

PT 99-17

Tax Type: PROPERTY TAX
Issue: Charitable Ownership/Use

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

**AURORA AREA
BLOOD BANK,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 98-PT-0062
(97-16-0316)**

**Real Estate Tax Exemption for
1997 Assessment Year**

**P.I.N.: 28-19-100-053
Cook County Parcel**

**Alan I. Marcus
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This proceeding raises a very limited issue, that being whether real estate identified by Cook County Parcel Index Number 28-19-100-053 (hereinafter the "subject property") was "actually and exclusively used for charitable or beneficent purposes ..." within the meaning of 35 **ILCS** 200/15-65 during the 1997 assessment year.

The controversy arises as follows:

The Aurora Area Blood Bank (hereinafter the "applicant") filed a Real Estate Exemption Complaint with the Cook County Board of (Tax) Appeals (hereinafter the "Board"). on October 16, 1997. Dept. Group. Ex. No. 1, Doc. A. The Board reviewed the complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the "Department") that "no action" be taken on applicant's exemption complaint. *Id.*

The Department issued a determination denying the requested exemption on June 11, 1998. Said determination found that the subject property was not in exempt use. Dept. Group Ex. No. 2. Applicant filed a timely request for hearing as to this denial on June 26, 1998 (Dept. Ex. No. 3) and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, it is recommended that the Department's exemption denial be reversed.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein, namely that the subject property was not in exempt use throughout the 1997 assessment year, are established by the admission into evidence of Dept. Group Ex. No. 1 and Dept. Ex. No. 2.
2. Applicant was incorporated under the General Not-For-Profit Corporation Act of Illinois on July 1, 1943. Its original corporate name, the "Aurora Blood Bank And Donors Society", was changed to the "Aurora Area Blood Bank" via Articles of Amendment to its Articles of Incorporation dated May 16, 1962. Applicant Group Ex. No. 1, Doc. A.
3. Applicant's organizational purposes are to:

provide a humanitarian service by making available to those persons medically in need of the same whole blood, blood components, blood derivatives and other services of the highest quality thereof, without pecuniary profit to the members of the corporation.

Applicant Group Ex. No. 1, Doc. B.

4. Applicant carries out these purposes by collecting whole blood, blood components and blood derivatives from donors and then distributing such

products to hospitals within its geographic area. These hospitals, which do not perform such services, include, *inter alia*, Holy Cross Hospital in Chicago, IL, Morris Hospital in Morris, IL, Palos Hospital, in Palos, IL, South Suburban Hospital in Hazel Crest, IL, Silver Cross Hospital in Joliet, IL and St. Joseph Medical Center in Joliet, IL. Applicant Group Ex. No. 1; Doc. E-1; Tr. p. 54.

5. All the aforementioned hospitals are exempt from real estate taxation. Applicant Group Ex. No. 1; Docs E-2, E-3, E-4, E-5, E-6 and E-7.
6. The Department recognized applicant to be an "institution of public charity" for property tax purposes by issuing it a property tax exemption for real estate identified by Kane County Parcel Index Numbers 15-09-400-030 and 15-09-400-031 on February 1, 1989. This exemption, evidenced by exemption certificates in Departmental Docket Nos 80-45-021 and 88-45-248,¹ remained in full force and effect throughout the 1995 assessment year. Applicant Group Ex. No. 3; Tr. pp. 20-24.
7. The subject property is located at 16100 Centennial Circle, Tinley Park, IL 60477. Dept. Group Ex. No. 1, Docs, A, B; Tr. p. 13.
8. Applicant acquired ownership of the subject property via a warrantee deed dated December 23, 1992. Applicant No. 2.
9. Applicant obtained ownership of the subject property as part of a plan to meet increasing demand for its services. It undertook and completed the preliminary aspects of this plan, which included, *inter alia*, obtaining necessary, financing, permits and approvals, hiring an architect and awarding appropriate contracts,

between June 1993 and July, 1996. Applicant Ex. No. 2; Applicant Group Ex. No. 4, Docs A-F; Tr. pp. 27-38.²

10. Applicant began to excavate the subject property on July 2, 1996. It continued with that process until October 8, 1996, when the construction phase began. *Id*
11. Construction proceeded on an uninterrupted basis until the date of completion, August 15, 1997. *Id*.
12. After construction was finished, the subject property was and remains improved with a one story building. This structure occupies approximately 26,000 square feet and contains a finished basement. Applicant. Group Ex. No. 4, Doc. G; Tr. pp. 44-46.
13. The first floor³ contains, *inter alia*, an atrium, a screening area,⁴ a blood component lab, a blood collection area and a library. During 1997, applicant used all of these areas and the entire first floor strictly for blood collection and distribution purposes.⁵ Applicant Group Ex. No. 4, Doc. H; Tr. pp. 46-50.
14. The basement contains office space which applicant used to administer its blood collection and distribution programs. Applicant Group Ex. No. 4, Doc. H; Tr. pp. 50-52.

