

**PT 00-1**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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<b>SOUTHERN VALLEY BAPTIST CHURCH</b>	)		
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<b>Applicant</b>	)	<b>Docket #</b>	<b>96-72-53</b>
	)		<b>96-72-55</b>
<b>v.</b>	)		<b>96-72-56</b>
	)	<b>Parcel Index #</b>	<b>18-17-153-009</b>
	)		<b>18-17-153-018</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		<b>18-17-153-002</b>
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on July 7, 1999, to determine whether or not Peoria County Parcel Index Nos. 18-17-153-009, 18-17-153-018, and 18-17-153-002 qualified for exemption from real estate taxation for the 1996 assessment year.

Rev. Anthony G. Lyons, pastor of the Southern Valley Baptist Church (hereinafter referred to as the "Church") was present and testified on behalf of the church.

On October 12, 1995, St. John's Roman Catholic Congregation of Peoria conveyed four parcels of property to the church. The church then filed applications for tax exemption for the 1996 assessment year concerning these four parcels. When the Illinois Department of Revenue (hereinafter referred to as the "Department") received these four applications, it exempted the parcel on which the church sanctuary was located and denied the exemption of the other three

parcels for the 1996 assessment year. The first of the three parcels which was denied by the Department was Docket No. 96-72-53 which concerns Peoria County Parcel Index No. 18-17-153-009. This parcel is improved with a two-story brick building formerly used as a convent. The street address of this parcel is 1010 S. Blaine. The second of these parcels is identified by Docket No. 96-72-55 which concerns Peoria County Parcel Index No. 18-17-153-018. This parcel is improved with a one-story brick building formerly used as a school. The street address of this parcel is 1015 S. Matthew. The third parcel is Docket No. 96-72-56 which concerns Peoria County Parcel Index No. 18-17-153-002. This parcel is improved with a two-story brick building formerly used as a rectory. The street address of this parcel is 1714 W. Antoinette.

The issues in this matter are first, whether the church owned the parcels here in issue during 1996; and secondly, whether the church was either adapting these parcels for religious or school use or actually using these parcels for religious or school purposes during 1996.

Following the submission of all of the evidence and a review of the record, it is determined that the church owned these parcels during all of the 1996 assessment year. During 1996, the former convent located at 1010 S. Blaine was in the process of being adapted for school use by the church. The former school building located at 1015 S. Matthew was being used during 1996 for the church's parochial school. During 1996, the former rectory located at 1714 W. Antoinette was vacant and not used.

It is determined that the former convent located at 1010 S. Blaine and the former school building located at 1015 S. Matthew qualified for exemption during 1996 as either being in the process of adaptation for exempt use or actually used for exempt purposes. It is also determined that the former rectory located at 1714 W. Antoinette which was vacant and not used should remain on the tax rolls for the 1996 assessment year and should be taxed to the church, the owner thereof.

Findings of Fact:

1. The jurisdiction and position of the Department in this matter, namely that these parcels did not qualify for exemption for the 1996 assessment year, was established by the

admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On July 23, 1996, the Peoria County Board of Review transmitted to the Department Applications for Property Tax Exemption To Board of Review concerning the parcels here in issue for the 1996 assessment year. (Dept. Ex. Nos. 2, 2F, & 2L)

3. On October 17, 1997, and September 18, 1997, the Department advised the church that it was denying the exemption of these parcels. (Dept. Ex. Nos. 3, 3A, 3B)

4. By a letter received by the Department on October 7, 1997, the pastor of the church requested a formal hearing in these matters. (Dept. Ex. No. 4)

5. The hearing in these matters, conducted on July 7, 1999, was held pursuant to that request. (Dept. Ex. No. 5)

6. At the pretrial conference in this matter, the Administrative Law Judge advised Rev. Lyons that it would be appropriate for the church to be represented by legal counsel at the hearing. At the hearing, Rev. Lyons recalled that conversation and indicated that he did seek advice from an attorney, Mr. Nathan Miller. Mr. Miller prepared and submitted certain documents for Rev. Lyons to the Administrative Law Judge. Mr. Miller in his letter to the Administrative Law Judge stated that Rev. Lyons would be attending the hearing alone. Rev. Lyons indicated that the church wished to proceed with the hearing without counsel being present. (Tr. pp. 9 & 10, Appl. Ex. No. 1)

7. At the hearing Rev. Lyons was advised of the church's right to seek administrative review within 35 days after the mailing of the Department's decision to the church. (Tr. pp. 10 & 11)

8. On September 21, 1995, the church was incorporated pursuant to the General Not for Profit Corporation Act of Illinois for purposes which included the following;

Exclusively religious and educational, including, for such purposes, the operation of a church and church affiliated school for worship, preaching the gospel, and education of young minds.  
(Appl Ex. No. 3)

9. On October 12, 1995, St. John's Roman Catholic Congregation of Peoria conveyed

the three parcels here in issue to the church. In that deed St John's Roman Catholic Congregation of Peoria also conveyed Peoria County Parcel Index No. 18-17-153-001 to the church which was improved with the church sanitary building. (Appl. Ex. No. 4)

10. The first parcel concerns Docket No. 96-72-53 which is identified as Peoria County Parcel Index No. 18-17-153-009. The street address of this parcel is 1010 S. Blaine and the parcel is improved with a two-story brick building formerly used as a convent. Beginning shortly after acquisition volunteers from the church cleaned the entire building. During 1996 broken windows were removed and plywood was nailed up over the windows where the glass had been removed. On the first floor some interior walls were removed so that the first floor could be used for classrooms. The first floor of the former convent is now in use by the church's school for classrooms. (Tr. pp. 20-22)

