

PT 01-6
Tax Type: Property Tax
Issue: Parking Lot Exemption

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

HINSDALE HOSPITAL,
APPLICANT

v.

ILLINOIS DEPARTMENT
OF REVENUE

No. 99-PT-0015
(98-22-0250)
P.I.N: 09-01-416-001

RECOMMENDATION FOR DISPOSITION
PURSUANT TO APPLICANT’S MOTION FOR SUMMARY JUDGMENT

APPEARANCES: Mr. Thomas L. Hefty of McDermott, Will & Emery on behalf of Hinsdale Hospital (hereinafter the “applicant”); Mr. Robert G. Rybica, Assistant State’s Attorney for the County of DuPage, on behalf of the DuPage County Board of Review (hereinafter the “Board”).

SYNOPSIS: This consolidated matter comes to be considered pursuant to applicant’s timely motion for summary judgment and a stipulation of facts attached thereto. Applicant filed this motion after the Illinois Department Of Revenue (hereinafter the “Department”) issued a determination finding that specifically identifiable parts of real estate identified by DuPage County Parcel Index Number 09-01-416-001 (hereinafter the “subject property”) were not in exempt use, and therefore, did not qualify for exemption from 1998 real estate taxes under Sections 15-65(a) and 15-125 of the Property Tax Code (35 ILCS 200/1-3, *et seq*) (hereinafter the “Code”).

The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Board on June 30, 1998. The Board reviewed applicant's complaint and recommended to the Department that the entire subject property be exempt. The Department reviewed the Board's recommendation and issued a determination that found as follows:

[THE SUBJECT PROPERTY] IS EXEMPT EXCEPT FOR THE PARKING GARAGE & THE LAND ON WHICH IT STANDS & THE 3,800 SQ. FT. OF ELMWOOD HALL AND A PROPORTIONATE AMOUNT OF LAND WHICH IS TAXABLE. (PROPERTY NOT IN EXEMPT USE).

Applicant filed a timely appeal as to the parking garage but later agreed to a Stipulation of Facts with the Board. It later filed that stipulation and an accompanying motion for summary judgment, which the Board did not oppose. Following a careful review of the motion and its supporting documentation, I recommend that applicant's motion for summary judgment be granted and the Department's determination be modified to reflect the relief requested therein.

FINDINGS OF FACT:

1. The determination of the Office of Local Government Services, issued on January 14, 1999, establishes the Department's jurisdiction over this matter in its position herein. Administrative Notice.
2. The Department's position in this matter is, for present purposes, that: (1) the parking garage and the land on which it stands; and, (2) 3,800 square feet of Elmwood Hall and a proportionate amount of its underlying land, are subject to taxation on grounds that they are not in exempt use.
3. The parties have stipulated that:

- A. Applicant is the type of entity whose property qualifies for exemption under Sections 15-65 and 15-125 of the Code if used for appropriate purposes;
- B. Applicant owned the subject property throughout the tax year in question;
- C. The subject property is located at 120 North Oak Street, Hinsdale, IL 60521 and improved with four buildings and a four level concrete parking garage;
- D. The first or main building, which houses applicant's hospital facility, is not at issue because it is already exempt under terms of the Department's determination;
- E. The second building, which houses Elmwood Hall, is not at issue because applicant concedes that the Elmwood Hall building is not in exempt use;
- F. The Elmwood Hall, does, however, contain an adjacent parking area, part of which is at issue;
- G. The Elmwood Hall parking area contains a total of 22 parking spaces, 6 of which are designated for use by the non-exempt lessee that occupies Elmwood Hall; (27% N/E)
- H. The remaining 12 spaces in the Elmwood Hall parking area reserved for use by hospital patients, their visitors and hospital employees; (73% E).
- I. The third building, which houses applicant's plant operating facilities, is not at issue because it is already exempt under terms of the Department's determination;
- J. The fourth building, which houses applicant's marketing and managed care departments, is not at issue because it is already exempt under terms of the Department's determination;
- K. The parking garage, which is at issue, is a four-level, brick and concrete structure that is connected to the main hospital building;

L. Applicant was required to build the parking garage in order to comply with local zoning requirements;

M. Usage of the parking garage is strictly limited to hospital patients, their visitors and hospital employees.

Applicant Motion Ex. No. 1.

