

**PT 04-37**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**MACEDONIA TEMPLE OF GOD  
CHURCH FOR ALL NATIONS,  
APPLICANT**

**v.**

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

**No: 03-PT-0075**

**Real Estate Tax Exemption**

**For 2003 Tax Year  
P.I.N. 15-17-278-003**

**Kane County Parcel**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCE:** Mr. Richard C. Slocum, on behalf of Macedonia Temple of God Church for All Nations; 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 15-17-278-003 (hereinafter the “subject property”) qualifies for exemption from 2003 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 April 4, 2003, Macedonia Temple of God Church for All Nations (hereinafter the “Church” or “Macedonia”) filed a Real Estate

Exemption Complaint for the subject property with the Board of Review of Kane County (hereinafter the “Board”). Dept. Ex. No. 1. The Board reviewed the Church’s complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that a full year exemption be granted. Dept. Ex. No. 1.

On August 28, 2003, the Department rejected the Board’s recommendation finding that the subject property was not in exempt use during 2003. Dept. Ex. No. 2. On October 10, 2003, the applicant filed a timely request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on July 8, 2004. Following submission of all evidence and a careful review of the record, it is recommended that the Department’s exemption 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 2003. Tr. pp. 15-16; Dept. Ex. Nos. 1 and 2.
2. Macedonia is a nondenominational Christian Church, holding prayer service on Wednesday afternoon, Bible study on Friday evening and worship services on Sunday morning. Approximately 100 to 200 people attend Sunday service. The purpose of the Church is to preach, teach the gospel of Jesus Christ and lead others to salvation, based on fundamental Christian principles. Tr. pp. 74-75, 89-90, 101-102; Applicant’s Ex. No. 3.
3. Macedonia purchased the subject property, located in Aurora, by warranty deed recorded May 1, 2002. Macedonia has a \$139,000 mortgage and pays \$2,500/month on the mortgage. Tr. pp. 49-50, 55, 82-85; Applicant’s Ex. Nos. 1, 8 and 9.

4. Doyle Robinson has been a member of Macedonia for 18 years. In August of 2002, he moved into the three-bedroom house on the subject property. Mr. Robinson had rented a two-bedroom apartment for \$700 prior to the move. Mr. Robinson's "Residential Lease" (the "lease") with Macedonia requires him to pay rent of \$200/month to Macedonia and save \$500/month for a down payment on his own home. Tr. pp. 18-23, 39, 44; Applicant's Ex. No. 4.
5. Paragraph 12 of the lease states that "[B]y exercising the gifts of the Holy Spirit given to members of the Church, including the gifts of wisdom and knowledge, church members and the church body edify the Body of Christ and evangelize to the world through providing residential property to individuals at far below rental value to allow them to develop the skills to manage their own residence, manage the repair and maintenance of the residence, and manage the budget with regard to such residence." Tr. pp. 32-33; Applicant's Ex. No. 4.
6. The lease between Macedonia and Mr. Robinson requires him to be a tithing member of Macedonia, attend bible study and prayer service once a week, be an active participant in ongoing church programs, maintain the subject property, and meet at least quarterly with Macedonia's Pastor to organize his expenditures, review his budget, and to "create a savings program to allow [Mr. Robinson] to save enough money so at the end of a set period of time, approximately a year to eighteen months," he will have the down payment to purchase his own private residence. Tr. pp. 23-28; Applicant's Ex. No. 3.
7. Mr. Robinson is currently in the process of looking for his own home. Macedonia's Pastor has advised Mr. Robinson on how to secure a mortgage, how to get

prequalified for a mortgage, how to improve his credit standing and how to work with a realtor. Tr. pp. 23-28, 93-95, 98.

8. The \$15,000 that Mr. Robinson has saved is in his own bank account. Macedonia has no interest in the bank account and will have no interest in the house that Mr. Robinson purchases. Tr. pp. 63-64, 95, 101.
9. Year 2002 real estate taxes on the subject property, paid entirely by Macedonia, were \$3,445. Tr. pp. 86-88; Applicant's Ex. No. 2.

