

PT 04-42
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

**NATIONAL SPIRITUAL
ASSEMBLY OF THE BAHAIS,
APPLICANT**

v.

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

**No: 04-PT-0035
(03-16-0472)
PIN: 03-14-302-003**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. James A. Clark of Schiff, Hardin & Waite, on behalf of the National Spiritual Assembly of the Bahais (the “applicant”); Mr. John Alshuler, Special Assistant Attorney General, on behalf of the Illinois Department Of Revenue (the “Department”).

SYNOPSIS: This matter presents the limited issue of whether real estate identified by Cook County Parcel Index Number 03-14-302-003 (the “subject property”) was “used exclusively for religious purposes,” as required by 35 **ILCS** 200/15-40 during any part of the 2003 assessment year. The underlying controversy arises as follows:

The applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review, which, after reviewing this matter, recommended to the Department that the subject property be exempt as of June 19, 2003. The Department, however, rejected the Board’s recommendation under terms of its initial determination herein, dated March 4, 2004, which found that the subject property is not in exempt use.

The Applicant filed an appeal to this denial and later presented evidence at a formal evidentiary hearing, at which the Department also appeared. Following a careful review of the record made at hearing, I recommend that the Department's initial determination be modified to reflect that the subject property be exempt from real estate taxation for the 54% of the 2003 assessment year that transpired between June 19, 2003 and December 31, 2003.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position herein are established by the admission of Dept. Group Ex. No. 1.
2. The Department's position in this matter is that the subject property is not in exempt use. *Id.*
3. The subject property is located in Wheeling, IL and improved with a one story warehouse facility. *Id.*; Tr. pp. 29-30.
4. The applicant obtained ownership of the subject property on June 19, 2003. *Id.*
5. After acquiring ownership of the subject property, the applicant used it as a workshop that supported renovations and repairs to the exterior of the applicant's main House of Worship, which is located in Wilmette, IL. Applicant Ex. Nos. 3, 4; Tr. p. 11.
6. The applicant's House of Worship is open 365 days per year and used for prayer and meditation on a daily basis. Applicant Ex. No. 4; Tr. p. 14.
7. The applicant's House of Worship was exempted from real estate taxation pursuant to the Department's determination in Docket Number 90-16-0011. Dept. Group Ex. No. 1; Administrative Notice.

8. The applicant's House of Worship is a national, state and local landmark whose exterior features very intricate and artistic concrete ornamentation whose distinctive appearance was created through a unique, patented combination of building materials, called architectural precast concrete, that consists of crushed quartz stones, quartz sand, white cement and water. Applicant Ex. Nos. 3, 4; Tr. pp.12-14, 16-20, 32-33.
9. Initial construction on the House of Worship began in 1920 and was completed in 1953. Tr. p. 14.
10. The phase of construction wherein the architectural concrete ornamentation was installed took 17 years to complete. Tr. p. 20.
11. The exterior of the House of Worship fell into extreme disrepair by 1983, when the applicant began a major restoration project. Applicant Ex. No. 4; Tr. pp. 21-23.
12. The unique nature of the precast concrete that was needed to preserve the appearance of the exterior added a great deal of complexity to the repair process, especially because the company that made the architectural precast concrete that was used in the original construction of the House of Worship ceased its operations in 1973. Tr. pp. 14, 17, 23, 24, 28, 32-33, 36.
13. The applicant attempted to, but could not find, another manufacturer that was capable of making the specific type of architectural precast concrete that it needed for the particular repairs it was making to the staircase, terrace and garden areas of the House of Worship. Applicant Ex. No. 4; Tr. pp. 23-24, 28-30, 36-38, 42-46.
14. Because it could not find a suitable manufacturer, the applicant purchased the subject property so that it could have a facility to make the architectural precast concrete and other materials that it needed for these repairs. Tr. pp. 29-30, 38-39, 42, 44-45.

15. Immediately after purchasing the subject property on June 19, 2003, the applicant used the subject property for manufacturing and storing materials that it used in connection with the repairs that it was making to its House of Worship. Applicant Ex. No. 4; Tr. pp. 30-31, 33-35, 38-46, 48-60.

CONCLUSIONS OF LAW:

Article IX, Section 6 of the Illinois Constitution of 1970 provides 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.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 **ILCS** 200/1-1 *et seq*, wherein the following are exempted from real estate taxation:

Sec. 15-40. Religious purposes, orphanages, or school and religious purposes.

