

PT 00-49

Tax Type: Property Tax  
Issue: Religious Ownership/Use

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

ARLINGTON HEIGHTS  
EVANGELICAL FREE CHURCH,  
APPLICANT

v.

ILLINOIS DEPARTMENT  
OF REVENUE

No. 00-PT-0034  
(99-16-0178)

P.I.N: 03-20-304-019

Real Estate Tax Exemption for  
1999 Assessment Year<sup>1</sup>

Alan I. Marcus  
Administrative Law Judge

**RECOMMENDATION FOR DISPOSITION**  
**PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGMENT**

**APPEARANCE:** Mr. Joseph P. Levon, attorney at law, on behalf of the Arlington Heights Evangelical Free Church (hereinafter the "applicant")

**SYNOPSIS:** This matter comes to be considered pursuant to applicant's motion for summary judgment. Applicant filed this motion after the Illinois Department Of Revenue (hereinafter the "Department") issued a determination in this matter on March 6, 2000. Said determination found that real estate identified by Cook County Parcel Index

<sup>1</sup>. Applicant's motion seeks relief for the 1999 assessment year and assessment years subsequent thereto. However, the only exemption complaint that is presently before me is the one that pertains to the 1999 assessment year.

Each tax year constitutes a separate cause of action for exemption purposes. *People ex rel. Tomlin v. Illinois State Bar Ass'n*, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980). For this reason, applicant may be required to relitigate its entitlement to a property tax exemption on an annual basis. *Jackson Park Yacht Club v. Department of Local Government Affairs*, 93 Ill. App.3d 542 (1st Dist. 1981); *Fairview Haven v.*

Number 03-20-304-019 (hereinafter the “subject property”) qualified for exemption from 1999 real estate taxes under Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* (hereinafter the “Code”) but only for 11% of the 1999 assessment year. At issue herein is whether the subject property qualifies for exemption from real estate taxes for the remaining 89% of the 1999 assessment year under Sections 15-40 and 15-125 of the Code. The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review (hereinafter the “Board”) on November 22, 1999. The Board reviewed applicant’s complaint and recommended to the Department that the requested exemption be granted for 100% of the tax year in question. The Department, however, partially rejected this Recommendation by issuing the aforementioned determination. Applicant filed a timely appeal as to this partial denial but then filed this motion for summary judgment. Following a careful review of that motion and its supporting evidence, I recommend that the subject property be exempt from real estate taxes for the entire 1999 tax year under Sections 15-40 and 15-125 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.*

**FINDINGS OF FACT:**

1. The Department’s jurisdiction over this matter and its position therein are established by the determination, issued by the Department’s Office of Local Government Services on March 16, 2000, finding the subject property to be exempt from real estate taxation, but only for 11% of the 1999 assessment year.

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Department of Revenue, 153 Ill. App.3d 763 (4<sup>th</sup> Dist. 1987). Therefore, claims for assessment years other than 1999 are not properly raised in this proceeding and shall receive no further consideration herein.

2. The Application for Property Tax Exemption filed with the Department on January 20, 2000, indicates that the subject property is located at 1322 N. Haddow Court, Arlington Heights, IL and improved with a two story residential building.
3. A Sidwell map discloses that the subject property is located on, and is part of, a larger church complex that is situated on real estate identified by Cook County Parcel Index Numbers 03-20-304-003, 03-20-304-004, 03-20-304-005, 03-20-304-016, 03-20-304-017, 03-20-304-018 and 03-20-311-001.
4. The Sidwell Map further indicates that the parcels within this complex are configured in the following manner:

03-20-304-003			
03-20-304-004			
03-20-304-005			
03-20-304-016	Subject Property		
03-20-304-017	Unrelated Parcels	Unrelated Parcels Not at Issue Herein	
03-20-304-018			
03-20-311-001			

5. Records of the Cook County Assessor reveal that applicant, a Christian church, held property tax exemptions on all parcels within the complex, except the subject property, throughout the 1999 assessment year.<sup>2</sup>

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<sup>2</sup>. I am accepting the Assessor's records, which applicant submitted in support of its motion for summary judgment, as competent proof of exempt status because most of the Department's records that pertain to these exemptions, many of which date to 1973, have been destroyed.

6. A deed contained within applicant's original submission to the Department demonstrates that applicant obtained ownership of the subject property by means of a trustee's deed dated August 18, 1997.
7. The affidavit of applicant's business administrator, John James, which was attached to applicant's motion for summary judgment, states that: (1) applicant began using the unimproved portion of the subject property for overflow parking immediately after the date of purchase; (2) applicant also used the unimproved portion for snow-removal accumulation on an as-needed basis after that date; (3) applicant continued using the unimproved portion for these purposes throughout the remainder of the 1997 assessment year, as well as the entire 1998 and 1999 assessment years; (4) applicant used the residential building improvement for storage of church-related equipment from the date of purchase until November 22, 1999; and, (5) applicant razed the residential improvement on November 22, 1999 as part of a larger project to expand its Christian Education Department onto the subject property.

