

**PT 08-7**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**H E L P S ON THE WAY,  
A MINISTRY OF CARING,  
APPLICANT**

**Docket No: 07-PT-0038**

**Real Estate Tax Exemption**

**For 2006 Tax Year  
P.I.N. 09-11-133-001**

**Kane County Parcel**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Daniel J. Haynes, on behalf of H E L P S On the Way, A Ministry of Caring; Mr. Marc Muchin, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**SYNOPSIS:**

This proceeding raises the issue of whether the subject property, identified by Kane County Parcel Index Number 09-11-133-001 (hereinafter the “subject property”), qualifies for exemption from 2006 real estate taxes under 35 ILCS 200/15-40, which exempts “[a]ll property used exclusively for religious purposes.”

The controversy arose as follows: On September 12, 2006, H E L P S On the Way, A Ministry of Caring (hereinafter “HELPS” or “applicant”), filed a Real Estate Exemption Complaint for the residence on the subject property with the Board of Review of Kane County (hereinafter the “Board”). The Board reviewed the applicant’s

complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that a partial year exemption be granted. Dept. Ex. No. 2.

On March 29, 2007, the Department rejected the Board’s recommendation finding that the property was not in exempt ownership or use in 2006. Dept. Ex. No. 1. On April 17, 2007, the applicant filed a timely request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on December 12, 2007, with Angelo Valdes, Pastor of HELPS, Scott Foust, Pastor of Bethel Baptist Church in St. Charles, and Debra Sall, President of HELPS, testifying. Following a careful review of the record including the transcript and evidence admitted at the hearing, it is recommended that the subject property be denied an exemption for the 2006 tax year.

**FINDINGS OF FACT:**

1. Dept. Ex. Nos. 1 and 2 establish the Department’s jurisdiction over this matter and its position that the subject property was not in exempt ownership or use in 2006. Tr. pp. 8-9.
2. Angelo Valdes received a “Certificate of Ordination” from “The Gospel Ministry” on May 4, 2001. Tr. pp. 32-33; App. Ex. No. 9.
3. The subject property is located at 34W621 Iowa Avenue in St. Charles, Illinois. Pastor Valdes lives on the subject property. Tr. pp. 13-19, 54; App. Ex. No. 2.
4. On July 21, 2006, an “Addendum to 7.21.06 Official Board Meeting” was approved by Pat Hall, “President,” and Angelo Valdes, “Director.” The Addendum, entitled “Resolution; Re: Parsonage” states that “It is hereby resolved by the Board of Directors of the H.E.L.P.S. Ministry ... By unanimous vote determines that [the subject property] and responsibilities/expenses thereof [be]

- assumed by [HELPS]. The deed to be transferred instanter or as soon as possible. Further that the property here is now referred to as the ‘Parsonage’ will house the pastor and immediate family. The Pastor must be available and locally residing to achieve any and all of the Full-Time Ministry responsibilities here at the H.E.L.P.S. Ministry and H.E.L.P.S. Church.” Tr. pp. 36-37; App. Ex. No. 13.
5. On August 9, 2006, Norina Valdes, signed a quit-claim deed in which she conveyed her interest in the subject property to HELPS. Tr. pp. 26-28, 44; App. Ex. No. 7.
  6. During the year 2006, the following people resided on the subject property: Angelo Valdes (resident for 10 years), Norina Valdes (10 years), Danielle Valdes (10 years), Joshua Valdes (8 years), Alicia Valdes (7 years), Terina E. (8 months), Christopher E. (7 months), Alicia S. (7 months), Brian F. (2 months), Dan T. (6 months), Judy T. (3 ½ years), Todd S. (5 months), Jeff R. (2 months). The first five people are Pastor Valdes’ family. Some of the other people resided on the subject property while struggling with drug addiction, coping with alcoholism or to avoid an abusive relationship at home. Tr. pp. 39-40, 45-46; Dept. Ex. No. 3.
  7. HELPS was incorporated under the Illinois “Not For Profit Corporation Act,” on March 8, 2001, and was in good standing on May 31, 2007. Tr. pp. 19-20; App. Ex. No. 7.
  8. HELPS is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code as of March 13, 2006. Tr. pp. 33-36; App. Ex. No. 11.

