

PT 98-101
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

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

ZION UNITED METHODIST CHURCH)	Docket #	97-50-11
OF MENDOTA)		
Applicant)	Parcel Index #	01-33-127-002
)		
v.)		
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Timothy G. Munson, Attorney at Law, for Zion United Methodist Church of Mendota.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, 101 W. Jefferson, Springfield, Illinois, on May 18, 1998, to determine whether or not LaSalle County Parcel Index No. 01-33-127-002 qualified for exemption during the 1997 assessment year.

Craig Wetter, trustee of Zion United Methodist Church, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1997 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the parcel was used or being adapted by the applicant for religious purposes during the 1997 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned this parcel during all of the 1997 year. It is

also determined that the applicant is a religious organization. Finally, it is determined that the applicant was adapting the parcel for religious purposes during the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that LaSalle County Parcel Index No. 01-33-127-002 did not qualify for a property tax exemption for the 1997 assessment year was established by the admission into evidence of Dept. Ex. Nos. 1 through 5. (Tr. p. 6)

2. On June 23, 1997, the Department received a property tax exemption application from the LaSalle County Board of Review for Permanent Parcel Index No. 01-33-127-000. The applicant had submitted the request, and the board recommended granting a partial year exemption for the 1996 assessment year. On June 5, 1997, the date of the action of the board, the board was sitting for the 1997 assessment year. The Department assigned Docket No. 97-50-11 to the application. (Dept. Grp. Ex. No. 2)

3. On September 25, 1997, the Department denied the requested exemption application finding that the property was not in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices in Springfield, Illinois, on May 18, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired Parcel Index No. 01-33-127-002 by a warranty deed dated January 26, 1996. The property is located at 807 Indiana Avenue, Mendota, Illinois. At the time of acquisition, there were two buildings located on the property. (Dept. Ex. No. 2 pp. 3-5)

7. The property in question is immediately north and adjacent to applicant's church building. (Tr. p. 7)

8. On the application submitted to the Department, it was stated that the property was vacant and not used for any activity. (Dept. Ex. No. 2)

9. At the November 20, 1995, meeting of applicant's Council on Administration, there was a discussion as to whether the applicant should purchase the property in question. (Applicant's Ex. No. 3; Tr. p. 11-12)

10. The Council also discussed the fact that it would require between \$10,000.00 and \$12,000.00 to tear down the houses on the property. The houses contained asbestos and special procedures were required for the disposal of it. (Applicant's Ex. No. 3; Tr. pp. 12-16)

11. By April of 1996, the property had been purchased and the applicant was in the process of finding workers and equipment to raze the buildings on the property. (Applicant's Ex. No. 3; Tr. pp. 13-14)

12. By August 1996, both houses had been razed and the property had been leveled and graded. (Applicant's Ex. No. 3; Tr. p. 15-16)

13. Many of applicant's members are farmers and often, as time would allow, they would bring in gravel to dump on the subject property after the houses were gone. The applicant purchased the property for use as a parking lot. (Tr. p. 13-18)

14. The help to convert the property to a parking lot came mainly from volunteers of applicant's congregation. By the time of the hearing, the property was fully functional as a parking lot for the church. (Applicant's Ex. No. 2; Tr. pp. 19-21)

15. I take administrative notice of the fact that the Department has granted the applicant property tax exemptions pursuant to Docket Nos. 93-50-3 and 93-50-17. The buildings on those parcels are applicant's church and parsonage. (Applicant's Ex. No. 1)

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 authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

Religious purposes, orphanages or school and religious purposes. 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...

Another statutory provision that is applicable in this situation is found at 35 **ILCS** 200/15-125 and exempts:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

Pursuant to Docket Nos. 93-50-3 and 93-50-17, the Department has determined that the applicant is a religious organization. Therefore, the only question before me was whether the applicant was using or in the process of adapting the subject parcels for religious use. In the case of Weslin Properties, Inc. v. Department, 157 Ill.App.3d 580 (1987), the Appellate Court held that property which was under development and adaptation for exempt use qualified for exemption. In that case, Weslin Properties purchased a 24.3-acre tract on May 26, 1983, to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983, Weslin Properties approved a site plan and hired an architect. Then in 1984, construction of the Urgent Care facility began. In 1985, the Urgent Care Center was completed and occupied.

The Court held that the Urgent Care facility qualified for exemption during 1983 but that the remainder of the parcel did not qualify, as there had not been sufficient adaptation and development for use of the remainder of said parcel during 1983. The Court in Weslin noted that

the parcel there in issue was to be used as a medical campus, which was a complex and costly undertaking, requiring several years to be completed.

The applicant herein has asked for a property tax exemption for the 1997 assessment year. The applicant purchased the property at the beginning of 1996 and had to do extensive renovation of the property to make it usable as a parking lot, including removal of asbestos and the two buildings on the subject lot. I find that the applicant has shown that sufficient adaptation was conducted on the subject parcel to qualify for a property tax exemption for the 1997 assessment year. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, *supra*.

I therefore recommend that LaSalle Parcel Index No.01-33-127-002 be exempt from property taxation for the 1997 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
December 15, 1998