### **CONCLUSIONS OF LAW:**

An examination of the record establishes that Macedonia has not demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant exempting the subject property from real estate taxes for the 2003 tax year. 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:

(a) Property used exclusively for :  
    (1) religious purposes, or  
    (2) school and religious purposes, or  
    (3) orphanages  
qualifies for exemption as long as it is not used with a view to profit.

(b) Property that is owned by  
    (1) churches or  
    (2) religious institutions or  
    (3) 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 also qualifies for exemption.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

35 ILCS 200/15-40.

Prior to 1909, the law required that religious property exemptions would be granted only if the party using the property for religious purposes also owned the property. People ex rel. Bracher v. Salvation Army, 305 Ill. 545 (1922). However, this is

no longer the case because statutory changes have eliminated the ownership requirement. *Id.* Macedonia is a nondenominational Christian Church holding prayer service on Wednesday afternoon, Bible study on Friday evening and worship services on Sunday morning. The Church has approximately 100-200 congregants. Tr. pp. 74-75. Evidence was presented at the evidentiary hearing to show that Macedonia purchased the subject property by warranty deed, recorded May 1, 2002. Applicant's Ex. No. 3. Therefore, the only issue to be decided is whether the subject property was actually and exclusively used for religious purposes in 2003.

Like all provisions exempting property from taxation, Section 15-40 must be strictly construed against exemption, with all unproven facts and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill. 2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1<sup>st</sup> Dist. 1987). Therefore, Macedonia bears the burden of proving, by a standard of clear and convincing evidence, that the subject property that it is seeking to exempt falls within the provisions under which the exemption is sought. Houses or other residential facilities qualify for tax exempt status if they are (a) owned and used in the manner prescribed by Section 15-40(b) of the Property Tax Code which governs the exemption of parsonages and housing facilities provided for ministers [35 ILCS 200/15-40(b)] or; (b) are used exclusively for religious purposes and not used with a view to profit. [35 ILCS 200/15-40(a)].

**Exemption as a parsonage or as housing provided for ministers [35 ILCS 200/15-40(b)]:** In order to qualify for exemption as a parsonage or as housing provided for ministers, the property in question must meet all of the following requirements: first

the property must be owned by a duly qualified church, religious organization or religious denomination. [35 ILCS 200/15-40(b)(1)(2)(3)]; second, the church, religious organization or religious denomination must use the property to provide housing facilities for its ministers or other clergy that serve its faith community. [35 ILCS 200/15-40(b)]; and third, the church, religious organization or religious denomination must require the clergy who perform religious activity for its faith community to reside in the residential facility as a condition of the clergy's employment or association with the faith community. *Id.*

The subject property in the instant case is owned by Macedonia so the first requirement above is satisfied. Applicant's Ex. No. 1. None of the other requirements for exemption as a parsonage or housing facility for ministers are satisfied. Mr. Robinson, who resides in the house on the subject property, is not a "minister or other clergy." Mr. Robinson testified that he is retired from employment with the State of Illinois and currently works as a delivery driver. Tr. pp. 19-20. James Smith, Pastor of Macedonia, testified that when the Church first purchased the subject property, members of the Church Board and the congregation "asked ourselves, how can we put it to profitable use in ministry." One idea discussed was "being a parsonage for the Pastor." "Those are the kind of things, but I am currently a homeowner and I'm happy with that situation. And so things like that, we ruled out." Tr. p. 77. The Pastor did not reside on the subject property in 2003 and there was no evidence that any other pastor or minister resided on the property during the year at issue. Based on the testimony from the evidentiary hearing, I must conclude that the subject property fails to meet the

requirements of 35 ILCS 200/15-40(b) for exemption as a parsonage or housing facility provided for ministers.

