

**PT 04-21**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**MUHAMMAD'S HOLY TEMPLE**  
**OF ISLAM,**  
**APPLICANT**

**03-PT-0026**

**Real Estate Tax Exemption**

**For 2001 Tax Year**

**P.I.N. 20-28-322-028, 029, 030, 034, 035,**  
**038, 039, 040**

**v.**

**Cook County Parcels**

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

**Kenneth J. Galvin**  
**Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Mr. Abdul Arif Muhammad, on behalf of the Muhammad's Holy Temple of Islam; Mr. Shepard Smith, 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 Cook County Parcel Index Numbers 20-28-322-028, 029, 030, 034, 035, 038, 039, and 040, (hereinafter the "subject property") qualifies for exemption from 2001 real estate taxes under 35 ILCS 200/15-40 which exempts, "[a]ll property used exclusively for religious purposes" and 35 ILCS 200/15-125 which exempts parking areas owned by a religious institution. In case number 01-PT-0030 decided May 13, 2002 with the same applicant, Muhammad's Holy Temple of Islam, (hereinafter the "applicant"), it was recommended that 71.4% of P.I.N.S. 20-28-322-028, 029, 030, 034 and 035 (a two-story building known as the "Salaam complex," or "complex") be

exempt from 1999 real estate taxes, P.I.N.S. 20-28-322-038 and 039 (parking lots) be denied an exemption from 1999 real estate taxes because the property was not owned by the applicant in 1999 and P.I.N. 20-28-322-040 (storage building) be denied an exemption from 1999 real estate taxes because the building was not in exempt use in 1999.

The current controversy arises as follows: In tax year 2000, the applicant ceased operations in the complex. On May 29, 2002, the “applicant filed a Real Estate Exemption Complaint for the 2001 tax year for the subject property with the Board of Appeals/Board of Review of Cook County (hereinafter the “Board”). The Board reviewed the applicant’s complaint and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the request for exemption for the subject property be denied. Dept. Ex. Nos. 2 and 3.

On January 24, 2003, the Department accepted the Board’s recommendation finding that the subject property was not in exempt use during 2001. Dept. Ex. No. 1. The applicant then filed a timely request for a hearing as to the denials and presented evidence at a formal hearing on June 7, 2004, with Kamal Muhammad, National Secretary of the Nation of Islam, providing oral testimony. At this hearing, the applicant withdrew its request for an exemption for P.I.N. 20-28-322-040, the storage building. Tr. p. 10; App. Ex. No. 2. Following submission of all evidence and a careful review of the record, it is recommended that 71.4% of the Salaam complex be granted an exemption for the 2001 tax year, the parking lots be granted an exemption for the 2001 tax year and the storage building be denied an exemption for the 2001 tax year.

**FINDINGS OF FACT:**

1. Dept. Ex. Nos. 1, 2, and 3 establish the Department's jurisdiction over this matter and its position that the subject property was not in exempt use in 2001. Tr. pp. 10-11.
2. Muhammad's Holy Temple of Islam is involved in the indoctrination of Islam as taught by the Honorable Elijah Muhammad. Muhammad's current representative is Minister Louis Farrakhan. Tr. pp. 19-20.

**(P.I.N.S. 20-28-322-028, 029, 030, 034, 035):**

3. The nonexempt portion of the complex (28.6%) was leased to Salaam Enterprises, Inc. d/b/a Salaam Restaurant as a retail fast food and bakery establishment. Salaam Restaurant paid rent of \$2,000/month and was responsible for all utilities for the entire complex. A "Commercial Lease" dated January 2, 1997 between applicant and Salaam Restaurant states that "Lessee shall be solely liable for utility charges as they become due, including those for sewer, water, gas, electricity, and telephone service." In May, 2000, Salaam Restaurant abandoned the property and ceased paying rent or utilities. Tr. pp. 24-25; Dept. Ex. No. 4; App. Ex. No. 2A.
4. At the time that the Salaam Restaurant abandoned the complex, they left unpaid a gas bill from People's Gas in the amount of \$3,419.20 and an electric bill from Commonwealth Edison in the amount of \$53,737.14. App. Ex. Nos. 2(B) and 2(C).
5. The applicant was unable to absorb the cost of the complex's operations without receipt of rent or payment of utility costs by a tenant. The applicant ceased operations in the entire Salaam complex in tax year 2000 while it negotiated with the utility companies. Electricity in the complex was disconnected in August or September of 2001. Tr. pp. 25-26; Dept. Ex. No. 4.

6. A letter dated October 19, 2001 from counsel for the applicant to People's Gas requests that the gas be reinstated at "our building on our account." "We believe that we should not be denied gas services based upon the existing account with Salaam Enterprises, Inc. d/b/a Salaam Restaurant." A letter dated October 24, 2001 from the Illinois Commerce Commission to the applicant states that "[Commonwealth Edison] furnished information about the problem you described. The report indicates that your concern has been resolved or satisfactorily explained." After the Illinois Commerce Commission's intervention, Commonwealth Edison adjusted the bill to \$12,983.07. App. Ex. Nos. 2, 2(D), 2(E) and 2(F).

**(P.I.N.S 20-28-322-038 and 039):**

7. On June 8, 2000, Blue Seas, Chicago quitclaimed P.I.N.S. 20-28-322-038 and 20-28-322-039, the parking lots at issue in this case, to the applicant. Tr. pp. 34-35; App. Ex. No. 4.
8. The parking lots are used by people attending events at the Salaam complex. The parking lots are also used by workers at the applicant's "Final Call" newspaper. Approximately 20 workers park in the lots daily. No fee is charged for parking. Tr. pp. 34-35, 39.

