

**PT 02-40**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

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

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**MT. CARMEL BAPTIST CHURCH  
OF CANTON,  
APPLICANT**

v.

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

**00-PT-0066 (Springfield)**

**Real Estate Tax Exemption**

**For 2000 Tax Year  
P.I.N. 09-08-22-403-061**

**Fulton County Parcel**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**SYNOPSIS:**

This proceeding raises the issue of whether a residence located on the subject property, identified by Fulton County Parcel Index Number 09-08-22-403-061 (hereinafter the “subject property”) qualifies for exemption from year 2000 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 June 14, 2000, Mt. Carmel Baptist Church of Canton (hereinafter “Mt. Carmel” or “applicant”), owner of the subject property, filed an Application for Property Tax Exemption with the Board of Review/Appeals of Fulton 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 full year exemption be granted for the subject property. Dept. Ex. No. 1.

On September 8, 2000, the Department rejected the Board’s recommendation finding that the subject property was not in exempt use in tax year 2000. Dept. Ex. No. 2. On September 22, 2000, the applicant filed a timely request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on April 15, 2002, with James C. Offutt, pastor of Mt. Carmel, testifying. Following submission of all evidence and a careful review of the record, it is recommended that the subject property be granted an exemption for the 2000 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 use in tax year 2000.
2. Mt. Carmel acquired the subject property by warranty deed on May 27, 1999. Tr. pp. 3-4; App. Ex. No. 1.
3. Pastor Offutt began serving at Mt. Carmel in 1997. From 1997 until Mt. Carmel purchased the subject property, Pastor Offutt resided in his own home in Rantoul, Illinois. The applicant asked Pastor Offutt to find a property that would be suitable for his family to live in. When Pastor Offutt moved into the residence on the subject property, he sold his property in Rantoul. Tr. pp. 5-6.
4. The applicant purchased the property to provide residency for Pastor Offutt and his family. Tr. pp. 7-8.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that Mt. Carmel has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting the subject property for tax year 2000. 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, which states as follows:

All property used exclusively for religious purposes, or used exclusively for schools and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and 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, and 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 the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

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).

The pivotal question to be determined in the instant case is what is the primary purpose of the property involved. 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.

Mt. Carmel is part of a national Baptist convention, with a membership of approximately four million people. Tr. p. 7. It is undisputed that the subject property was purchased by Mt. Carmel on May 27, 1999. Applicant's Ex. No. 1. The residence, located ½ mile from the church, serves as a housing facility for the pastor and his family. "And that was the purpose for which the parsonage was bought, to provide residency for the pastor and his family..." Tr. p. 8. I conclude that the residence is owned by Mt. Carmel and is a "housing facility provided for ministers" as required by the statute.

A parsonage qualifies for an exemption if it reasonably and substantially facilitates the aims of religious worship or religious instruction because the pastor's duties require him to live in close proximity to the church. McKenzie v. Johnson, 98 Ill. 2d 87 (1983). Pastor Offutt stated at the evidentiary hearing that when he was living in Rantoul, he "knew that if I'm to serve the church they require that I live in their parsonage." Tr. p. 8. This was made "very clear" to him. Tr. p. 8. I conclude therefore, that the pastor resides on the subject property as a "condition of his employment" as required by the exemption statute.

WHEREFORE, for the reasons stated above, it is recommended that the subject property be granted an exemption from property tax for the 2000 tax year.

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Kenneth J. Galvin  
Administrative Law Judge

May 15, 2002