

**PT 04-8**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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<b>THE DEPARTMENT OF REVENUE</b>	)	
<b>OF THE STATE OF ILLINOIS</b>	)	
	)	<b>Docket No. 03-PT-0032</b>
<b>v.</b>	)	
	)	<b>Tax Year 2002</b>
<b>CROSSROADS CHAPEL</b>	)	
	)	<b>Dept. Docket # 02-57-60</b>
<b>Applicant</b>	)	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Kent Steinkamp, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Mark A. Wallace, *pro se*, for Crossroads Chapel.

Synopsis:

This case concerns whether certain property that is located in McLean County and owned by Crossroads Chapel (“applicant”) qualifies for a property tax exemption for the year 2002. The applicant alleges that the property qualifies for an exemption on the basis that it is used exclusively for religious purposes. A residence is located on the property, and the applicant alleges that its minister is required to live in the residence as a condition of her employment. The Department of Revenue (“Department”) granted the exemption for all of the property except the portion where the residence is located. The Department denied the exemption for that portion because it believed that the minister was not

required to live there. The applicant timely protested the denial and an evidentiary hearing was held. Mark A. Wallace, who is the pastor of the applicant, and Peggy Thompson, who is the applicant's minister, appeared on behalf of the applicant. After reviewing the record, it is recommended that the property be exempt for the 2002 assessment year.

FINDINGS OF FACT:

1. The applicant applied for a property tax exemption for property located at 643 N. Mitsubishi Motorway in Normal, Illinois. A parsonage, among other things, is located on the property. (Dept. Ex. #1)

2. The applicant acquired ownership of the property by means of a warranty deed dated October 25, 2001. (Dept. Ex. #1)

3. On September 17, 2002 the applicant's pastor, Mark A. Wallace, responded to a questionnaire issued by the Department and indicated that the applicant's minister is not required to reside in the parsonage as a condition of employment. (Dept. Ex. #1)

4. Mr. Wallace mistakenly believed that the question referred to him rather than the applicant's minister, Peggy Thompson. Mr. Wallace does not live in the parsonage. Ms. Thompson lives in the parsonage and is required to do so as a condition of her employment. (Tr. pp. 8-9, 15)

CONCLUSIONS OF LAW:

The applicant has requested an exemption from the property tax pursuant to section 15-40 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*), which provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school 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 \* \* \*, their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions \* \* \*.

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. 35 ILCS 200/15-40.

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

As the above-cited statutory provision indicates, parsonages will be exempt from property taxes if they are (1) "owned by churches or religious institutions or denominations;" (2) used as "housing facilities provided for ministers;" and (3) required to be the minister's residence as a "condition of employment." 35 ILCS 200/15-40. The Department denied the exemption because it believed that the pastor was not required to

live at the parsonage as a condition of employment. (Tr. p. 6) This is the only requirement of the statute that is at issue in this case.

The applicant has presented sufficient oral testimony and supporting documentary evidence showing that it is entitled to the exemption.

Recommendation:

For the foregoing reasons, it is recommended that the property be exempt from taxation.

Linda Olivero  
Administrative Law Judge

Enter: March 3, 2004