

PT 05-22
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

LAKE SPRINGFIELD CHRISTIAN ASSEMBLY
Applicant

v.

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

A.H. Docket # 04-PT-0024
Docket # 03-84-146
Parcel Index # 22-32.4-176-005

Barbara S. Rowe
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Michael C. Connelly, Sorling Law Offices for Lake Springfield Christian Assembly; Mr. Kent R. Steinkamp, Special Assistant Attorney General, for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held to determine whether Sangamon County Parcel Index No. 22-32.4-176-005 qualified for exemption during the 2003 assessment year.

Mr. Randy Pim, Camp Minister of the Lake Springfield Christian Assembly (hereinafter referred to as the "Taxpayer" or "Applicant") was present on behalf of Applicant.

The issues in this matter include, first, whether Applicant was the owner of the parcel during the 2003 assessment year for property tax exemption purposes; secondly, whether Applicant is an exempt organization; and third, whether the parsonage on the property qualifies for exemption for the 2003 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be granted. In support thereof,

I make the following findings of fact and conclusions of law in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 **ILCS** 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Sangamon County Parcel Index No. 22-32.4-176-005 did not qualify for a property tax exemption for the 2003 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 5)

2. The Department received the application for exemption of the subject parcel from the Sangamon County Board of Review. The Board recommended granting the Applicant a full year exemption. The Department denied the requested exemption finding that the property was not in exempt ownership. (Dept. Ex. No. 1)

3. “The Applicant, Lake Springfield Christian Assembly, an Illinois not-for-profit corporation, is a religious organization that operates a Christ-centered camp for young people located adjacent to Lake Springfield on the property commonly known as 1674 Lick Creek Lane, and 1598 Lick Creek Lane, Chatham, Illinois.” (Stip. No. 1)

4. On September 14, 2001, Applicant entered into the “Lakeshore Lease” (hereinafter the “Lake Lease”) with the City of Springfield. The lease term is from September 14, 2001 through April 1, 2028. Applicant agrees to pay the City \$450 per year for the first ten years of the lease and \$550 per year for the remainder of the term. (Stip. No. 2, Ex. A)

5. “The real estate which is the subject of the Lake Lease is owned by the City of Springfield and located within the municipal boundaries of the City of Springfield.” (Stip. No. 3)

6. “The leasehold owned by Lake Springfield Christian Assembly pursuant to the Lake Lease and the subject of this application for exemption is used exclusively by Applicant as a parsonage as that term is used in the Illinois Real Property Tax Act. 35 ILCS 200/15-40.” (Stip. No. 4)

7. “The ‘2003 assessment notice’ for PIN NO. 22-32.4-176-005, . . . is the assessment notice received by Lake Springfield Christian Assembly from Sangamon County for the Leasehold interest owned by Lake Springfield Christian Assembly that is the subject of the Applicant’s request for exemption.” (Stip. No. 5, Ex. B)

8. “The ‘2003 real estate tax bill’ for PIN No. 22-32.4-176-005, . . . is a true and correct copy of the 2003 real estate tax bill received by the taxpayer from Sangamon County for the leasehold owned by Lake Springfield Christian Assembly that is the subject of the Applicant’s request for exemption.” (Stip No. 6, Ex. C)

9. An ordained minister lives in the parsonage on the subject property with his family. It is a condition of his employment that he resides in the house. (Dept. Ex. No. 1)

10. The subject property is a one-acre parcel of land adjacent to and part of a 27.35¹ acre campground used by Applicant for Christian Camp purposes. I take administrative notice of the fact that Applicant’s camp was granted a property tax exemption under the statutory provisions for religious and charitable exemptions (35 ILCS 200/15-40 and 35 ILCS 200/15-65) pursuant to Docket Nos. 87-84-168 and 88-84-71, which were written as a joint recommendation. One bedroom of the camp caretaker’s residence was also exempt pursuant to those Docket Numbers because it was used as the camp office. The remaining 90% of the residence remained on the tax rolls for 1987 and 1988. There is nothing in the recommendation to indicate that the camp caretaker, at that time, was an ordained minister or that the residence could qualify for exemption as a parsonage. (Admin. Notice)

¹ The affidavit of use states that the religious camp is 35 acres more or less. (Dept. Ex. No. 1) The 27.35 acres number comes from the plat attached to the Lake Lease.