**CONCLUSIONS OF LAW:**

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). There are no contested facts in this case. Nor are there any disputed issues of law, at least with respect to whether the subject property was in exempt use, as required by Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* between November 22, 1999 and December 31, 1999.

This period corresponds to the 11% of the 1999 assessment year for which the subject property was determined to be exempt. Applicant has not raised any challenge as to that 11% herein. Accordingly, I shall leave that portion of the determination undisturbed and devote all remaining analysis to the remaining 89%. Therefore, the only legal issue<sup>3</sup> which must be decided in this case is whether applicant is entitled to judgment as a matter of law with respect to that portion of the tax year in question which ran from January 1, 1999 through November 21, 1999.<sup>4</sup>

Analysis of that question begins with examination of the following statutory provisions:

**200/15-40. Religious Purposes, orphanages, or school and religious purposes**

§ 15-40. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit ... [is exempt from real estate taxation].

35 ILCS 200/15-40.

**200/15-125. Parking areas**

§ 15-125. Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt [from real estate taxation].

35 ILCS 200/15-125.

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<sup>3</sup>. Where, as here, there is no dispute as to the facts, the issue for decision necessarily becomes one of law. Evangelical Alliance Mission v. Department of Revenue, 164 Ill. App.3d 431, 439 (2<sup>nd</sup> Dist. 1987).

<sup>4</sup>. This period shall hereinafter be referred to as the “period in question” or the “period in dispute.”

The word “exclusively” when used in Section 200/15-40 and other property tax exemption statutes means the “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 (4th Dist. 1993). As applied to the uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911).

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions resolved in favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Furthermore, applicant bears the burden of proving by clear and convincing evidence that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

The applicable statute herein mandates that applicant demonstrate that it actually put the subject property to, or was actively developing said property for, some specifically identifiable exempt use during the period in question. *See*, 35 ILCS 200/15-40; Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was completely vacant throughout the tax year in question held non-exempt). In this case, applicant was actively using the improved portion in dispute to store surplus church equipment throughout the period in question.

Storage areas are subject to exemption, provided that applicant's use thereof is "reasonably necessary" to facilitate another specifically identifiable exempt use. Evangelical Hospitals Corporation v. Department of Revenue, 233 Ill. App.3d 225 (2nd Dist. 1991). Such a use could not be ascertained from the documents applicant included with its original submission because such documents contained little, if any, information about how applicant used the subject property prior to November 22, 1999.

Applicant cured this evidentiary deficiency via the affidavit of its business administrator, John James, which it submitted in support of its motion for summary judgment. This document provided information that was missing in applicant's original submission and thereby clarified that the improved portion of the subject property was in fact used for church-related storage purposes throughout the period in dispute. Consequently, applicant is now entitled to have the improved portion exempted from real estate taxes for that period, under Section 15-40 of the Code, as a matter of law. Therefore, its motion for summary judgment as to the improved portion should be granted.

With respect to the unimproved portion of the subject property, it is noted that parking areas, such as the one located on the unimproved portion, are subject to exemption under Section 200/15-125 of the Code if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption set forth in the applicable section(s) of the Code; (2) used as part of a use for which an exemption is provided in the Code and (3) not leased or otherwise used with a view to profit. 35 **ILCS** 200/15-125; Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).

In this case, the deed that applicant tendered with its original submission proves its conformity with the statutory ownership requirement. Furthermore, as noted above, Mr. James' affidavit filled in the informational gaps which that submission contained with respect to applicant's use of the unimproved portion, which was for overflow parking throughout the disputed period. Based on this information, applicant is now entitled to have that portion of the subject property exempted from real estate taxation, under Section 15-125 of the Code, for the period in question. Therefore, its motion for summary judgment as to the unimproved portion of the subject property should be granted.

In short, the evidence applicant submitted in support of its motion for summary judgment is legally sufficient to grant applicant judgment as a matter of law with respect to the period currently in dispute. This period, which ran from January 1, 1999 through November 21, 1999, comprises 89% of the tax year at issue herein. Accordingly, the Department's initial determination in this matter, which granted an exemption that was limited to the remaining 11% of that tax year, should be modified to reflect an exemption for 100% of the 1999 assessment year.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that the entirety of real estate real estate identified by and situated on Cook County Parcel Index Number 18-24-207-002, inclusive of the improved and unimproved portions thereof, be exempt from real estate taxes for 100% of the 1999 assessment year under Sections 15-40 and 15-125 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

December 7, 2000

Date

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Alan I. Marcus  
Administrative Law Judge