PT 03-34
Tax Type: Property Tax
Issue: Charitable Ownership/Use

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

NAPERVILLE WOMAN'S CLUB	)	No. 03 PT 0033
Applicant	)	ID# (02-22-0250)
	)	PIN: 07-13-420-003
v.	)	
	)	Mimi Brin
DEPARTMENT OF REVENUE of the	)	Administrative Law Judge
STATE OF ILLINOIS	)	

RECOMMENDATION FOR DISPOSITION

Appearances: Frederick E. Roth for the Naperville Woman's Club; George Foster, Special Assistant Attorney General, for the Illinois Department of Revenue; Robert Rybica, Assistant State's Attorney, for the DuPage County Board of Review

Synopsis:

This matter comes on for hearing pursuant to the applicant's, Naperville Woman's Club (hereinafter referred to as the "Club"), timely protest of the Illinois Department of Revenue's (hereinafter referred to as the "Department") denial of its application for a 2002 real property tax exemption for certain land and improvement thereon (hereinafter collectively referred to as the "Property"), located in Naperville, Illinois. The Department denied the exemption request on a determination that, for the year at issue, the property was neither owned by a statutorily exempt entity nor used for statutorily exempt purposes as mandated by Illinois law. An administrative hearing was held as a result of this protest whereat oral and documentary evidence was presented. Following

my review of the record, it is recommended that this matter be resolved in favor of the Department, and I make the following findings of fact and conclusions of law in support of this recommendation:

Findings of Fact:

1. The Department's jurisdiction over this matter and its position herein, that is, that for the tax year at issue, 2002 (hereinafter referred to as the "Tax Year"),[1] the property was neither in statutorily exempt ownership nor use, and such was established by the admission of the Denial of Non-homestead Property Tax Exemption, submitted under the Certificate of Records of the Director of the Illinois Department of Revenue. Department Ex. No. 1
2. The property is located at 14 S. Washington Street, Naperville, Illinois in DuPage County and is identified by PIN # 07-13-420-003. Id.
3. The property is situated on a lot measuring 45 feet by 153 feet, with an improvement thereon of a single story building with a basement, totaling approximately 1482 square feet. Id.
4. The applicant was incorporated under the laws of the State of Illinois in August, 1924, as a not-for-profit entity. Applicant Gr. Ex. No. 2-Ex. 1
5. Applicant's ownership of the property is evidenced by a warranty deed dated February 7, 1925. Id. at Ex. 3
6. As of May, 1993, applicant is exempt from Federal income tax pursuant to section 501 (c)(3) of the Internal Revenue Code (26 U.S.C. §501(c)(3)). Id. at Ex. 8

7. Applicant's amended[2] Articles of Incorporation provide that "[t]he corporation is organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code." Id. at Ex. 2

8. The club's by-laws and standing rules, Applicant Gr. Ex. No. 2-Ex. 10, provide, *inter alia,* that:

   (a) an application for membership must be approved by a two-thirds vote of the board; Id. at Ex. 10, Article III, sec. 5;

   (b) the payment of annual dues is necessary for membership in the club, and that failure to pay the dues results in being "automatically" dropped from membership; Id. at Article IV, sec. 1, 3

   (c) the general meeting of the club is on the first Wednesday of each month from October through April; Id. at Article V, sec. 1

   (d) applicant's officers are its president, three vice presidents, a recording secretary, a corresponding secretary and a treasurer and its Board of Directors (hereinafter referred to as the "Board"), that consists of its officers, historian and chairmen of standing committees; Id. at Article VI, sec. 1; Article VII, sec. 1

   (e) the Board meets once each month preceding the general meeting; Id.

   (f) the Board shall, *inter alia*, report all business to the club, accept new members, and review all leases and contracts before renewal; Id. at Article VII, sec. 2

---

[1] Findings of Fact and Conclusions of Law concern the tax year at issue, 2002, unless otherwise indicated.

(g) upon applicant's dissolution, its assets shall be disposed of "exclusively for the purposes of the corporation in such a manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an exempt organization or organizations under section 501 (c)(3) of the Internal Revenue Code of 1986…" Id. at Article XII, sec. 4

9. Applicant's fiscal year extends from April 1 through March 31. Applicant Gr. Ex. No. 2-Ex. 9[3] Total receipts for that fiscal year were $60,733.60.[4] Id. $12,685.00, or 21%,[5] of that amount was from dues and rentals of the property. Id.

