

**PT 05-25**

**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**DR. CHETWYN RODGERS FAITH  
MEMORIAL CHURCH OF GOD IN  
CHRIST,** Applicant  
v.

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

**No:** 04 PT 0058  
(03-16-1245)  
**PIN:** 32-25-302-025-0000  
32-25-302-011-0000

Mimi Brin  
Administrative Law Judge

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Marc L. Muchin, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue

**Synopsis:**

This matter comes on for hearing pursuant to the protest and request for hearing filed by Dr. Chetwyn Rodgers Faith Memorial Church of God In Christ (hereinafter the “Church” or the “Applicant”) following the denial by the Illinois Department of Revenue (hereinafter the “Department”) to applicant’s Religious Application for Non-homestead Property Tax Exemption for the tax year 2003 (hereinafter the “tax year”). The Cook County Board of Review denied the exemption in July, 2004. The Department subsequently denied the exemption on the basis that the property was not in exempt use during the tax year. Pastor Curtis Rodgers of the Church appeared at the hearing and testified on its behalf. Following the submission of all evidence and a review of the

record, it is recommended that this matter be resolved in favor of the Department, and in support thereof, I make the following findings of fact and conclusions of law:

**Findings of Fact:**<sup>1</sup>

1. Applicant filed a Religious Application for Non-homestead Property Tax Exemption for the tax year of 2003 for property identified by PIN 32-25-300-11-000 and 32-23-302-025-000 located in Cook County, with the common address of 1771 Sauk Trail, Sauk Village, Illinois. Department Ex. No. 1 (Religious Application for Non-homestead Property Tax Exemption)
2. The Cook County Board of Review recommended that the exemption requested be denied by a decision dated July 7, 2004. Id.
3. On September 16, 2004, the Department denied the exemption on the basis that the property was not in exempt use. Department Ex. No. 2 (Denial of Non-homestead Property Tax Exemption)
4. Applicant became the owner of the property on March 10, 2002, pursuant to a Quitclaim Deed. Applicant Ex. No. 3 (Quitclaim Deed)
5. The grantor in that transaction was Dr. Chetwyn Rodgers Drive Development Committee (hereinafter the “Development Committee”), an Illinois not-for-profit corporation whose president was Curtis Rodgers. Id.
6. Applicant is a member of the Church of God in christ [sic], Inc. Applicant Ex. No. 5 (binder with documents applicant previously submitted to

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<sup>1</sup> Findings of Fact refer to tax year 2003 unless otherwise stated.

Department-letter dated April 16, 1991 from the Church of God in Christ, Inc., Memphis, Tennessee)

7. The property described with PIN 32-25-300-011-000 was sold for delinquent taxes for the period of 1998 through 2001. Applicant Ex. No. 5, letter dated May 28, 2004 (THIS PROPERTY HAS BEEN SOLD FOR DELINQUENT TAXES).<sup>2</sup> The redemption amount is \$226,825.47. Id.
8. The property is improved with a one-story building that was used at one time as a bowling alley. Applicant Ex. No. 5 (photographs building and of rooms therein)
9. The building had been vacated as a bowling alley prior to the tax year and was in a state of disrepair. Id.

**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 its constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.*, that provides, in relevant part, for the exemption of the following:

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

- (a) Property used exclusively for:
  - (1) religious purposes,

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<sup>2</sup> There is nothing in the record to clarify whether both PIN's in this matter apply to the same building (see Finding of Fact #8) or whether the building owned by the Church has additional land around it and one of the numbers applies to that.

qualifies for exemption as long as it is not used with a view to profit.

The Department's denial in this matter was based only on the issue of whether the subject property was in exempt use during the pertinent tax year.<sup>3</sup> For purposes of property tax exemptions, the word "exclusively" 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).

