

**PT 11-11**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**LIFE ABUNDANT OUTREACH, INC.**  
**OF GLENVIEW,**  
**APPLICANT**

**Docket No: 09-PT-0088**

**Real Estate Tax Exemption**

**For 2009 Tax Year**  
**P.I.N. 20-31-400-007-0040**

**McHenry 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. Robert K. Naumann, on behalf of Life Abundant Outreach, Inc., of Glenview, Mr. Donald B. Leist, Assistant State’s Attorney, on behalf of McHenry County; 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 real estate, identified by McHenry County Parcel Index Number 20-31-400-007-0040 (hereinafter the “subject property”), qualifies for exemption from 2009 real estate taxes under 35 ILCS 200/15-40, which exempts, “[a]ll property used exclusively for religious purposes.”

The controversy arises as follows: On August 26, 2009, Life Abundant Outreach, Inc. of Glenview (hereinafter “Life Abundant”), owner of the subject property, filed a Real Estate Exemption Complaint for the residence on the subject property with the

Board of Review of McHenry County (hereinafter the “Board”). The Board reviewed the applicant’s complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the exemption be denied. Dept. Ex. No. 2. On October 1, 2009, the Department accepted the Board’s recommendation finding that the property was not in exempt use in 2009. Dept. Ex. No. 2. On November 23, 2009, Life Abundant filed a timely request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on January 24, 2011 before Administrative Law Judge Julie-April Montgomery<sup>1</sup> with Reverend Ray Martin, “Founder, President, Pastor and Evangelist” of Life Abundant, testifying. Tr. p. 12. Following submission of all evidence and a careful review of the record, it is recommended that the Department’s denial be affirmed.

**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 use in 2009. Tr. pp. 9-10; Dept. Ex. Nos. 1 and 2.
2. The subject property, 4.6 acres, is located in Barrington and improved with a one story residence. Reverend Martin and his wife live in the residence on the subject property. Tr. pp. 12, 45, 73; App. Ex. No. 7.
3. Life Abundant operates a Christian church, “Word of Faith Cathedral,” located at 7048 South Western Avenue in Chicago. The church’s congregation lives mainly in the south side of Chicago and northern Indiana. Tr. pp. 35, 94.

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<sup>1</sup> ALJ Montgomery, currently on leave, was unable to write this Recommendation.

4. The subject property is located approximately 48 miles from Word of Faith Cathedral. Tr. p. 89.
5. Life Abundant's Bylaws state, *inter alia*, that:
  - A. Life Abundant was started and founded by Evangelist Ray Martin in order to spread the Gospel of Jesus Christ by preaching in churches, tent revivals and auditorium crusades.
  - B. Evangelist Ray Martin is president of the corporation; Janice M. Martin, Ray Martin's wife, is vice president, secretary and treasurer; Rev. Deborah Colon, Christina DiJohn and Rev. David Ray Crawford Martin are board members.
  - C. "At the time of acquiring The Word of Faith Cathedral in June, 1986, Evangelist Ray Martin was voted in as Bishop, Pastor [not required to be at the Church location each time services are being conducted because Evangelist Ray Martin's calling is to be a Traveling Evangelist] by the congregation for the rest of his life."
  - D. "Life Abundant Outreach, Inc and its board members require that Minister, President Evangelist Ray and Jan Martin live in the parsonage, housing facility as a condition of their employment."
  - E. "Unless otherwise changed, Ray and Janice Martin, or either of them, shall have the authority to take any action on behalf of the corporation and sign any contracts or all other documents including mortgages or promissory notes." App. Ex. No. 9.
6. Life Abundant's Bylaws are signed by "Ray Martin" and "Janice M. Martin" and are noted as "approved by rest of board by phone" on November 25, 2008. App. Ex. No. 9.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that Life Abundant 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 2009. 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 35 ILCS 200/15-40. 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. The statute states specifically that “[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(b).

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” who are “performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations” and (3) such ministers reside in the facility “as a condition of employment or association.” 35 ILCS 200/15-40(b). The subject property was purchased by Life Abundant on February 28, 2001. Dept. Ex. Nos. 1 and 2. Accordingly, the subject property is owned by a church, religious institute or denomination. The subject property, 4.6 acres, is located in Barrington and improved with a one story residence. Reverend Martin and his wife live in the residence on the subject property. Tr. pp. 12, 45, 73; App. Ex. No. 7.

The pivotal question to be determined is whether the residence on the subject property truly serves as a parsonage and whether Reverend Martin resides in the residence as a condition of his employment. In McKenzie v. Johnson, 98 Ill. 2d 87, 99 (1983), the Illinois Supreme Court stated that a parsonage qualifies for exemption if it reasonably and substantially facilitates the aim of religious worship or religious instruction because the pastor’s religious duties require him to live in close proximity to the church. Life Abundant operates a Christian church, “Word of Faith Cathedral,”

located at 7048 South Western Avenue in Chicago. This church's congregation lives mainly in the south side of Chicago and northern Indiana. Tr. pp. 35, 94. The subject property at issue in this proceeding is located in Barrington approximately 48 miles from Word of Faith Cathedral. Tr. p. 89. Reverend Martin's "parsonage" is clearly not in "close proximity" to the Word of Faith Cathedral or the church's congregation. It would clearly be unreasonable to conclude that Reverend Martin's "parsonage" facilitates the aim of religious worship or religious instruction at Word of Faith Cathedral when his residence is located 48 miles from the Cathedral and conceivably, even farther away from his congregation.