10. For that fiscal year, fundraising events receipts from tickets sold, fees charged or goods sold, totaled $43,078.47[6] or 71%[7] of total receipts. Id.

11. For that fiscal year, applicant disbursed $12,214, or 20%[8] of its receipts, for "philanthropy". Id.

12. For that fiscal year, expenses for the property were $17,611.06, or 29%[9] of its receipts.

13. The property was leased to a church that used the premises for worship services, religious school and related purposes, on Sunday mornings and

---

[2] The amendments to the Articles of Incorporation were filed with the Illinois Secretary of State's Office in March, 1993. Applicant Gr. Ex. No. 2-Ex. 2
[3] This exhibit is the 2001-2002 Naperville Woman's Club Annual Report. It is the only financial information provided.
[4] This does not include $2,669.98 which remained as a checking account balance, nor $9,100 transferred from savings.
[5] $12,685 / $60,734
[6] Receipts included are as follows: Fashion Show ($18,190); Art Fair ($17,033.50); Spring Luncheon ($2,300.33); Restoration Card Party ($2,221); Bake Sale ($2,784.65); Bridge Marathon ($549)
[7] $43,078 / $60,734
[8] $12,214 / $60,734
[9] $17,611/$60,734

evenings, on Wednesday evenings and on Tuesdays. Tr. pp. 15-16; Applicant Gr. Ex. No. 2-Ex. 12 The lease required the church to pay a monthly rent to applicant (id.) and required additional monies to be paid in the event the church used the property at times other than those specified. Id.

14. The property was leased to an Alcoholics Anonymous group that met over the lunch hour on Tuesdays and Thursdays. Tr. p. 16

15. The property was rented twice for weddings as well as to the "JC's" Tr. pp. 21, 22

16. The property was available for rental use when not otherwise committed. Tr. pp. 21-2

Conclusions of Law:

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.

Pursuant to its authority granted under the Constitutional, the General Assembly enacted specific exemptions to the Property Tax Code, 35 **ILCS** 200/1-1 *et seq*. (hereinafter referred to as the "Code"). The Club claims exemption from property tax pursuant to sections 15-40 and 15-65 of the Code. Department Ex. No. 1 Section 15-40 provides, in pertinent part:

> § 15-40. Religious purposes, orphanages, or school and religious purposes
> (a) Property used exclusively for:
> (1) religious purposes

> ***
> qualifies for exemption as long as it is not used with a view to profit.
>
> 35 **ILCS** 200/15-40 (eff. Aug. 10, 2001)

Section 15-65 of the Code states, in relevant part:

> § 15-65 Charitable purposes. 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

The Department's position is that the property was neither in exempt ownership nor use during the tax year at issue.[10] The Department argues that the Club is not a statutorily exempt entity for property tax purposes, as it primarily functions as a social club, and, further, that, during the tax year, it leased or otherwise used the property with a view to profit. The evidence of record supports the Department on both points.

Specifically, section 15-65 provides that all property owned by "institutions of public charity" are exempted from real estate taxation, provided that such property is "actually and exclusively used for charitable purposes and not leased or otherwise used with a view to profit." 35 **ILCS** 200/15-65(a) Thus, the statutory requirements for this exemption are that: (1) the property is owned by an entity that qualifies as an "institution of public charity" and, (2) the property is actually and exclusively used for charitable purposes. Id.; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968); Institute of Gas Technology v. Department of Revenue, 289 Ill. App.3d 779, 783

[10] The DuPage County Board of Review initially approved applicant's 2002 exemption application in total. Applicant Ex. No. 1 At hearing, counsel for the Board of Review advised that after having heard the testimony, the Board supported the Department's position. Tr. p. 69

An "institution of public charity" operates to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise relieves the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893) It also: (1) has no capital stock or shareholders; (2) earns no profits or dividends, but rather, derives its funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispenses charity to all who need and apply for it; (4) does not provide gain or profit in a private sense to any person connected with it; and, (5) does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968)

These factors are not to be applied mechanically or technically. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App.3d 461, 466 (2nd Dist. 1995) Rather, they are to be balanced with an overall focus on whether, and to what extent, applicant primarily serves non-exempt interests, such as those of its own dues-paying members (Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App.3d 794, 796 (3rd Dist. 1987)) or, operates primarily in the public interest and lessens the State's burden. (DuPage County Board of Review, supra; Randolph Street Gallery v. Department of Revenue, 315 Ill. App.3d 1060 (1st Dist. 2000))

In applying the Methodist Old People's Home factors, there is no dispute that applicant has no capital stock or shareholders and does not provide gain or profit in a

private sense to any person connected with it. The other factors, however, are very much in dispute.