1. Docket No. 80-45-021 involved exemption of the original facility; Docket No. 88-45-248 encompassed an exemption of an addition to that same facility. Tr. pp. 22-23

2. For a more detailed chronology, *see*, Applicant Group Ex. No. 4.

3. For a detailed floor plan, *see*, Applicant Group Ex. No. 4, Doc. H.

4. This area was used to assess prospective blood donors. Tr. p. 47.

5. Unless context clearly indicates otherwise, the "uses" described in this and all subsequent Findings of Fact shall be uses that took place during the 1997 assessment year.

15. Applicant's use of the subject property was, with minor variations, virtually identical to its use of its Kane County facility, which the Department determined to be exempt from real estate taxation in Docket Nos. 80-45-021 and 88-45-248.⁶ Applicant Group Ex. No. 3, Docs. A, B; Tr. pp. 33-34, 36.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the portion in dispute from 1997 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the portion in dispute was not in exempt use throughout the tax year in question, as required by 35 ILCS 200/15-65, should be reversed.

In support thereof, I make the following conclusions:

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.

The power of the General Assembly granted by the Illinois Constitution operates as a limit on the power of the General Assembly to exempt property from taxation. The General Assembly may not broaden or enlarge the tax exemptions permitted by the Constitution or grant exemptions other than those authorized by the Constitution. Board of Certified Safety Professionals, Inc. v. Johnson, 112 Ill.2d 542 (1986). Furthermore, Article IX, Section 6 is not a self-executing provision. Rather, it merely grants authority to the General Assembly to confer

6. For further information on these exemptions, *see*, Finding of Fact 6, *supra* at p. 3.

tax exemptions within the limitations imposed by the Constitution. Locust Grove Cemetery Ass'n. of Philo, Illinois v. Rose, 16 Ill.2d 132 (1959). Moreover, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App.3d 497 (1st Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code, 35 ILCS 200/1-3 *et seq.* The provisions of that statute which govern disposition of the instant proceeding are found in section 200/15-65, the relevant part of which provides that:

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

Our courts have long refused to grant exemptions under Section 200/15-65 and its predecessor provisions absent appropriate evidence that: (1) the subject property is owned by an "institution of public charity" and (2) the property is actually and exclusively used for charitable or beneficent purposes. Methodist Old People's Home v. Korzen, 39 Ill.2d 149 (1968).

The warrantee deed (Applicant Ex. No. 2) establishes that this applicant owned the subject property throughout the 1997 assessment year. Furthermore, the Department's determinations in Docket Nos 80-45-021 and 88-45-248, respectively dated November 18, 1980 and February 1, 1989, (Applicant Ex. No. 3, Docs A and B), establish that this applicant qualifies as an "institution of public charity" for property tax purposes.

Applicant has not challenged the above findings. Consequently, I shall leave the findings with respect to applicant's ownership of the subject property, its exempt use of the Kane County facility and its qualification as an "institution of public charity" undisturbed. Therefore, any remaining analysis shall address a very narrow inquiry, that being whether the subject property was actually used for exempt purposes during the 1997 assessment year.

It is well established that properties owned by exempt entities, such as applicant, are subject to exemption if they are being developed for an eventual exempt use during the tax year in question. Weslin Properties v. Department of Revenue, 157 Ill. App.3d 580 (2nd Dist. 1987); People ex rel Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924). Based on the testimony of applicant's vice president, Anna McKanna, (Tr. pp. 27-38) and the documents admitted as Applicant Group Ex. No. 4, Docs. A-F, I conclude that the subject property was being so developed during 1997. Therefore, the Department's determination denying the subject property exemption from 1997 real estate taxes due to lack of exempt use should be reversed.

WHEREFORE, for all the above-stated reasons, it is my recommendation that real estate identified by Cook County Parcel Index Number 28-19-100-053 be exempt from 1997 real estate taxes.

April 6, 1999
Date

Alan I. Marcus
Administrative Law Judge