

PT 05-27
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

GRACE UNITED METHODIST CHURCH OF PEKIN
Applicant
v.

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

Docket # 03-90-53
A.H. Docket # 04-PT-0046
P.I. # 10-10-13-403-007

Barbara S. Rowe
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. John A. Kauerauf, Sorling, Northrup, Hanna, Cullen and Cochran for Grace United Methodist Church of Pekin.

Synopsis:

The hearing in this matter was held to determine whether Tazewell County Parcel Index No. 10-10-13-403-007 qualified for exemption during the 2003 assessment year.

Reverend Melva Chapman England, District Superintendent for the Illinois River District of the Illinois Great Rivers Conference, Reverend Gary Ford, Pastor of the Grace United Methodist Church of Pekin (hereinafter referred to as the "Applicant" or "Grace United") and Mr. Thomas Veerman, Trustee of Applicant, were present and testified on behalf of Grace United.

The issue in this matter is whether the pastor of applicant was required, as a condition of his employment, to reside in the parsonage on the real property at issue. It is recommended that this matter be resolved in favor of the Applicant and that Tazewell County Parcel Index No. 10-

10-12-403-007 be exempt from real estate taxation for a portion of the 2003 assessment year. In support thereof, I make the following findings of fact and conclusions of law in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Tazewell County Parcel Index No. 10-10-12-403-007 did not qualify for a property tax exemption for the 2003 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 6)

2. The Department received the application for exemption of the subject parcel from the Tazewell County Board of Review. The board recommended granting the exemption from October 1, 2003 through December 31, 2003. The Department denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by a warranty deed dated September 30, 2003. Located on the subject property is a newly constructed one-story 1630 square foot residence. Reverend Ford and his family moved into the house on October 9, 2003. (Dept. Ex. No. 1)

4. The application for property tax exemption at Part 3 question 12 states “If this property is used as a housing facility for a minister of a church or other similar official of a religious institution or religious denomination, answer the following questions. . . . **b** Is the minister or other official required to reside in the property as a condition of employment of association?” Applicant answered “no.” (Dept. Ex. No. 1)

5. The Illinois Great Rivers Conference of the United Methodist Church serves the territory from Interstate 80 through the southern portion of the state. The Conference is the

supervisory authority over all the downstate United Methodist churches. The Illinois River District serves the Peoria geographic area. (Tr. pp. 11-12)

6. The expectation of the Conference is that a local church will provide a parsonage for an appointed pastor. A pastor cannot refuse to live in a parsonage provided by the church; however, they may ask for reconsideration of the appointment. (Tr. pp. 14-15)

7. The Conference requires its pastors to live in the parsonages provided by Grace United as a term and condition of the appointment of the pastors assigned to the church. (Tr. p. 16)

8. Applicant provides a parsonage for the pastor of its church. (Tr. p. 15)

9. Grace United's pastor has held that position since June 2002. The prior parsonage that he and his family lived in had a property tax exemption from the Illinois Department of Revenue. (Tr. pp. 17-20)

10. A volunteer trustee of Applicant filled out the property tax exemption request. He did not consult with anyone about the response to question number 12. (Tr. pp. 21-25)

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)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40.

A portion of that statute states:

(a) Property used exclusively for:

- (1) religious purposes, or
- (2) school and religious purposes, or
- (3) orphanages

qualifies for exemption as long as it is not used with a view to profit.

(b) Property that is owned by

- (1) Churches or
- (2) Religious institutions or
- (3) religious denominations

and that is used in conjunction therewith as housing facilities provided for ministers . . . performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations . . . also qualifies for exemption.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Property owned by a church and used as a parsonage or monastery was taxable prior to 1957. See People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v. Methodist Episcopal Church, 315 Ill. 233 (1925). The Illinois Supreme Court in McKenzie v. Johnson, 98 Ill.2d 87 (1983) held that the provision granting an exemption for a parsonage used primarily for religious purposes was constitutional. The court also required that the parsonage must reasonably and substantially facilitate the aims of religious worship because the pastor's religious duties required that he live in close proximity to the church or because the parsonage had unique facilities for religious worship and instruction or was primarily used for such purposes.

On the application submitted, Applicant stated “no” in response to the question of whether the minister was required, as a condition of his employment, to live in the parsonage. At hearing, the District Superintendent for the Illinois River District of the Illinois Great Rivers Conference, the supervisor authority for Applicant’s church, testified that the Conference requires churches to provide parsonages for its pastors, and that it is a condition of the employment of those pastors that they live in the parsonages. Reverend Ford has never requested to be relieved from the obligation of living in the parsonage provided by Grace United. (Tr. p. 16). Reverend Ford considers it an obligation to live in the parsonage as a term and condition of his employment with Grace United. (Tr. p. 19). The gentleman who completed the application was a trustee and did not realize that it was a condition of Reverend Ford’s employment that he live in the parsonage and erred in answering question 12(b) in the negative. (Tr. p. 24)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the 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). 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). Further, 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)

In this case, I find that Grace United has established that it was a condition of the pastor’s employment with Applicant that he resides in the parsonage on the property at issue. It is therefore recommended that Tazewell County Parcel Index Number 10-10-12-403-007 be

exempt from October 9, 2003 through December 31, 2003 or for 23% of the 2003 assessment year, the period of time that the pastor and his family occupied the residence.

Barbara S. Rowe
Administrative Law Judge
June 1, 2005