In this case, it appears that the applicant is very closely associated with the Chetwyn Rodgers Drive Development Committee of which the witness, Pastor Curtis Rodgers, was president. In fact, the immediate prior owner of the property was the Development Committee, and, as the owner, it incurred at least some of the delinquent real estate taxes that exist against the property. The relationship between the applicant and the Development Committee is such that the intended use of the property, as proffered by the applicant, is for religious and community development purposes. Department Ex. No. 1 #11, #14 Pastor Rodgers testified that "[t]he church's primary goal is for the transformation of the [sic] 1771 Sauk Trail into an active building used for religious purposes, and a community empowerment facility for seniors, youth activities, new business incubation--." Tr. p. 18 In furtherance of this goal, it was the Development Committee that entered into a commercial loan agreement with Global Financial Services, Inc., in February, 2001, for the purpose of having Global Financial procure a mortgage or loan for the property in the amount of \$500,000. Applicant Ex. No. 1, p.3 (Commercial Loan Agreement) (signed by Curtis Rodgers, President of the Development Committee)

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<sup>3</sup> There is no issue as to whether the applicant qualifies as a religious entity.

The Church made its application for exemption based upon the religious use exemption cited supra. As applied to the uses of property, “religious purposes” refers to those uses by religious societies or persons as stated places for public worship, Sunday schools and religious instruction. People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-7 (1911) Subsequent courts have found, on the facts before them, that religious purpose is not limited to worship and instruction, but can apply to uses that further religious purposes. See People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924) (certain parcels, within acreage that was used as a seminary and used for the recreation of seminary students, held to be exempt)

Because the property was, prior to the Church’s ownership, and continues to be in such a deteriorated and vandalized condition, the property was not used regularly for any purpose during the tax year. Pastor Rodgers did testify that “[p]eriodically throughout the year, we’d have prayer meetings and cleanup meetings [on the property].” Tr. p. 33 In addition to this testimony, applicant offered two “fliers” that the Pastor stated were distributed regarding prayer meetings held on the property. Applicant Ex. No. 4 The first flier advertised a prayer meeting, *inter alia*, “In Planning For: CRFM Church Training And Center for Inspired Enterprises Social Economic Empowerment Department” for April 21, 2002 at 5:00 p.m. Id. at p. 1. The second flier announced a “Prayer for Peace and Help” to be held on the property on April 21, 2004 at 5:00 p.m. Id. at p. 2 There is also in evidence an Affidavit of Use dated January 28, 2004, with Pastor Rodgers as the affiant, wherein he states that “from 2001 – current” only 10 prayer meetings were held on the property. Id. (Affidavit of Use, dated January 28, 2004)

There is no further breakdown as to how many were held in 2003. Even assuming that an equal number of prayer meetings were held on the property in each of those years, I must conclude from the evidence that the property was not used with any regularity or to any significant degree for religious pray, worship or instruction during the tax year.

The Pastor, in his affidavit (id.), states that during that same period of time, there were, at the property, monthly development meetings, some clean ups and twenty-five (25) site visits with contractors, financial agencies and potential stake-holders. There is considerable difficulty, however, attributing these activities to those that might qualify as exclusively religious under Weslin Properties, Inc. v. Illinois Department of Revenue, 157 Ill. App.3d 580 (2<sup>nd</sup> Dist. 1987), a case cited and relied upon by the Pastor during his testimony. Tr. p. 19

In Weslin, part of a large parcel of land upon which health care facilities were to be constructed was found to be tax-exempt during the tax year that the master site plan was developed and approved, the applicant had begun landscaping the parcel and the construction of berms was started. Id. at 585, 586 The part of land found to be exempt was for the urgent care facility and the construction part of the development concerned that facility. The Weslin court specifically did not exempt the entire parcel because, *inter alia*, the specific uses and the timetable for construction for those uses was indefinite. Id. at 587

The Weslin decision accepted well-established law in Illinois that provides that the applicant has the burden to show that the subject property was actually used for exempt purposes. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971). In the Illinois Institute of Technology case, the Supreme Court denied exemption for 40 acres of a 107-

acre tract because there was no showing of actual use for an exempting purpose or of development or adaptation for an exempt use. The court held that:

