

PT 09-8
Tax Type: Property Tax
Issue: Charitable Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

v.

I & I ANTIQUE TRACTOR & GAS
ENGINE CLUB

Applicant

Docket # 08-PT-0009

Tax Year 2007

RECOMMENDATION FOR DISPOSITION

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois¹

Synopsis:

I & I Antique Tractor & Gas Engine Club (“applicant”) filed applications for property tax exemptions for the year 2007 for four parcels of property located in Champaign County. The applicant contends that the property is used exclusively for charitable purposes pursuant to section 15-65 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*). The Champaign County Board of Review recommended that the four parcels be fully exempt from taxes. The Department of Revenue (“Department”) agreed that a

¹ Darius Harms, Russell Buhr, and Earl Smith appeared, *pro se*, on behalf of I & I Antique Tractor & Gas Engine Club.

portion of each parcel should be exempt, but determined that the remaining portion of each parcel should be taxed because it is not being used exclusively for charitable purposes. The Department does not dispute the fact that the property is owned by a charitable organization.² The applicant timely protested the Department's decision, and an evidentiary hearing was held. After reviewing the record, it is recommended that this matter be resolved partially in favor of the applicant.

FINDINGS OF FACT:

1. The applicant conducts a four day show during the second full weekend in July to demonstrate and display antique tractors and other historic farm equipment. (Dept. Ex. #1; Tr. pp. 12-13)
2. Parcel with PIN 06-12-04-326-007 ("326-007") is approximately 40.54 acres. The Department determined that 19.1 acres should be exempt from taxes, and the remaining 21.44 acres are taxable. (Dept. Ex. #1, p. 3)
3. A portion of parcel 326-007 is wooded area with trails through it. (App. Ex. #7; Tr. pp. 15-26)
4. Parcel with PIN 06-12-04-400-004 ("400-004") is approximately 6.69 acres. The Department determined that the western 2.32 acres should be exempt from taxes, and the remaining eastern 4.37 acres are taxable. (Dept. Ex. #1, p. 35)
5. Parcel 400-004 is narrow (approximately 66 feet wide) and borders parcel 326-007 on the north side. A portion of parcel 400-004 is wooded area with trails through it; some of the trails connect with those on parcel 326-007. (App. Ex. #1; Tr. pp. 26-29, 34-35)

² The applicant previously applied for an exemption for seven parcels of property for the year 1997. After an administrative hearing, the exemption was partially granted. (Docket #98-PT-0043)

6. Parcel with PIN 06-12-04-305-005 (“305-005”) is approximately 696 feet by 180 feet. The Department determined that the buildings on this parcel (a museum, an old school, and a new school) and the land on which they stand should be exempt from taxes. The Department determined that the portion of the parcel not occupied by buildings is taxable. (Dept. Ex. #1, pp. 16-17)
7. Parcel with PIN 06-12-04-305-004 (“305-004”) is approximately 198 feet by 130 feet. The Department determined that the building on this parcel (an old post office) and the land on which it stands should be exempt from taxes, and the portion of the parcel not occupied by a building is taxable. (Dept. Ex. #1, pp. 26-27)
8. Parcels 305-004 and 305-005 are adjacent to one another, and parcel 305-005 is adjacent to parcel 400-004. The museum houses antique farm equipment, and the old post office serves as a museum with much of the original furniture and post office equipment. Both facilities are open to the public at no charge every Saturday from March through September and at other times by appointment. (Dept. Ex. #1, pp. 25, 33; App. Ex. #1)
9. The property surrounding the buildings on parcels 305-004 and 305-005 is used to access the buildings. (App. Ex. #3, 4, 7; Tr. p. 10)

CONCLUSIONS OF LAW:

Article IX, section 6 of the Illinois Constitution of 1970 authorizes the General Assembly to grant property tax exemptions in limited circumstances and provides in part 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. Ill. Const. 1970, art. IX, §6.

Pursuant to this constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity..... (35 ILCS 200/15-65(a)).