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides, in part, 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.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

The Property Tax Code 35 **ILCS** 200/1-1 *et seq.* contains exemptions from real estate taxation that have been enacted by the legislature pursuant to the Constitutional authorization. Section 15-60 of the Code (35 **ILCS** 200/15-60) exempts taxing district property from taxation².

The subsection of 35 **ILCS** 200/15-60 at issue states:

Also exempt are: . . .

(c) all property owned by any municipality located within its incorporated limits. Any such property leased by a municipality shall remain exempt, and the leasehold interest of the lessee shall be assessed under Section 9-195 of this Act, (i) for a lease entered into on or after January 1, 1994, unless the lease expressly provides that this exemption shall not apply; . . .

35 **ILCS** 200/9-195 is entitled “Leasing of exempt property” and states:

(a) Except as provided in Sections 15-35³, 15-55⁴, 15-100⁵ and 15-103⁶, when property which is exempt from taxation is leased to another whose property is not exempt, and the leasing of which does not make the property taxable, the leasehold estate and the appurtenances shall be listed as the property of the lessee thereof,

² That portion of the statute has additional caveats that are not pertinent in this matter.

³ The exemption for schools.

⁴ The exemption for State property.

⁵ The exemption for property belonging to municipal corporations and used for public transportation.

⁶ The Bi-State Development Agency exemption.

or his or her assignee. Taxes on that property shall be collected in the same manner as on property that is not exempt, and the lessee shall be liable for those taxes.

In addition, the Department's rule found at 86 Ill.Admin.Code ch. 1, Sec. 110.115 (a)(4)(B) states:

§ 110.115 Non-Homestead Exemption Proceedings. . . .

4) Applications for exemption shall be filed only on property subject to taxation under the Property Tax Code [35 ILCS 200], for example: . . .

B) A leasehold estate taxable under Section 9-195 of the Property Tax Code [35 ILCS 200/9-195] shall be eligible for exemption where the lessee and the use of the leasehold qualify for an exemption. An application for exemption of a leasehold estate shall be filed by the lessee.

The religious property tax exemption found at 35 ILCS 200/15-40 states:

(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 . . . , 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

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.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the

claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

The City of Springfield, a taxing district, owns the property at issue and leased it to Applicant pursuant to a lease executed after 1994. Applicant is a religious organization and the one-acre parcel at issue was used for its minister as the residence for him and his family. The minister was required to live in the residence as a condition of his employment. 86 Ill.Admin.Code ch. 1, Sec. 110.115 (a)(4)(B) states that for taxation purposes a leasehold estate, taxable under Section 9-195 is eligible for an exemption where the lessee and the use of the leasehold qualify for an exemption. Applicant is a religious organization and the property is used as a parsonage.

In this matter the Applicant argued undisputed facts. The sole response of the Department was:

And I'm going to say something that may shorten everyone's devotion to this case. It was the Department's belief that the reason that this case should have been denied was because of a case called Village of Oakpark [sic] versus Rosewell⁷. Upon closer examination of that case and the facts herein, the Department is simply going to say that I don't think that the Department no longer [sic] believes that the Village of Oakpark [sic] applies in this case. I'm not exactly conceding the case, but I'm going to concede that that particular case doesn't apply and however, I'm going to rest with that. (Tr. p. 6)

⁷ Village of Oak Park v. Rosewell, 115 Ill.App.3d 497 (1st Dist. 1983)

The Department offered no argument to refute the assertions of the Applicant. The clear language of the statutes, rules and stipulations establish Applicant's argument is legally valid.

For the foregoing reasons it is recommended that Sangamon County Parcel Index Number 22-32.4-176-005 be exempt from property taxation for the 2003 assessment year.

Barbara S. Rowe
Administrative Law Judge
May 12, 2005