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). The adversarial parties whose pecuniary interests are affected by the outcome herein have entered into a stipulation that removes all issues of material fact from this case. Therefore, the only remaining source of controversy in this case is a legal question, that being whether the parties' stipulation is legally sufficient to establish that some or all parts of the subject property qualify for exemption under the relevant statutes.

Those statutes are found in Sections 15-65(a) and 15-125 of the Property Tax Code 35 ILCS 200/1-1 *et seq.* (hereinafter the "Code"). Section 15-65(a) provides, in relevant part, for exemption of the following:

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.

35 ILCS 200/15-65(a).

Section 200/15-125 provides that:

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.

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). Moreover, it is applicant that 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).

In this case, the appropriate statutory exemptions pertain to: (1) properties used exclusively for used for charitable or beneficent purposes (35 ILCS 200/15-65(a))¹; and, (2) parking areas (35 ILCS 200/15-125). The word "exclusively," when used in Sections 200/15-65(a) and other exemption statutes means "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). Furthermore, the "charitable or beneficent purposes," described in Section 15-65(a) are those that "benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government." Crerar v. Williams, 145 Ill. 625, 643 (1893).

The specific uses currently at issue are those associated with parking areas. Such areas are subject to exemption under Section 200/15-125 if they are: (1) owned by a school district, non-profit hospital, or religious or charitable institutions which meets the

1. It is briefly noted that Section 15-65(a) does contain an exempt ownership requirement. Methodist Old People's Home v. Korzen, 39 Ill. 2d 149, 156 (1968). However, this requirement is not at issue herein because the instant denial was based strictly on lack of exempt use.

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.

The parties have stipulated that applicant owned both of the parking areas at issue throughout the tax year in question. They have further stipulated that the entire hospital parking garage met the use qualifications contained in Section 15-125 throughout that period. Therefore, that portion of the Department's determination pertaining to the hospital parking garage and its underlying ground should be reversed.

With respect to the parking area located on the Elmwood Hall property, it is first noted that where a tract is used for multiple purposes, and can be divided according to exempt and non-exempt uses, it is quite common to exempt those parts that are in actual, exempt use and subject the remainder to taxation. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59, 64 (1971); Streeterville Corporation v. Department of Revenue, 186 Ill. 2d 534 (1999). Here, the parties have stipulated that 16 of the 22 parking spaces located on the Elmwood Hall property were used for hospital-related purposes throughout the 1998 tax year. Accordingly, the Department's determination with respect to the Elmwood Hall parking area should be modified to reflect that 73%² of same should be exempt from 1998 real estate taxes under Section 15-125 of the Property Tax Code. Therefore, the Department's determination as to the Elmwood Hall parking area should be modified to reflect that exemption.

In summary, applicant is entitled to judgment as a matter of law with respect to: (1) the entire hospital parking garage; (2) all of the ground underlying that parking garage; (3) 73% of the Elmwood Hall parking area; and, (4) a corresponding percentage of the ground underlying the Elmwood Hall parking area. Accordingly, applicant's motion for summary judgment, which does not seek relief beyond that just afforded,

2. $16/22 = 0.7273$ (rounded four places past the decimal) or 73%.

should be granted. Therefore, the Department's determination in this matter should be modified to reflect that relief.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that:

1. 100% of the hospital parking garage located on real estate identified by DuPage County Parcel Index Number 09-01-416-001, all of its underlying ground, be exempt from 1998 real estate taxes under Sections 15-65(a) and 15-125 of the Property Tax Code 35 **ILCS** 200/15-65(a);
2. 100% of the Elmwood Hall building, located on said property, not be exempt from 1998 real estate taxes under Section 15-65(a) of the Property Tax Code;
3. 73% of the parking area located on the Elmwood Hall property, and a proportionate amount of the land underlying that parking area, be exempt from 1998 real estate taxes under Sections 15-65(a) and 15-125 of the Property Tax Code;
4. The remaining 27% of the parking area located on the Elmwood Hall property, and a proportionate amount of the land underlying that parking area, not be exempt from 1998 real estate taxes under Sections 15-65(a) and 15-125 of the Property Tax Code;
5. All portions of real estate identified by DuPage County Parcel Index Number 09-01-416-001, other than those specifically referenced above, be exempt from 1998 real estate taxes in accordance with the terms of the Department's initial determination in this matter, issued by the Office of Local Government Services on January 14, 1999.

02/14/01

Date

Alan I. Marcus
Administrative Law Judge