9. HELPS is exempt from Retailers' Occupation Tax in the State of Illinois as of April 28, 2006. Tr. pp. 35-36; App. Ex. No. 12.
10. In 2006, HELPS conducted its services at Bethel Baptist Church in St. Charles, Illinois on Sunday afternoons. Tr. pp. 12-13, 48-51, 53, 56; App. Ex. No. 1.
11. HELPS' Bylaws were adopted by its Board of Directors on February 20, 2001. Tr. pp. 20-24; App. Ex. No. 5.
12. HELP' Bylaws state that the total number of Directors "shall be at least twelve and not more than seventeen." (Article 2.1) A simple majority of Directors shall constitute a quorum for the transaction of business and "the act of a majority of Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors." (Article 2.12) App. Ex. No. 5.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that HELPS has not demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting the subject property from property taxes for tax year 2006. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board

of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 ILCS 200/1-3 *et seq.* The provisions of that statute which govern the disposition of the instant proceeding are found in Section 200/15-40. Section 200/15-40(a) exempts property used exclusively for religious purposes as long as it is not used with a view to profit. Section 15-40(b) exempts property that is owned by churches, religious institutions or religious denominations and that is used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents, and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, including the convents and monasteries where persons engaged in religious activities reside. “A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.” 35 ILCS 200/15-40.

The above statute allows an exemption for property used exclusively for religious purposes. Benedictine Sisters of the Sacred Heart v. Department of Revenue, 155 Ill. App. 3d 325, 329 (2d Dist. 1987). Property satisfies the exclusive-use requirement of the property tax exemption statutes if it is primarily used for the exempted purpose, even though it may also be used for a secular or incidental purpose. McKenzie v. Johnson, 98 Ill.2d 87, 98 (1983).

Housing facilities are exempt from property taxes if: (1) they are “owned by churches or religious institutions or denominations”; and (2) they are used as “housing facilities provided for ministers”; and (3) such ministers reside in the facility “as a condition of employment.” 35 ILCS 200/15-40. Pastor Valdes testified that he resided on the subject property. Tr. p. 13. Pastor Valdes received a “Certificate of Ordination” from “The Gospel Ministry” on May 4, 2001. Tr. pp. 32-33; App. Ex. No. 9. Whereas the subject property appears to be a housing facility provided for a minister, I am unable to conclude from the testimony and evidence admitted at the hearing that the subject property is owned by HELPS or that Pastor Valdes resides on the subject property as a “condition of employment.”

HELPS is seeking a property tax exemption for the subject property for the 2006 tax year. On August 9, 2006, Norina Valdes, signed a quit-claim deed in which she conveyed her interest in the subject property to HELPS. Tr. pp. 26-28, 44; App. Ex. No. 7. There was no testimony at the hearing as to who Norina Valdes is, although Pastor Valdes testified that she is “family” and it is noted that she lived on the subject property for 10 years. Tr. p. 48; Dept. Ex. No. 3. Norina Valdes did not testify at the hearing.

A quit-claim deed conveys whatever title or interest the grantor may have in the land at the time it was given, and only such title and interest. In re Marriage of Didier, 318 Ill. App. 3d 253 (1<sup>st</sup> Dist. 2000). A quitclaim deed conveys only the grantor's interests in property described therein. The quit-claim deed passed no greater or better title than belonged to the grantor. Bryant v. Lakeside Galleries, 402 Ill. 466 (1949). I am unable to conclude that HELPS owns the subject property because there was no testimony or evidence as to what interest or title Norina Valdes had in the subject property when she quitclaimed it to HELPS. A quitclaim deed conveys only the interest of the grantor, and without testimony or evidence as to what interest Norina Valdes had in the subject property, I can reach no conclusion as to what interest she transferred to HELPS.<sup>1</sup> One requirement for exemption of a housing facility, according to 35 ILCS 200/15-40, is that the property be owned by a religious institution or denomination. The applicant has failed to prove that the subject property is owned by HELPS.

The second requirement that must be met for exemption as a housing facility for religious purposes is that ministers must reside in the facility as a condition of their employment. The "Parsonage/Convent Questionnaire" submitted with HELPS' Application for Exemption states that the minister is required to live on the property as a condition of his employment. App. Ex. No. 3. The documentary evidence offered into evidence by HELPS at the hearing does not prove that Pastor Valdes is required to live on the subject property as a condition of his employment.

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<sup>1</sup> Pastor Angelo Valdes also resided on the subject property for 10 years. Dept. Ex. No. 3. There was no testimony that Angelo Valdes and Norina Valdes were husband and wife. There was no testimony as to whether the subject property was marital property and whether Angelo Valdez had any interest, deeded or otherwise, in the subject property.