The Club's purpose at the time of its incorporation in 1924 was "the promotion of liberal culture among its members and united efforts for the welfare of the community." Applicant Gr. Ex. No. 2-Ex. 1 In 1993, the Club amended the "Purpose Clause" of its Articles of Incorporation to say that it is "…organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501 (c) (3) of the Internal Revenue Code." Id. at Ex. 2 Although its current Articles of Incorporation state that it is a charitable organization, such wording in its governing legal documents is not determinative of this fact. Rather, an analysis of applicant's activities is necessary to determine whether it actually is a charitable institution. Morton Temple Association, Inc. v. Department of Revenue, supra

Applicant is membership based and operates through its membership. Applicant Gr. Ex. No. 2-Ex. 10, Article III Membership is conferred following a two-thirds vote of the Board of Directors, with qualifications for membership being the "character, intelligence and the desire to promote the interest of the Club in the community and shall conform to those of the General Federation of Women's Clubs." Id. Thus, the Club, itself, is not open to all who might wish membership-the necessary "character" and "intelligence" are not defined and a satisfactory vote of approval must be made by the governing board.

Further, members are required to "…pay full [annual] dues, attend general meetings and support club fundraisers" and "shall take their turn serving on the tea committee and one other committee… ." Id. A member is "automatically" dropped from

the Club for failure to pay dues timely. Id. at Article IV Members are entitled to all privileges of the Club. Id. at Article III While there was testimony that the by-law mandating payment of annual dues is not strictly adhered to (Tr. pp. 12, 44-5, 58-9), there was an acknowledgment that the policy is unwritten (Tr. p. 45), is not publicized (id.) and is effectuated only if a board member becomes aware of the situation, and the board, at a board meeting, discusses whether the particular member is "…someone we want to keep or this is someone who is having a hard time… ." Tr. p. 59 As a result, if there is any type of standard for the waiver of the mandatory payment of annual dues, it is, at best, vague. I conclude, therefore, that the privileges and benefits of membership are restricted to those of qualifying "character", "intelligence" and ability to pay.

The benefits of membership are social. The Club has a general, luncheon meeting once each month whereat a speaker presents a program,[11] and an annual meeting and luncheon at the end of the Club's year.[12] The annual luncheon is not held on the subject property. Tr. p. 40 Club business is not conducted at these meetings. Tr. pp. 33-4; Applicant Gr. Ex. No. 2-Ex. 9 (2001-2002 annual report from Program Chairman); Ex. 10, Article V While there was testimony that the public can attend these meetings and luncheons (Tr. p. 34), it was conceded that the public rarely does attend (id.) and, in fact, the by-laws restrict non-member access to these luncheons and meetings. The by-laws provide that "[m]embers may invite guests to any general meeting" (Applicant Gr. Ex. No. 2-Ex. 10, Rule 3 (a)); "t]he courtesy of the Club may be extended twice during the year to an area resident" (id.) and, that "[t]he Membership Committee shall invite prospective members to attend club meetings." Id. at Rule 3 (c)

[11] Programs for the 2001-2002 year included, *inter alia*, presentations by a clinical psychologist, storytellers, book reviewers, a fiber artist and a high school science teacher. Applicant Gr. Ex. No. 2-Ex. 9 (Program Chairman report)

The Club's business meetings are held once each month preceding the general meeting. Tr. pp. 33-4; Applicant Gr. Ex. No. 2-Ex. 10, Article VII Although the public may come to these, they cannot make commentary or vote. Tr. p. 34

The Club views itself as a social vehicle for members. In it's annual report, the Second Vice-President wrote "[w]e kicked off the social calendar with our annual welcome tea hosted by the membership and social committees. Applicant Gr. Ex. No. 2-Ex. 9 The duties of the First Vice-President are as chairman of the membership committee, to act as hostess at club meetings and have charge of the guest book. Applicant Gr. Ex. No. 2-Ex. 10, Rule 5 There is a friendship committee (a single member) is charged with sending cards to members who are ill or are experiencing problems. Tr. p. 35 The social committee sets up the tea committee that puts on the monthly luncheons and the committee is responsible for the final, annual luncheon. Tr. p. 40 Each Club member is required to serve a term on the tea committee. Applicant Gr. Ex. 2-Ex. 10, Article III There is a book group that meets in members' homes to discuss books they select, and which reports on the books read to the membership at an appropriate monthly meeting. Tr. p. 36 The antique group are members interested in antiques who take trips, meet in each other's homes to hear speakers and report about such trips and speakers to the membership at an appropriate monthly meeting. Tr. pp. 36-7