- (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.

35 **ILCS** 200/15-40.

Like all provisions exempting real estate 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 (1st Dist. 1987). Therefore, applicant bears the burden of proving, by a standard of clear and

convincing evidence,¹ that the property that it is seeking to exempt falls within the provisions under which the exemption is sought. *Id.*

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 (4th Dist. 1993). 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 particular use at issue herein is that of a warehouse repair facility. The Department is technically correct in asserting that the applicant’s use of this facility does not qualify as being “exclusively for religious purposes” in the conventional sense because the applicant does not conduct any prayer services or other activities related to the practice of religion at this facility. Furthermore, because warehouses are conventionally used for commercial purposes, the Department is justifiably concerned that the applicant’s use of this facility could be “with a view to profit” in violation of Section 15-40.

At hearing, the applicant presented evidence proving that it does not use this particular facility for any purpose other than making and storing materials that it uses in

1. The clear and convincing standard is met when the evidence is more than a preponderance but does not quite approach the degree of proof necessary to convict a person of a criminal offense. Bazydlo v. Volant, 264 Ill. App.3d 105, 108 (3rd Dist. 1994). Thus, “clear and convincing evidence is defined as the quantum of proof which leaves no reasonable doubt in the mind of the fact finder as to the veracity of the proposition in question.” In the Matter of Jones, 285 Ill. App.3d 8, 13 (3rd Dist. 1996); In re Israel, 278 Ill. App.3d 24, 35 (2nd Dist. 24, 35 (2nd Dist. 1996); In re the Estate of Weaver, 75 Ill. App.2d 227, 229 (4th Dist. 1966).

connection with the repair of its tax-exempt House of Worship. This evidence included a slide presentation that demonstrated the nature of these repairs and the explanatory testimony of the Robert Armbruster, who is the project manager of the applicant's repair project. Applicant Ex. No. 4; Tr. pp. 11-60.

I personally viewed the slide presentation and heard Mr. Arbruster's testimony, which detailed the unique nature of the applicant's House of Worship and, more importantly, the highly complex process involved in its initial construction and subsequent repair. Tr. pp. 30-31, 33-35, 38-46, 48-60. Based on my observations of this evidence, it is apparent that the applicant uses the subject property for the limited purposes of supplying the very distinctive architectural precast concrete materials that the applicant uses for these repairs and providing other related services that support the repair process.

It is well established that support facilities, such as the one currently at issue, qualify for exemption so long as their use is "reasonably necessary" to facilitate one or more specifically identifiable exempt uses. Memorial Child Care v. Department of Revenue, 238 Ill. App. 3d 985, 987 (4th Dist. 1992); Evangelical Hospital Ass'n. v. Novak, 125 Ill. App.3d 439 (2nd Dist. 1984); Evangelical Hospitals Corp. v. Illinois Department Of Revenue, 223 Ill. App.3d 225, 231 (2nd Dist. 1992). The highly unique materials that the applicant manufactures at the subject property serve only one purpose, that being to facilitate the repair of its House of Worship. Therefore, under the very limited factual situation presented herein, the conclusion I must make is that the applicant's use of this property is, in fact, "reasonably" necessary to promote its qualifying use of that House of Worship.

This conclusion is, however, subject to the pro-ration provisions contained in Section 9-195 of the Property Tax Code, which states, in relevant part, as follows:

... when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from taxes from the date of the right of possession, except that property acquired by condemnation is exempt as of the date the condemnation petition is filed.

35 ILCS 200/9-195

In this case, the applicant did not obtain its “right of possession” to the subject property until June 19, 2003. Therefore, any exemption concerns herein are limited to the 54% of the 2003 assessment year² that transpired between June 19, 2003 and December 31, 2003 by operation of Section 9-195 of the Property Tax Code.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Cook County Parcel Index Number 03-14-302-003 be exempt from real estate taxes for 54% of the 2003 assessment year under **35 ILCS 200/9-195** and **35 ILCS 200/15-40**.

Date: 9/27/04

Alan I. Marcus
Administrative Law Judge

2. Section 1-155 of the Property Tax Code defines the term “year” for Property Tax purposes as meaning a calendar year. **35 ILCS 200/1-155**.