Property may therefore be exempt under this section if it is (1) owned by an entity that is an institution of public charity; (2) actually and exclusively used for charitable purposes; and (3) not used with a view to profit. *Id.*; Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill. 2d 263, 270 (1996); Methodist Old People’s Home v. Korzen, 39 Ill. 2d 149, 156-157 (1968). Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home, at 156-57. If the primary use of the property is charitable, then the property is “exclusively used” for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill. App. 3d 658, 661 (1st Dist. 1982).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). The party claiming the exemption has the heavy burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are resolved in favor of taxation. *Id.*; City of Chicago v. Department of Revenue,

147 Ill. 2d 484, 491 (1992); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill. App. 3d 225, 231 (2nd Dist. 1992).

The applicant argues that the property should be exempt because during the four-day show, the applicant demonstrates or displays antique equipment on all four of the parcels at issue. (Tr. p. 14) At the time of the show, some of the equipment is moved into the wooded area along the trails. (Tr. p. 25) The applicant usually has up to 800 tractors at its show, and the tractors are driven in a parade-like manner on the trails through the woods. (App. Ex. #7; Tr. p. 33) Some of the equipment is kept outside on the property throughout the year. (Tr. p. 24) Other than the four-day show, people may access the property to view the equipment on an appointment basis. (Tr. pp. 25-26, 36)

The applicant also contends that the property surrounding the buildings on parcels 305-004 and 305-005 should be exempt because in addition to being part of its show grounds, people have to walk on the property to access the museum and post office. Furthermore, the applicant believes it is entitled to the exemption because the applicant attracts people from all over the world to see its equipment. The applicant has two tractors from the Smithsonian Institution, and the applicant contends that it benefits the State of Illinois because it brings in tourists who spend money here.

With respect to parcels 326-007 and 400-004, the applicant has failed to meet its burden of proving that the portion of the property that was denied the exemption should be exempt. Although the applicant may benefit the State by attracting tourists to its property, activities that are laudable or commendable are not necessarily charitable activities for purposes of property tax exemptions. See Rogers Park Post No. 108 v. Brenza, 8 Ill. 2d 286, 291 (1956). The applicant must show with clear and convincing

evidence that the property is primarily used for a purpose that is considered charitable within the contemplation of the law.

Although the record includes the number of acres that were denied the exemption on parcels 326-007 and 400-004, the record does not clearly establish the specific areas of these parcels that were denied the exemption and how that area is used. The record simply indicates that these parcels include wooded area with trails through it, and during its show, the applicant uses the trails to demonstrate or display its equipment. The applicant's show, however, was only four days during 2007. In order to receive the exemption, the applicant must establish that the property is primarily used for charitable purposes. Cook County Masonic Temple Association, *supra*. If the portion of the property that was denied the exemption is used for charitable purposes only four days during the year, then the property is not used primarily for charitable purposes.

The applicant also contends that this property is used on an appointment basis. The applicant admitted, however, that it does not keep a record of who uses the property or how many times during 2007 it was used. (Tr. p. 41) Without clear and convincing evidence of who actually used the property and how often it was used, it cannot be found that it was used primarily for charitable purposes.

With respect to parcels 305-004 and 305-005, the applicant argues that the portion that was denied the exemption is not only used during the show, it is also used by people who want to get to the museum and post office. Property may be exempt if it is reasonably necessary for the efficient operation of a charitable organization. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985, 992-993 (4th Dist. 1992); Northwestern Memorial Foundation v. Johnson, 141 Ill. App. 3d 309, 313 (1st Dist.

1986). Property that is used to access charitable property such as a museum is reasonably necessary for the efficient operation of that museum. Because the property surrounding the buildings is used to access the buildings, it is entitled to the exemption.

Recommendation:

For the foregoing reasons, it is recommended that the exemption requests for the portion of the parcels with PIN 06-12-04-326-007 and PIN 06-12-04-400-004 be denied, and the exemption requests for the portion of the parcels with PIN 06-12-04-305-005 and PIN 06-12-04-305-004 be granted.

Linda Olivero
Administrative Law Judge

Enter: April 30, 2009