An active member is required to attend monthly meetings and to participate on a committee or activities, however, these requirements are not enforced. Tr. pp. 60-1; Applicant Gr. Ex. No. 2-Ex. 10, Article III (members shall pay dues, attend general meetings, support club fundraisers and take a turn serving on the tea committee and one

[12] A musical program was provided for the last general meeting of the 2001-2002 Club year. Id.

other committee) There is no requirement to do volunteer work, although it is encouraged. Tr. pp. 25, 61

Although not limited to the membership, the Club's major activities, its fundraisers, are largely restricted to those who can pay for participation. The greatest receipts resulted from the Club's annual art fair, with receipts generated by fees required to be paid to the Club by the exhibitors, and from the sales of bake goods, bottled water and ice cream thereat. Tr. pp. 26-8, 46-8; Applicant Gr. Ex. No. 2-Ex. 9 The fair is held at a location in Naperville, away from the property. Tr. pp. 26-7

The fashion show, the fundraising event from which significant receipts were generated, was a luncheon also held away from the property. Although Club membership was not a requirement for attendance, no one could attend without the purchase of an admission ticket, priced at $35.00. Tr. pp. 28-30

The spring luncheon, the restoration card party and the bridge marathon each generated fundraising receipts. Applicant Gr. Ex. No. 2-Ex. 9 Club membership was not a pre-requisite for attendance to these functions, however, it was necessary to purchase tickets or to pay a fee to participate. Tr. pp. 38-9, 47, 48 Again, neither the spring luncheon, nor the restoration card party nor the bridge marathon took place on the property (Tr. pp. 38-9, 47, 48, 50, 51) although some of the planning for these occurred during some of the meetings at the property. Tr. p. 51

As a result of the above, it is clear that the Club's funds are overwhelmingly generated by membership dues, fees and ticket sales, and not from public and private charity as delineated under Methodist Old People's Home v. Korzen, supra.

There is no question that the Club extends charity, however, it self-limits its charity, with the limitations not necessarily based upon available funds. It had initially budgeted $7,800 for philanthropy for the 2001-2002 fiscal year and only added $4,414 for that use. In fact, the Club's treasury had a balance of $14,055.53 in its "emergency", "building" and "general" funds at the end of that budget year. Applicant Gr. Ex. No. 2-Ex. 9 There is also no question that the Club expends more monies for the maintenance of the property than it does for philanthropy, while its use of the property for its own activities is minimal.

Also, applicant does not advertise that it has monies available for philanthropy. Tr. p. 50 Instead, it receives information about various groups from the state and national General Federation of Woman's Clubs organization (Tr. pp. 49, 56-7) as well as from its own membership (Tr. pp. 49-50, 57-8). The burden remains, for the most part, on an entity seeking funds to identify and forward information about itself to the Club. Tr. pp. 56-8 Applicant's public affairs/philanthropy committee reviews the information received, compiles a list of entities of possible recipients that is, in turn, reviewed by the board and voted on by the membership. Id.

Applicant, by not making it known that it provides charity, certainly limits the charity it does extend. Methodist Old People's Home v. Korzen, supra; see also Highland Park Hospital v. Department of Revenue, 155 Ill. App.3d 272 (2nd Dist. 1987) (those who might benefit from free care offered by hospital not made aware of hospital charity) This, in addition to the fact that the self-limiting philanthropy is not connected with its financial ability to extend charity, causes me to conclude that the Club places obstacles in the way of those who need and would avail themselves of the charitable

benefits it dispense, and that it does not dispense charity to all who need and apply for it. Methodist Old People's Home v. Korzen, supra Both of these conclusions are further indications that applicant does not qualify as an institution of public charity whose property is exempt from the imposition of Illinois property tax.

Section 15-65 of the Code (35 **ILCS** 200/15-65) requires that the property of an institution of public charity must be owned by a public charity and used exclusively for charitable purposes. Because I conclude that the Club is not an institution of public charity, the property cannot qualify for the tax exemption. However, even if the Club were an institution of public charity, the property was not used exclusively for charitable purposes, and, thus, still does not qualify for tax exemption.