**Exemption as property used exclusively for religious purposes and not used with a view to profit:** In order to be exempt under 35 ILCS 200/15-40(a) of the Property Tax Code, the subject property must be used exclusively for religious purposes and not used with a view to profit. The “religious purposes” contemplated by Section 15-40 are those which involve the use of real estate by religious societies or persons as a stated place for public worship, Sunday schools and religious instruction. People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911). The word “exclusively” when used in Section 15-40 and other property tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App. 3d 186 (4<sup>th</sup> Dist. 1993). For the following reasons, I conclude that Macedonia has not proven by clear and convincing evidence that the subject property is used for religious purposes or that the property is not used with a view to profit. Macedonia’s “Purpose,” according to its “General Constitution” is to “promote the worship of God by the preaching of the Gospel of Lord Jesus Christ at home and abroad, trusting that as a result sinners shall be saved and believers edified; to administer the ordinance of the New Testament and to vigorously defend the faith once delivered unto the saints.” App. Ex. No. 3. Pastor Smith described the “general purpose” of the Church as “to preach, teach the gospel of Jesus Christ and to lead others to salvation.” “We believe that we do so based on the fundamental Christian principles that are set forth in the Holy Spirit.” Tr. pp. 89-90.

Pastor Smith was asked on direct examination to describe “what is the ministry of the church relating to this single family residence.” He stated: “The residence came with the property which adjoins the original property of the church, which is why we purchased it anticipating future growth. When it became available for sale, we purchased it. It came but our principal interest was in preparing for future growth of the ministry in the church and those other things.” Macedonia considered using the residence on the subject property as a parsonage, but Pastor Smith was “currently a homeowner” and “happy with that situation.” Tr. pp. 76-77. Macedonia’s “General Constitution,” consisting of six pages, makes no mention of the subject property or how it fits into the Church’s ministry. Macedonia’s “Membership Covenant,” consisting of nine pages, also makes no mention of the subject property or how it fits into the Church’s ministry. Applicant’s Ex. No. 3.

The only document admitted where the subject property and its relation to the Church’s ministry is mentioned is in the “Residential Lease,” between Macedonia and Mr. Robinson. The lease states that “church members and the church body edify the Body of Christ and evangelize to the world through providing residential property to individuals at far below rental value to allow them to develop the skills to manage their own residence, manage the repair and maintenance of the residence, and manage the budget with regard to such residence.” Applicant’s Ex. No. 4. Other provisions of the lease are more problematic. Paragraph 15 of the lease states that Macedonia may terminate the lease, upon 30 days written notice, “in the event of a sale of the building containing the premises.” Paragraph 21 of the lease states that the tenant shall be in default of the lease if he fails to pay any rent installment or for the filing of a petition of

bankruptcy. Paragraph 22 of the lease states that upon any default of the tenant, Landlord may, at its option, terminate the lease and commence eviction proceedings. Applicant's Ex. No. 4.

The "religious purposes" contemplated by the Property Tax Code involve the use of property for "public worship, Sunday schools, and religious instruction." McCullough, supra. There was no testimony at the evidentiary hearing that Macedonia used the subject property for public worship or Sunday school. My research does not indicate any case which holds that providing residential property to individuals at below rental value so that they can learn how to manage a budget and save to buy a house is encompassed in the concept of "religious instruction." Non-religious social service agencies and credit counseling services also teach people how to manage a budget and save money. Tr. pp. 113-114, 117. This teaching is obviously beneficial to society but there is nothing inherently religious about it.