Reverend Martin testified that he only holds services at Word of Faith Cathedral when he is in town. His "first calling" is as an evangelist and sometimes he goes out of state and out of the country to preach. He's been invited to go to "Finland overseas." Tr. pp. 89-90. Reverend Martin's "parsonage" does facilitate access to O'Hare Airport. He was asked at the evidentiary hearing if there was "value" to having the parsonage located 48 miles from his "home church." He replied that there was value to it because "the property out there is closer to O'Hare Airport where I can get to my revivals easier." Tr. p. 92. Having a "parsonage" close to O'Hare Airport may facilitate travel for Reverend Martin but the distant location does not facilitate religious worship and religious instruction for the congregation at Word Of Faith Cathedral, in Chicago.

In First Congregational Church of DeKalb v. Board of Review of DeKalb County, 254 Ill. 220, 230 (1912), it was noted that it was customary for a congregation to provide a house for a pastor or minister. "Sometimes such provision is made a part of or connected with the church building, and sometimes ... a house is built on a lot adjoining

the church lot.” “The idea ... in furnishing a pastor a house is to make efficient the religious work and purpose of the church.” Providing a tax free “parsonage” to Reverend Martin is the antithesis of “efficiency.” Reverend Martin, living in Barrington, 48 miles away from his church in Chicago, cannot “make efficient” either the religious work or the purpose of Word of Faith Cathedral. Proximity to O’Hare Airport may make travel more efficient, but my research indicates no case in Illinois where such efficiency was recognized as a reason to exempt a minister’s home. The statute and the case law contemplate exempting a minister’s home because it is in close proximity to a church, not because it is in close proximity to transportation. I conclude that Reverend Martin’s home does not truly serve as a parsonage and is not entitled to exemption under 35 ILCS 200/15-40(b).

Moreover, I conclude that Life Abundant’s Bylaws are of suspicious credibility. The Bylaws state that “Life Abundant Outreach, Inc and its board members require that Minister, President Evangelist Ray and Jan Martin live in the parsonage, housing facility as a condition of their employment.” Reverend Martin was asked if this provision was put into the Bylaws in order to get a tax exemption. He responded: “Whatever it takes to measure up the law.” Tr. p. 88. The Bylaws are signed by Reverend Martin and Janice Martin, his wife. According to a notation at the bottom of the one page document, the Bylaws were “approved by rest of Board by phone” on “11-25-08.” App. Ex. No. 9.

It is unclear from the record who the “rest of Board” is. No one, other than Reverend Martin, testified at the evidentiary hearing. It is unclear from the Bylaws whether the “rest of Board” votes equally with Reverend Martin and his wife. It must be noted that “Rev. David Ray Crawford Martin,” is also a Board member. As no one other

than Reverend Ray Martin testified at the hearing, it is reasonable to conclude that Reverend David Martin is related to Reverend Ray Martin. So, three of the five listed Board members may be members of the Martin family, purportedly requiring that Reverend Martin and his wife live on the subject property. Reverend Martin was asked whether the Board members were relatives of his. He responded “[W]ell relatives of mine, including the father, son and holy ghost.” Tr. p. 87. There is no provision in the Bylaws for approval of Bylaws “by phone.” No corporate minutes were presented to show the approval of the Bylaws.

Finally, the provision in the Bylaws that allows Reverend Martin and his wife to “take any action” and sign any documents on behalf of the corporation indicates to me that the Bylaws, which include their signatures, could have been amended by them alone, without any input or voting by the Board. Reverend Martin and his wife would therefore be in the unique position of ordering themselves to live in the residence in Barrington, 48 miles from the Word of Faith Cathedral, as a condition of Reverend Martin’s own employment.

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. However, it seems all but impossible for a Board, subject to Reverend Martin’s personal control, and consisting of Reverend Martin and family members, to be free from improper influence. The Board, in purportedly requiring Reverend Martin to live in a residence 48 miles from the Word of

Faith Cathedral and the congregation, does not appear to be issuing directives that reflect good faith efforts to advance the church's best interests in its mission of spreading the Gospel to its actual congregation.

Allowing the Bylaws to have credence in this forum would be tantamount to providing Reverend and Mrs. Martin with tax savings that they have not proven they are entitled to. Even allowing the Bylaws some minimal credibility, the fact that the subject property was located some 48 miles from the Word of Faith Cathedral raises doubts as to what, if any, legitimate business reasons the Board might have had for requiring Reverend Martin to live at this particular property. These doubts persist because no Board member, other than Reverend Martin, testified at the evidentiary hearing. Based on the testimony and evidence admitted at the evidentiary hearing including the Bylaws, I am unable to conclude that Rev. Martin resides on the subject property as a condition of his employment.

WHEREFORE, for the reasons stated above, it is my recommendation that real estate, identified by McHenry County P.I.N. 20-31-400-007-0040 shall not be exempt from 2009 real estate taxes.

ENTER:

Kenneth J. Galvin  
Administrative Law Judge

March 30, 2011