The word "exclusively" as used in the pertinent Code provisions 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) As articulated above, none of the Club's fundraisers are held on the property. Instead, applicant uses the property once each month for its own business meeting and for a general meeting of its membership with a general-interest speakers program and luncheon. The general meeting clearly serves a social and not charitable function. Nor can I conclude that the business meeting is a charitable use of the property. Although the Club's philanthropy may be discussed at one of these meetings, there is nothing of record that establishes that such discussions are had at each meeting. The Club year extends from May 1 through April 30.[13] Applicant Gr. Ex. No. 2-Ex. 10, Article IV The Club's "social calendar" began with a "welcome tea" in September. Id. at Ex. 9 Thereafter, the monthly general meetings are held from October through April.

Id. at Ex. 9, 10 While the first meeting of the board was in May, it is unclear of the regularity of such meetings, other than monthly from October through April. Id. at Ex. 9 In addition, as part of its activities, applicant sponsors a young adult art contest during which art work by high school students, submitted by art teachers, is displayed on the property. A reception, open to the public, is held on the property as part of this contest. Tr. pp. 22-3 The record is unclear as to the length of time the exhibit remains on the property.

Although the by-laws provide that the third Wednesday of each month, except for December and April, is available for Club activities or special events, none of the fundraising events was held on the property. I conclude, therefore, from the evidence of record, that the Club's use of the property for Club activities is minimal.

Instead, the primary use of the property was made by other entities with whom the applicant entered into commercial-type lease and rental arrangements. The evidence provides that the applicant rented the property to an Alcoholics Anonymous group that met over the lunch hour twice per week. It also rented the property for several small weddings and to the "JCs" for their meetings. Because the rental amounts are unspecified, I cannot conclude that they were minimal rather than at or near market rates. It was made clear that the applicant made its property available, for rent, when not otherwise used. Tr. p. 21

These rental uses of the property, alone, exceed the use made by the applicant for its own functions. Section 15-65 specifically prohibits the exemption of the property of a public charity if that property is primarily "leased or otherwise used with a view to profit." 35 **ILCS** 200/15-65 Even assuming the applicant qualifies as an institution of

[13] The budget year appears to be from April 1 through March 31. Applicant Gr. Ex. No. 2-Ex. 9

public charity, a conclusion I specifically do not make, I also determine that the primary use of the property is not for charitable purposes, and, further, that the property is leased or otherwise used by the Club with a view to profit. These conclusions prohibit a grant of tax exemption for this property.

The Club defends against these facts and conclusions relying on the case, Lena Community Trust Fund, Inc. v. Department of Revenue, 322 Ill. App.3d 884 (2nd Dist. 2001). In that matter, the Trust owned certain real property upon which it built a community center, charging various fees for the use of space therein. Id. at 885-6 The space was used by a number of private and public entities for private and public purposes. Id. at 886 The appellate court determined that the Trust was a charitable institution and the primary use of that property was charitable, thereby granting the exemption.

The facts of Lena are significantly different from those herein. First, "the Trust collected 81% of its revenues from donations and 19% from rental fees." The overwhelming revenue source for the Club is from membership dues and fundraisers, wherein, *inter alia*, admission and participation are gained only through the purchase of a ticket or the payment of a fee. Also, the Trust operated at a loss in the year at issue in that case. The Club's three operating funds held not insignificant balances at the end of the fiscal year 2001-2002. Additionally, the Trust had a policy "to waive rental fees for individuals and organizations unable to pay… ." No such policy is of evidence in this matter.

In its discussion of whether the charging of fees suggests that an organization is not a public charity, the court stated:

> The dispositive issue is not the existence of a fee, but, rather, whether the institution makes a profit and/or the fees comprise a

> significant amount of the institution's operating expenses. In this case, it is clear from the evidence in the record that the Trust did not make a profit and, indeed, was operating at a loss in 1995 [the tax year at issue]. Moreover, it is clear that a majority of its operating costs were derived from charitable donation, including the land on which the community center sat. We see no reason to analyze whether the $5 fee for the small room or the $350 fee for the large room and kitchen was appropriate. Rather, we are persuaded that the charitable character of the Trust was exemplified by the existence of the fee-waiver policy.

Id. at 889 Again, these are not the facts in this instance.

