

PT 95-17
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

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

BELMONT BIBLE CHURCH) Docket No. 93-22-271
)
Applicant) PI No.(s) 08-12-411-013
) (DuPage County)
)
v.)
)
THE DEPARTMENT OF REVENUE) George H. Nafziger
OF THE STATE OF ILLINOIS) Administrative Law Judge
)

RECOMMENDATION FOR DISPOSITION

APPEARANCES Mr. Patrick J. Cullerton, attorney for Applicant, appeared on behalf of Applicant. Mr. Robert G. Rybica, assistant state's attorney of DuPage County, appeared on behalf of the DuPage County Board of Review.

SYNOPSIS The hearing in this matter was held on November 21, 1994, at 100 West Randolph Street, Chicago, Illinois, to determine whether or not DuPage County parcel No. 08-12-411-013 and the residence located thereon, should be exempt from real estate tax for the 1993 assessment year.

Is Applicant a religious organization? Did Applicant own the parcel here in issue and the residence located thereon, during 1993? Did the residence located on this parcel qualify as a parsonage during the 1993 assessment year? Following the submission of all the evidence and a review of the record in this matter, it is determined that Applicant, a religious organization, owned the parcel here in issue during 1993. It is also determined that while the residence on the parcel here in issue did not qualify as a parsonage during 1993, portions of it were used for primarily religious purposes during that year.

FINDINGS OF FACT The Department's position in this matter, namely that the parcel here in issue and the residence thereon, did not qualify for exemption during 1993, was established by the admission in evidence of Department's Exhibits 1 through 6C.

Mr. Theodore Schneller, a trustee of Applicant, Rev. Robert C. Greer, pastor of Applicant, Mr. Thomas W. Bishop, youth leader for Applicant, and Ms. Melinda R. Nelson, a member of Applicant and also Youth Bible Quiz Team coach of Applicant, were present, and testified on behalf of Applicant.

On October 15, 1993, the DuPage County Board of Review transmitted an Application for Property Tax Exemption To Board of Review, concerning the parcel here in issue and the residence thereon, for the 1993 assessment year to the Illinois Department of Revenue (Department's Exhibit 2). On May 19, 1994, the Department of Revenue notified Applicant that it was denying Applicant's request for exemption for 1993 (Department's Exhibit 3). By a letter dated June 8, 1994, Applicant's attorney requested a formal hearing in this matter (Department's Exhibit 4). The hearing held on November 21, 1994, was held pursuant to that request.

Applicant was incorporated on May 9, 1950, pursuant to the "General Not For Profit Corporation Act" of Illinois, for the following purposes:

"The object of this Church is the preaching teaching and practising of the Word of God for the Salvation of souls, the strengthening of Christians, and the furtherance of the Gospel throughout the world."

During 1993, Applicant had approximately 45 members, and an average attendance at worship of about 75. During 1993, Applicant held worship services on Sunday mornings at 11:00 A.M., Sunday evenings at 6:00 P.M., and on Wednesday evenings at 6:00 P.M.

Applicant is affiliated with a denominational organization, known as the Independent Fundamental Churches of America (hereinafter referred to as the "IFCA"). Rev. Greer testified that if a person has graduated from a

reputable Bible college or seminary, and so requests, that the IFCA will screen them for ordination, and, if they qualify, will then recommend them for ordination as a minister to their local church. The IFCA also screens persons to become licensed ministers. While ordination is for life, licensure is for a specified period of time. Rev. Greer testified that he was a graduate of Sacramento Bible College, had been awarded a Masters of Theology Degree from Wheaton College, and is ordained.

Applicant acquired the parcel here in issue on March 27, 1967. Applicant's church is located south of the parcel here in issue, and is separated from the parcel here in issue by one lot which is improved with a dwelling, which is not owned by Applicant. The parcel on which Pastor Greer's parsonage is located is north of the lot where the church is located, and west of the parcel here in issue. Applicant's 1993-1994 Annual Report, (Applicant's Exhibit 5), presented to Applicant's annual business meeting on April 24, 1994, included a proposal that a gymnasium be built by the church west of, and on the same lot, as the church. That annual report then went on to recommend that the parcel here in issue and the parcel north of, and adjoining said parcel, be sold to help finance the construction of the gymnasium.