HELPS caused to be admitted into evidence an “Addendum to 7.21.06 Official Board Meeting” dated July 21, 2006. The Addendum, entitled “Resolution; Re: Parsonage” states that “It is hereby resolved by the Board of Directors of the H.E.L.P.S. Ministry ... By unanimous vote determines that [the subject property] and responsibilities/expenses thereof [be] assumed by [HELPS]. The deed to be transferred instanter or as soon as possible. Further that the property here is now referred to as the ‘Parsonage’ will house the pastor and immediate family. The Pastor must be available and locally residing to achieve any and all of the Full-Time Ministry responsibilities here at the H.E.L.P.S. Ministry and H.E.L.P.S. Church.” Tr. pp. 36-37; App. Ex. No. 13.

This Resolution was “approved” by Pat Hall, “President,” and Angelo Valdes, “Director.” The “approval” of this Resolution is not in accordance the requirements of HELPS’ Bylaws. HELPS’ Bylaws were adopted by its Board of Directors on February 20, 2001. Article 2.1 of the Bylaws states that the total number of Directors “shall be at least twelve and not more than seventeen.” Article 2.12 requires that a simple majority of Directors shall constitute a quorum for the transaction of business and “the act of a majority of Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors.” App. Ex. No. 5.

Pat Hall, who signed the Resolution as “President,” did not testify at the evidentiary hearing. Debbie Sall testified that she was currently “President” of HELPS. Tr. p. 53. The corporate minutes of the Board of Director’s meeting in which the “Resolution; Re: Parsonage” was passed were not admitted into evidence. There was no testimony at the hearing as to who the Directors of HELPS are and whether Pastor Valdes’ family members are Directors. There was no testimony at the hearing as to

whether a quorum of HELPS' twelve to seventeen directors were present at the "official" Board meeting of July 21, 2006. There was no testimony with regard to how many Directors constituted the "unanimous" vote that passed this resolution. There was no explanation as to why the only Director's signature on the Resolution is that of Pastor Valdes.

Courts generally presume that a board of directors will act in good faith and in furtherance of the company's best interests when making decisions. Spillyards, et al. v. Abbud, et al., 278 Ill. App. 3d 663, 681-682 (1<sup>st</sup> Dist. 1996). Courts usually will not interfere with a governing board's judgment absent a showing that the Board acted in bad faith, abused its discretion or committed gross negligence. *Id.*

In the instant case, however, the only evidence admitted is that HELPS' "Board of Directors," consisting of one Director, "resolved" that the same Director should live on the subject property as a condition of his employment. Pastor Valdes is in the unique position of ordering himself to live on the subject property as a condition of his employment. The Resolution from HELPS' Board establishing the terms and conditions of Pastor Valdes' employment, signed by one Director, Pastor Valdes, must be considered of questionable credibility. Under these circumstances, allowing such Resolution to have credence in this forum would be tantamount to providing Pastor Valdes and his family with property tax savings that they may not be lawfully entitled to receive.

35 ILCS 200/15-40 states that a parsonage is "exclusively" used for religious purposes "when persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility." Based on the testimony and

evidence admitted at the evidentiary hearing including HELPS' Bylaws and "Resolution," I am unable to conclude that Pastor Valdes resides on the subject property as a condition of his employment or that the parsonage is exclusively used for religious purposes.

HELPS' "PTAX-300, Religious Application for Non-Homestead Property Tax Exemption," clearly requests exemption of the subject property as a "ministers' housing facility." Dept. Ex. No. 1. In 2006, HELPS did not have its own church building, and so HELPS conducted its services at Bethel Baptist Church in St. Charles, Illinois on Sunday afternoons. Tr. pp. 12-13, 48-51, 53, 56; App. Ex. No. 1. There was testimony at the evidentiary hearing that the subject property is also used for purposes other than housing the minister's family. Eight people, who are not members of Pastor Valdes' family, resided on the subject property in 2006. Some of these people resided on the subject property while struggling with drug addiction, coping with alcoholism or to avoid an abusive relationship at home. Tr. pp. 45-47. No financial statements were admitted into evidence for HELPS so I am unable to determine if these people paid rent to HELPS or to Pastor Valdes, or if the subject property was used with a view to profit. It is unclear from the testimony how the eight people residing on the subject property furthered any religious purpose of HELPS. If HELPS had asked for exemption of the subject property for "exclusively" religious purposes, but not as a parsonage, the evidence would be insufficient for me to reach the conclusion that the property was used for religious purposes.

WHEREFORE, for the reasons stated above, it is my recommendation that real estate, identified by Kane County P.I.N. 09-11-133-001 shall not be exempt from 2006 real estate taxes.

ENTER:

Kenneth J. Galvin  
Administrative Law Judge

March 10, 2008