In Lena, the Department also argued that the activities that took place on the property were not charitable in nature. The appellate court, in its analysis on this point, provided that:

> We believe that the spirit of charity is exemplified not by focusing on who might be excluded from a given event but, rather, by acknowledging that the community center is available for any community group to take advantage of, even if the group might not be able to pay the fees.

Id. at 891 There is no evidence of record that the Club made the property available to any group interested in using it regardless of an ability to pay a rental or lease fee.

Finally, the Lena court found that the primary use of that property was as a community resource. Id. It noted that its "analysis might change" if there were evidence that "the Trust gave priority to business uses over civic groups and community events in allocating the space or if there were indications that the Trust had profited from the business uses." Id. In this matter, the Club allowed use of the property to those that rented or commercially leased its space. It further intended to make the property available to entities that wanted to rent the property. The Club clearly used its rentals and leasing of the property to generate business income, it intended its rentals and leasing to generate business income and such income was generated, although, not enough to cover

all of the costs of property maintenance. Based upon the above, applicant's attempt to favorably compare itself to the Trust in Lena is unpersuasive and its reliance on that decision is misplaced.

Applicant also leases the property pursuant to a commercial lease that requires the lessee, a church, to pay to the lessor, the Club, a monthly rent. The church used the premises for worship services, religious school and related purposes, on Sunday mornings and evenings, on Wednesday evenings and on Tuesdays. For additional rent, the church could use the property for other church related purposes. Applicant Gr. Ex. 2-Ex. 12 The applicant reserved "the right to rent or lease any part of said building [the property] according to Lessor's discretion, excluding only such times as…" was provided by the lease terms for the lessee's use. Id. As the testimony established, applicant made the property available to the public, for rental use, when it was not otherwise being used. Tr. p. 21

Section 15-40 of the Code exempts property "used exclusively for religious purposes…as long as it is not used with a view to profit… ." 35 **ILCS** 200/15-40 Pursuant to its lease, the church is committed to using the property for religious purposes and does so more frequently than any other single user. It does not, however, have exclusive use of any area of the property, inside or outside, as the church must, *inter alia*, remove its items from the refrigerator before applicant meetings; it must remove its signage from the outside of the building after its own services and cannot have such signage if the property is being used by the applicant for any purpose; and it cannot have its books, pamphlets, etc. in the foyer, great room and tea room at any time except as designated in the lease. Applicant Gr. Ex. No. 2-Ex. 12

As directed by the pertinent statute, a determination of tax exemption for property that is used for religious purposes involves the consideration of a number of factors beyond religious use, that is, it cannot be used with a view to profit. "Whether property is used for profit depends on the intent of the owner in using the property." Victory Christian Church v. Department of Revenue, 264 Ill. App.3d 919, 922 (1st Dist. 1994) (citing People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944)); American National Bank & Trust Co., 242 Ill. App.3d 716 (2nd Dist. 1993) There is no question but that the Club rents the space to the church, as well as to the others discussed above, to defray the costs of this property that it uses, itself, minimally (Tr. p. 16) and it is highly interested in renting the property when it is not otherwise being used. Tr. p. 21 It is simply unmistakable that applicant, a non-exempt entity, rents and leases the property with a view to profit. As a result, the Code mandates that the property not be exempt from property tax.

I do not doubt that many Club members are genuinely philanthropic and, with the best and most sincere intentions, devote time and energy, individually, helping less fortunate members of the community. But grants of tax exemption are not based upon good intentions and civic mindedness, alone, because each grant of exemption deprives the entire community and the State of funds needed to provide necessary services to everyone. Thus, tax exemption is the exception and not the rule, and statutes providing exemptions must be strictly construed in favor of taxation. Small v. Pangle, 60 Ill.2d 510 (1975); DuPage County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App.3d 461 (2nd Dist. 1995) In considering exemption from property tax, all facts are construed and all debatable questions are resolved in favor

of taxation. Victory Christian Church v. Department of Revenue, supra at 922 The burden of showing that property clearly falls within a statutory exemption is on the party claiming the exemption. Id. The Club has failed to meet its statutory burden for establishing, first, that it is an institution of public charity, and second, that it is statutorily entitled to an exemption for the property because the property is used exclusively for either charitable or religious purposes.

Wherefore, it is my recommendation that the property at issue remain on the property tax rolls for the 2002 tax year.

12/18/03

Mimi Brin
Administrative Law Judge