‘[E]vidence that land was acquired for an exempt purpose does not eliminate the need for proof of actual use for that purpose. Intention to use is not the equivalent of use.’ (citation excluded) (emphasis added)

Id. at 64. See also People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924) (80 acres of 950 total acres, owned by a religious entity and used as a seminary, not exempt because the 80 acres’ use as a golf course for seminarians’ recreational purposes was an intended use only, and the land had not been used as a golf course or for other recreational purposes during the tax year at issue); Skil Corporation v. Korzen, 32 Ill.2d 249 (1965) (parcel owned by County for six (6) years not exempt although property was intended for public use, because there was no evidence that it was actually exclusively used for public purposes).

In this matter, the use of the property could not be more speculative. The Church intends to use the property for religious purposes as well as for community development by the Development Committee, which additional use, under appropriate circumstances, may qualify the property for exemption. The reality is that the Development Committee did not pay taxes on the property while it owned it. It tried to obtain funding, but could not. Applicant’s Ex. No. 1, p. 3 (Global Financial Services, Inc. Commercial Loan Agreement with Development Committee, dated 2/21/01) Since it transferred the property to this applicant in March 2002, funding has still not been found, in part because of the large tax liability attached to it. Applicant Ex. No. 2 (letter dated February 7, 2005 from Global Financial Services, Inc.). Pastor Rodgers testified that it was this tax liability that prevented any lenders from committing to the Church’s and the

Development Committee's plans for the building. Tr. pp. 26-7 However, in a letter from Global Financial Services, Inc., it is stated that land value and rehab costs are also of concern with the lenders that have been approached over the four (4) years of the relationship between Global Financial and the Development Committee and now, with the applicant. Applicant Ex. No. 2

The Church did not furnish any information as to what the projected costs would be to develop this property for the purposes now intended. Nor is there anything in the record that allows a finding that the applicant has any finances of its own to commit to the actual development of the property, or that any charitable or governmental income sources have been secured or promised so that the Church's intended use of the property would ever become a reality. Therefore, even if the tax liability were removed, it is a complete unknown as to how long any activity toward actual development, such as that approved in cases such as Weslin, would or could take place. Thus, I must conclude from the evidence of record that the Church's intent to use this property is too speculative to warrant consideration as legally sufficient movement toward actual exempt use within the foreseeable future.

The Illinois Supreme Court, in Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), provided the following basic set of laws governing property tax exemptions:

Since the terms of article IX of the constitution subject all property generally to taxation, the courts have strictly construed statutes granting tax exemptions and have insisted that they keep clearly within the boundaries set forth in the constitution. (citations omitted) The burden of proving the right to exemption is upon the party seeking it, and in determining whether property is included within the scope of an exemption, all facts are to be construed and all debatable questions resolved in favor of taxation. (citations omitted)

Id. at 155

This applicant has failed its legal burden of clearly proving that its exclusive use of the vacated property at issue herein during the tax year was for religious purposes. In actuality, it failed to show that the property was used for any exempt purposes during the tax year.<sup>4</sup>

Wherefore, for the reasons stated above, it is recommended that the property identified as Cook County PIN 32-23-302-025-000 and 32-25-300-01-000 and commonly known as 1771 Sauk Trail, Sauk Village, should not be exempt from the imposition of property tax for the year 2003.

Date: 5/6/05

Mimi Brin  
Administrative Law Judge

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<sup>4</sup> The County Board of Review denied the exemption for similar reasons. It's statements in support of its denial read, in pertinent part:

See Affidavit of use. Hearing held 7-2-04. Rev. Curtis Rogers [sic] attended. Testified there was no written documentation on prep work. Insufficient evidence on use & preparation in 2003. Subject located 35 miles from main church. Department Ex. No. 1, part 7 (County Board of Review statement of facts)