S.A. §3800(e).

14. Grounds and property owned and occupied by agricultural societies so long as the same are used annually for agricultural fairs. 32 V.S.A. §3802(9).

“The statutory purpose of the exemption for property owned by agricultural societies in subdivision 3802(9) of this title is to lower the cost of public access to agricultural events.” 32 V.S.A. §3800(f).

15. Real and personal property to the extent of \$10,000.00 of appraisal value, except any part used for business or rental, occupied as the established residence of and owned in fee simple by a veteran, his or her spouse, widow, widower, or child, or jointly by any combination of them, if one or more of them are receiving disability compensation for at least 50 percent disability, death compensation, dependence and indemnity compensation, or pension for disability paid through any military department or the Veterans Administration. 32 V.S.A. § 3802(11).

For information on this exemption, see *Veterans and Property Taxes: What You Should Know* published by the VT. Department of Taxes and available at <https://tax.vermont.gov/sites/tax/files/documents/FS-1003.pdf>.

16. Real and personal property exclusively installed and operated for the abatement of pollution of the waters of the State of Vermont or waters within the purview of the New England Interstate Water Pollution Control Compact in accordance with engineering principles approved by the Vermont Water Resources Board. This type of property shall be exempt as long as its operation meets with the approval of the Secretary of Natural Resources. 32 V.S.A. §3802(12).

“The statutory purpose of the exemption for property exclusively installed and operated for the abatement of water pollution in subdivision 3802(12) of this title is to encourage real property improvements that abate water pollution by nonpublic entities that would not qualify for an exemption as a government entity.” 32 V.S.A. §3800(h).

Also, note that “[a]pproved air pollution treatment facilities shall be exempted from real and personal property taxation in the same manner provided tax exemption of water treatment facilities under the provisions of 32 V.S.A. § 3802.” 10 V.S.A. §570

17. 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 which is attached to or is located on the grounds of such an animal shelter. 32 V.S.A. §3802(15).

“The statutory purpose of the exemption for humane societies in subdivision 3802(15) of this title is to lower operating costs for organizations that protect animals to allow them to dedicate more of their financial resources to furthering their public-service missions.” 32 V.S.A. §3800(i).

18. Real and personal property owned by a federally qualified health center or a free-standing, federally designated rural health clinic, provided such center or clinic is governed by a community board of directors; offers care on a sliding scale based on ability to pay; is owned and operated on a nonprofit basis; is unconditionally dedicated to public use which directly benefits an indefinite class of the public and confers a benefit on society. 32 V.S.A. §3802(16).

For descriptions of federally qualified health centers and rural health clinics, see www.ruralhealthinfo.org/rural-health-clinics#fqhc

“The statutory purpose of the exemption for federally qualified health centers or rural health clinics in subdivision 3802(16) of this title is to support health centers that serve an underserved area or population, offer a sliding fee scale, provide comprehensive services, and have an ongoing quality assurance program.” 32 V.S.A. §3800(j).

19. Real and personal property, except land, composing a renewable energy plant generating electricity from solar power which has a plant capacity of less than 50 kW and is either: (A) operated on a net-metered system; or (B) not connected to the electric grid and provides power only on the property on which the plant is located. 32 V.S.A. §3802(17).

At an annual or special meeting, a town may vote to exempt renewable energy sources equal to or greater than 50kW from real and personal property taxation. Such exemption shall first be applicable against the grand list of the year in which the vote is taken and shall continue until voted otherwise, in the same manner, by the town. 32 V.S.A. §3845(a). Municipalities can also contract to stabilize the property’s taxes under 24 V.S.A. §2741.

20. Real estate used in operating a railroad, and appraised under sections 32 V.S.A. §§8281-8286, 8301-8306, and 8321-8322, including the section of the North Stratford, New Hampshire to Beecher Falls, Vermont railroad line owned by the State of New Hampshire and situated in the Town of Canaan exempted from taxation under section 8286 of this title. 32 V.S.A. §3803(1).

“Property of companies involved in operating railroad freight line and equipment is exempt from local property tax. This includes rights of way, freight yards, tracks, and any buildings that are still

being used in the railroad operation. Railroad buildings that are used for other purposes can be taxed locally.” *Lister and Assessor Handbook: A Guide for Vermont Listers and Assessors*, January 2020, page 43.

”The statutory purpose of the railroad property alternative tax method in subdivision 3803(1) of this title is to provide an alternative to the traditional valuation method in order to achieve consistency across municipalities.” 32 V.S.A. §3800(k).

21. Real and personal estate, except land and buildings, used in carrying on telephone business or in operating a transportation company in this State. 32 V.S.A. §3803(2).

”The statutory purpose of the telephone property alternative tax method referenced in subdivision 3803(2) of this title is to provide an alternative to the traditional valuation method in order to achieve consistency across municipalities.” 32 V.S.A. §3800(l).

22. Property owned by the Vermont Housing Finance Agency. 10 V.S.A. §641(a).

23. Property owned by the Vermont Student Assistance Corporation (VSAC). 16 V.S.A. §2825.

24. Property owned by a nonprofit hospital service corporation. 8 V.S.A. §4518.

25. Property owned by a nonprofit medical service corporation. 8 V.S.A. §4590.

26. Approved air pollution treatment facilities exempted from real and personal property taxation in the same manner provided tax exemption of water treatment facilities under the provisions of 32 V.S.A. § 3802.