PT 05-6
Tax Type: Property Tax
Issue: Charitable Ownership/Use

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

JEFFERSON COUNTY HISTORICAL SOCIETY **Applicant** **v.** **THE DEPARTMENT OF REVENUE** **OF THE STATE OF ILLINOIS**	**A.H. Docket # 04-PT-0013** **Docket # 03-41-23** **Parcel Index # 06-24-476-015**

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. George Logan, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held to determine whether Jefferson County Parcel Index No. 06-24-476-015 qualified for exemption during the 2003 assessment year. Mr. Paul Dickerson, Treasurer in 2003 of the Jefferson County Historical Society (hereinafter referred to as the "Applicant" or “Historical Society”) and Mr. Douglas Smothers were present and testified on behalf of the Applicant.

The issue in this matter is whether Applicant used the parcel for charitable purposes during the 2003 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be granted for a portion of the 2003-assessment year. 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 Jefferson County Parcel Index No. 06-24-476-015 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. 6)

2. The Department received the application for exemption of the subject parcel from the Jefferson County Board of Review. The board recommended granting the exemption from February 3, 2003[1] through December 31, 2003. The Department denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by a warranty deed dated February 20, 2003. (Dept. Ex. No. 1)

4. The subject parcel is a 50' X 60' piece of vacant land adjacent to the Historical Society's Carl L. Schwienfurth Museum and Interpretive Center. (Applicant's Ex. No. 1; Department's Ex. No. 1)

5. I take administrative notice that the Historical Society has been granted a property tax exemption, pursuant to Docket No. 90-41-33, for its historical village, which is contiguous with the subject parcel. The village consists of land and 13 structures including the museum and eight log cabin buildings. (Dept. Ex. No. 1; Tr. pp. 8-10)

6. Approximately 40 school bus loads carrying more than 800 students visited Applicant's historical village in 2003. (Applicant's Ex. No. 2; Tr. p. 9)

7. Forty percent of the historical village is the Kitty Irvin Nature Trail, which winds through Applicant's property. Trees and vegetation such as Wild Cherry, Oak, Hickory, Paw Paw, Walnut, Persimmon, Hackberry, Cedar, and Willow, as well as Poison Ivy and Multifloro rose bushes are identified on the trail. The vegetation on the subject 50' X 60' plot is similar to that along the trail. In 2003, teachers used the subject plot to test students to see if they had learned to identify different types of trees and plants. (Applicant's Ex. Nos. 2, 3; Tr. p. 11-13)

[1] It is unknown why the board chose this date.

8. Between 2003 and 2004, Applicant's volunteers cleared the plot. It is mowed weekly. It is currently being used to display old-fashioned farm implements that were previously stored in a crowded pole barn. Some of Applicant's visitors are elderly and it is easier for them to view the equipment on the subject property rather than to walk the distance to the pole barn. (Applicant's Ex. No. 3; Tr. pp. 12-14, 20-23)

9. Applicant was informed that it could be represented by an attorney in this matter but chose to proceed without counsel. (Tr. pp. 7-8)

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)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. At issue is the provision found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

> All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:
>
> (a) Institutions of public charity.
>
> (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
>
> (f) Historical Societies.

Museums used for public learning can qualify as a charitable organization for real

property tax purposes. Vermilion County Museum Soc. v. Department of Revenue, 273 Ill. App.3d 675 (4th Dist. 1995) The Department has already determined that the Historical Society qualifies as a charitable organization and uses the property adjacent to the parcel in question for charitable purposes.

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).

Applicant has demonstrated, by exhibits and testimony, that it uses the subject parcel in an identical or similar manner to the use on the adjacent parcel that the Department determined qualifies for exemption pursuant to Docket No. 90-41-33.

Applicant has established that the 50' X 60' parcel at issue was used as a plot to test student's knowledge about trees and vegetation on the subject property. This was the use of the property during a portion of the taxable year at issue. Also in 2003, Applicant cleared the area and stored farm implements on it to make it easier for the elderly visitors to view those tools. Those tools were previously stored in Applicant's pole barn that is also on the land the Department has determined is used for exempt purposes. Therefore, the Applicant's use of the subject property was an extension of its use on the exempt contiguous parcel.

For the foregoing reasons, it is recommended that Jefferson County Parcel Index number 06-24-476-015 be exempted from property taxation for 86% of the 2003-assessment year, the portion of time from February 20, 2003 through December 31, 2003 that Applicant owned the subject parcel.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
Date: February 10, 2005