11. A member of the church is a contractor. He volunteered his time on evenings and the weekends to supervise and work with the church's volunteer work crews on the former convent during 1996. While the first floor is completed and in use the second floor is still being remodeled by the volunteer contractor and his volunteer helpers. (Tr. pp. 21 & 22)

12. The second parcel is identified as Docket No. 96-72-55 which is Peoria County Parcel Index No. 18-17-153-018. This parcel is improved with a one-story brick building formerly used as a school. The street address of this parcel is 1015 S. Matthew. After this parcel was acquired, the church cleaned it up so that it could be used as the church's parochial school. This building contains four classrooms, a boy's bathroom, and a girl's bathroom. During 1996, this building was used by the church as its parochial school building. (Tr. p. 22, Dept. Ex. No. 2F, & Appl. Ex. No. 20)

13. During 1996, there were 18 students in the applicant's school. One of the four classrooms was used for kindergarten. A second classroom was used for educating first through third grade students. The third classroom was used to teach students in the fourth through the sixth grades. Students in the seventh grade through high school were taught in the fourth classroom. (Tr. p. 25)

14. During 1996 there was one teacher in each classroom. Rev. Lyons, who was the principal, was substituting in the seventh grade through high school classroom at times. While all of the church's teachers were not State certified, they were all college graduates and were trained in the use of the curriculum which the school used. (Tr. p. 25-27)

15. The curriculum of the school during 1996 included math and phonics in kindergarten. Once the children learned to read; social studies, science, and English were added to their kindergarten studies. During the first through the third grades the curriculum included English, math, science, social studies, and word building. Word building included the study of words, spelling, and penmanship. The curriculum remained basically the same through the twelfth grade. Beginning in the fourth grade the students were required to write reports. Also the high school students were allowed to add carpenter training or computer training as electives in addition to the basic curriculum. The school allows students to work at their individual pace. (Tr. pp. 28-30)

16. During 1996, the tuition for the students at the school was set by the church at \$100.00 per month for all grade levels. The church makes a practice of allowing students to remain in school whether tuition bills are paid or not and does not pursue collection of past due tuition. It is the church's policy as a religious institution to waive or reduce tuition in cases of need. (Tr. p. 31)

17. The third parcel is identified as Docket No. 96-72-56 which concerns Peoria County Parcel Index No. 18-17-153-002. This parcel is improved with a two-story brick building which has been identified as the rectory. The street address of this parcel is 1714 W. Antoinette. During all of the 1996 assessment year the former rectory was vacant and unused. During 1997 the former rectory was demolished. (Tr. pp. 31 & 32)

18. During 1996 there were approximately 50 members of the church and the average attendance at church services was between 35 and 45 persons. Church services were held in the church sanctuary building on Sunday mornings during 1996 from 10:00 A. M. until noon or 1:00 P. M. Sunday evening services were held from 6:30 P. M. until about 8:00 P. M. Thursday

evening services were held from 6:30 P. M. until about 8:00 P. M. (Tr. pp. 32 & 33)

19. I take Administrative Notice of the Department's decision in Docket No. 96-72-54 which concerns Peoria County Parcel Index No. 18-17-153-001. This parcel is improved with the sanctuary building which was conveyed to the church from St John's Roman Catholic Congregation by the same deed as the three parcels here in issue. In that decision the Department determined that the church, a religious organization, was using that parcel for religious purposes, namely religious worship. (Dept. Ex. 2C, Tr. p. 33)

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)

Concerning property used for religious purposes, 35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt, . . . .

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a 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); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). 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) and People ex rel. Lloyd v. University of

Illinois, 357 Ill. 369 (1934). Finally, 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); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore clear that the burden of proof in this matter is on the church.

Based on the evidence and testimony in this case I conclude that the church is a religious organization. I also conclude that the church owned these parcels during the entire 1996 assessment year.

A religious purpose pursuant to the constitutional provision concerning exemption from taxation is a use of property by a religious society or organization as a place for worship, Sunday schools, and religious instruction. People ex rel. McCullough v. Deutsche Gemeinde, 249 Ill. 132 (1911). To qualify for exemption, a property must in fact be used for religious purposes. An exemption will be denied if it is not so used. Thus, for example, a church property that is boarded up and vacant will not qualify for exemption. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1<sup>st</sup> Dist. 1983).

Since the one-story former brick school building was being used for the church's parochial school during 1996, I conclude that Docket No. 96-72-55 which is identified as Peoria County Parcel Index No. 18-17-153-018 qualified for exemption from real estate taxation for the 1996 assessment year. The street address of this parcel is 1015 S. Matthew.

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 (1<sup>st</sup> Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2<sup>nd</sup> Dist. 1987).

Since the two-story brick former convent was in the process of adaptation for use by the

church for its parochial school during 1996, I conclude that Docket No. 96-72-53 which is identified as Peoria County Parcel Index No. 18-17-153-009 qualified for exemption from real estate taxation during the 1996 assessment year. The street address of this parcel is 1010 S. Blaine.

In view of the fact that the two-story former rectory was vacant and not used during 1996, I conclude that Docket No. 96-72-56 which is identified as Peoria County Parcel Index No. 18-17-153-002 did not qualify for exemption during 1996. *See* Antioch Missionary Baptist Church v. Rosewell, *supra*. The street address of this parcel is 1714 W. Antoinette.

I therefore recommend that Peoria County Parcel Index Nos. 18-17-153-009 and 18-17-153-018 and the improvements thereon be exempt from real estate taxation for the 1996 assessment year.

I also recommend that Peoria County Parcel Index No. 18-17-153-002 remain on the tax rolls for the 1996 assessment year and be assessed to the church, the owner thereof.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
February 18, 2000