Reverend Greer testified that when he was called to Applicant in 1992, the church was losing members because there was no youth program. This testimony was supported by the other witnesses. Reverend Greer did not feel that he had time to work with the church youth. Beginning in January 1993, Applicant allowed married couples to live in the house on the parcel here in issue, provided they worked with the church youth, and also acted as church custodian. During 1993, the parcel here in issue was improved with a one-story residence with a basement. Said residence was occupied by Tom and Rachel Hall from January 1, 1993, through May 1993. Tracy and Tom Rudman occupied this residence for about one month during July and August

1993. Tom and Barbara Bishop have occupied this residence from about December 1, 1993, to the date of the hearing. Before the Halls moved in, this residence had been empty for about two years. In the case of each of the couples, the husband agreed to work with the youth of the church, and to act as church custodian in exchange for being allowed to live in the house rent-free. In the case of each couple, the wife was employed elsewhere, and the husband, in addition to his church youth activities and custodial responsibilities, was a student. None of the above-named husbands were ordained or licensed ministers. In fact, Mr. Bishop is the only one of the three who was studying theology. It was the testimony of Applicant's witnesses that the Halls and the Rudmans did not perform up to Applicant's expectations as youth leaders, and were terminated. Apparently, Mr. Bishop, who is a graduate student at Wheaton College studying both clinical psychology and theology, is performing satisfactorily.

Mr. Bishop testified that he regularly conducts a youth Sunday School class in the living room and dining room of the residence on this parcel, as shown on the floor plan of said residence (Department's Exhibit 2F). There also was testimony that the other couples also used the living room and dining room for Sunday School classes on a regular basis. In addition, Mr. Bishop testified that a women's Bible study met in the living room or dining room weekly, and the youth group met there from time to time. There also was testimony that the basement of the residence on the parcel here in issue was used for storage by the church.

1. Based on the foregoing, I find that Applicant is a religious organization.

2. I also find that Applicant owned the parcel here in issue and the residence thereon, during all of 1993.

3. The residence on the parcel here in issue was occupied for a

total of seven months during 1993, by three different married couples who Applicant hoped could revitalize the church youth program.

4. In the case of each couple, the husband agreed to work with the church youth program, and to act as church custodian in exchange for being allowed to live in the residence on this parcel rent-free.

5. In the case of each couple, the wife had outside employment and the husband, in addition to his part-time activities with the youth program and his custodial responsibilities, was a student.

6. None of these three young men, I find, were ordained or licensed ministers with the denominational group with which Applicant was affiliated.

7. No evidence or testimony was offered that it was a condition of their employment, that these couples live in the residence on the parcel here in issue.

8. Since the residence on the parcel here in issue had stood empty for two years, and since the residents were not paid, it was, I find, merely a matter of mutual convenience that the couples occupy this residence.

9. I find that the basement of the residence here in issue was used by the church for storage, and that the living room and dining room on the first floor were used on a regular basis for religious and church activities.

CONCLUSIONS OF LAW Article IX, Section 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."

35 ILCS 205/19.2 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property used exclusively for religious purposes, or used exclusively for school and religious purposes, and not leased or otherwise used with a view to profit, including all such property owned by churches...and used in conjunction therewith as parsonages...provided for ministers...their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches...."

A parsonage,...shall be considered for purposes of this Section to be exclusively used for religious purposes when the...church,...requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association reside in such parsonage...."

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). 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). 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).

In the case of *McKenzie v. Johnson*, 98 Ill.2d 87 (1983), the Illinois Supreme Court held that the parsonage exemption set forth above, was constitutional. That exemption makes it clear that for a property to qualify as a parsonage, it must be provided to a resident who is a minister. None of the three young men whose families occupied the residence on the parcel here in issue during 1993, were either ordained or licensed as ministers, and in fact, none of the three had completed the educational requirements to be a minister. In addition, none were employed by Applicant. They each had agreed to work with the church youth group and to act as church custodian, and in exchange therefor, were allowed to live in the residence on the parcel here in issue, which had stood empty for two years, and which Applicant is now contemplating selling, to finance the

construction of a gymnasium facility. Being allowed to live in the house on the parcel here in issue, was a convenience to each of the young men since they were students attending school in the area, and a convenience to Applicant, since the house had stood empty for two years. No evidence or testimony was offered that these young men were required, as a condition of their employment, to live in the residence on the parcel here in issue.

The testimony did indicate that the basement of the residence on this parcel was used for church storage, and that the living room and dining room on the first floor were used primarily for religious and church activities, during the period the house was occupied during 1993. The remainder of the first floor of the residence, I conclude, were primarily used for residential purposes during 1993.

I therefore conclude that DuPage County parcel No. 08-12-411-013 should be exempt from real estate tax for 1993, except for the residence located thereon and the land on which it is located, for the 1993 assessment year.

Concerning the residence on the parcel here in issue, I recommend that the basement and the living room and dining room on the first floor be exempt, and the remainder of said residence be placed back on the tax rolls for 1993, and assessed to Applicant.

Concerning the land on which said residence is located, the portion of said land which is equal to the percentage of the total residence determined to be taxable should also be placed back on the tax rolls and assessed to Applicant for the 1993 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge

March , 1995