**CONCLUSIONS OF LAW:**

**P.I.N.S. 20-28-322-028, 029, 030, 034, 035 (the Salaam complex):** An examination of the record establishes that the applicant has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant an exemption of 71.4% of the Salaam complex from real estate taxes for the 2001 tax year. In case number 01-PT-0030 decided May 13, 2002, it was found that 71.4% of the complex was exempt from 1999 real estate taxes as property "used exclusively for religious purposes." 35 ILCS 200/15-40. The nonexempt portion of the complex (28.6%) consisted of the area leased by the Salaam Restaurant. In the instant

proceeding, the applicant is seeking exemption of the 71.4% of the complex for the 2001 tax year. The issue to be decided is whether the interruption in use of the 71.4% of the complex destroys the exemption for the 2001 tax year.

Two Illinois cases have allowed exemption for interrupted use of property: Our Savior Lutheran Church v. Department of Revenue, 204 Ill. App. 3d 1055 (5<sup>th</sup> Dist. 1990) and Mount Calvary Baptist Church v. Zehnder, 302 Ill. App. 3d 661 (1<sup>st</sup> Dist. 1998). The applicants in both Our Savior and Mount Calvary were religious institutions who owned the properties at issue before, during and after their respective uses were interrupted. The interruption in use in Our Savior was caused by the retirement of the Church's pastor. Our Savior, *supra* at 1057. The interruption in use in Mount Calvary was brought about by a fire in 1989 that caused severe structural damage to the building in question and subsequent insurance coverage litigation that prevented Mount Calvary from rebuilding. Mount Calvary, *supra* at 664. The court held in both cases that because the applicants' ownership interests in these properties remained unchanged before, during and after the interruptions occurred, the properties continued to be exempt as property used for religious purposes, even though the religious use had been interrupted.

The facts of these two cases are similar to the facts in the instant case. Muhammad's Holy Temple of Islam owned the complex before, during and after tax year 2001, the year at issue here. 71.4% of the complex was exempt prior to the interruption in use. The interruption in use was initially caused by the applicant's inability to pay the past due utility bills. The applicant was unable to absorb the cost of the complex's operations without receipt of rent or payment of utility costs by a tenant. The applicant ceased operations in the complex while it negotiated with the utility companies. Tr. pp. 25-26. After intervention by the Illinois Commerce Commission,

the applicant was able to get the electric bill reduced by approximately \$40,000. App. Ex. No. 2(F).

In Mount Calvary, the court held that where a property already is devoted to a religious purpose as the site of a place of worship, and has been so devoted for numerous years, an incidental interruption of its actual use for that religious purpose will not destroy the exemption. To conclude otherwise, would be “unreasonable and improper.” *Id.* at 670. In the instant case, 71.4% of the Salaam complex had been devoted to religious use for several years. It would be “unreasonable and improper” to conclude that the incidental interruption in use of the 71.4% of the complex destroys the exemption. Accordingly, I conclude that 71.4% of P.I.N.S. 20-28-322-028, 029, 030, 034 and 035 should be exempt from property taxes for the 2001 tax year.

**P.I.N. 20-28-322-038 and 20-28-322-039 (the parking lots):** The statute that governs the disposition of the parking areas in the instant proceeding is Section 200/15-125 of the Property Tax Code which states as follows:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code, and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.  
35 ILCS 200/15-125.

Muhammad’s Holy Temple acquired P.I.N. 20-28-322 038 and 039 by quitclaim deed executed on June 8, 2000. Tr. pp. 34-35; App. Ex. No. 4. The parking lots are used by people attending events at the Salaam complex. The parking lots are also used by workers at the applicant’s “Final Call” newspaper which, as noted in case 01-PT-0030, is nearby the Salaam complex. Approximately, 20 workers park in the lots daily. No fee is charged for parking. Tr. pp. 34-35, 39. Workers at the “Final Call” used the parking area “continuously in 2001.” Tr. p. 35.

In case number 01-PT-0030 decided May 13, 2002, the applicant was denied an exemption for the parking lots for tax year 1999 because 35 ILCS 200/15-125 requires ownership of the parking area by the religious institution claiming exemption, and the applicant failed to prove it owned the property in 1999. The applicant has now conclusively proven ownership of the parking lots and accordingly, I have concluded that P.I.N.S. 20-28-322-038 and 20-28-322-039 should be exempt from real estate taxes for tax year 2001.

**P.I.N. 20-28-322-040 (storage building):** At the evidentiary hearing on June 7, 2004, the applicant withdrew its request for exemption of the storage building. Tr. p. 10; App. Ex. No. 2.

Based on the testimony and evidence in the instant case, it is recommended that 71.4% of P.I.N.S. 20-28-322-028, 029, 030, 034 and 035 should be exempt from property taxes for the 2001 tax year, and that 28.6% of these P.I.N.S. should not be exempt from taxes in 2001, P.I.N.S. 20-28-322-038 and 039 should be exempt from property taxes for the 2001 tax year and that the Department's determination that denied the exemption for P.I.N. 20-28-322-040 should be affirmed and this P.I.N. should not be exempt from 2001 real estate taxes.

Kenneth J. Galvin  
Administrative Law Judge

July 19, 2004