Macedonia's General Constitution and Membership Covenant make no mention of the use of the subject property or its relation to the Church's ministry. This omission and Pastor Smith's testimony that the subject property was purchased in anticipation of and preparing for "future growth," and that at the time of purchase, Pastor Smith was "currently a homeowner" not in need of a parsonage do not lead me to the conclusion that the Church purchased the property for purposes which were reasonably necessary for the accomplishment and fulfillment of the religious objectives of Macedonia's ministry. DuPage County Board of Review v. Department of Revenue, et al. 339 Ill. App. 3d 230 (2<sup>nd</sup> Dist. 2003). The subject property was not purchased to accomplish and fulfill the objectives of Macedonia's ministry because there was no ministry of providing

residential property to individuals at below rental value before the subject property was purchased. Pastor Smith's testimony makes it clear that the subject property was purchased for "future growth."

If there is currently a ministry of providing residential property to individuals at below rental value, Paragraph 15 of the lease allows Macedonia to terminate the ministry "upon 30 days written notice to Tenant, in the event of a sale of the building containing the premises" and Paragraph 22 permits Macedonia to terminate the lease, and presumably the ministry, and commence eviction proceedings against the one church member being ministered to, if he defaults. Applicant's Ex. No. 4. I am unable to conclude that the "religious instruction" contemplated by the Property Tax Code includes a ministry dependent upon and limited by the terms of a "Residential Lease." The evidence presented by Macedonia at the hearing does not rise to the level of clear and convincing evidence that is necessary to satisfy the statutory requirements for a religious use exemption. Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763-773-775 (4<sup>th</sup> Dist. 1987).

Paragraph 12 of the "Residential Lease" requires, *inter alia*, that "the Tenant of this property agrees to be a tithing member of the Church..." Kale Douglas, Macedonia's Deacon, testified that when the program was set up, "it was specifically set for those who are willing to – who are tithing members of the church because that shows us that at a minimum to enter into the program, you are at least listening to what God is requesting." Tr. p. 69. Pastor Smith testified that "tithing" meant "ten" and that the word "has its basis in the Old Testament where members of God's people were required to give a tenth of what they possessed ... for service in whatever form that took to God." The Church

teaches that “it’s something that one who is faithful does, to honor God for the things that God has given him by giving back to God, a tenth.” Tr. pp. 80-81.

Pastor Smith was asked on direct examination “what would occur if a participant in this program ... did not remain a tithing member or a member in good standing of the church?” He responded: “I would break his lease.” “He can no longer be a tenant in the house because he would be disqualified from the program.” Tr. p. 102. Deacon Douglas testified that when Mr. Robinson moves from the subject property, the church board would ask for names of people who want to participate in the program, “verify that the person is a tithing, active participant of the church,” and vote on who should be the next person to move into the house. Tr. p. 60.

Macedonia argued at the evidentiary hearing that they are not profiting from the “Residential Lease” on the subject property. Tr. pp. 124-125. The Church’s mortgage payment is \$2,500/month, “which is more than we are required to pay.” Tr. p. 55. Property taxes on the subject property, paid by Macedonia, are \$3,445/year. Tr. p. 86. Mr. Robinson pays Macedonia \$200/month rent. Mr. Robinson is also a tithing member of Macedonia. Tr. p. 112. There was no testimony at the evidentiary hearing as to the amount of Mr. Robinson’s tithe. Pastor Smith would “break” Mr. Robinson’s lease if he did not tithe and any new resident must be a tithing member of the church. It seems logical to me that a member of Macedonia’s congregation who truly cannot afford to tithe would be more in need of residential property at below rental value than a tithing member. Because the ministry is only available to tithing members of the Church, it appears that participation in the program is either a reward for tithing or that the tithe is also part of the rent. Under these circumstances, I conclude that Macedonia has not

proven, by clear and convincing evidence, that the subject property is not used with a view to profit.

WHEREFORE, for the reasons stated above, it is recommended that the Department's determination which denied the exemption from 2003 real estate taxes on the grounds that the subject property was not in exempt use should be affirmed and Kane County Parcel, Index Number 15-17-278-003 should not be exempt from 2003 real estate taxes.

Kenneth J. Galvin  
Administrative Law Judge

September 22, 2004