

PT 95-35  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

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

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AMBASSADORS FOR CHRIST CHURCH ) Docket No.(s) 93-16-1274  
 )  
Applicant ) PI No. 20-29-317-040-0000  
 ) (Cook County)  
v. )  
 )  
THE DEPARTMENT OF REVENUE ) George H. Nafziger  
OF THE STATE OF ILLINOIS ) Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Attorney Daniel J. Pierce appeared on behalf of the Ambassadors for Christ Church (hereinafter referred to as the "Applicant").

SYNOPSIS: The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on June 5, 1995, to determine whether or not Cook County parcel No. 20-29-317-040-0000 should be exempt from real estate tax for the 1993 assessment year.

Is the Applicant a religious organization? Did the Applicant own the parcel here in issue and the building thereon, during the 1993 assessment year? Did the Applicant use this parcel and the building thereon, for religious purposes during the 1993 assessment year? Following the submission of all of the evidence and a review of the record, it is determined that the Applicant is a religious organization. It is also determined that the Applicant owned the parcel here in issue and the building thereon, during the 1993 assessment year. Finally, it is determined that the Applicant, during 1993, was in the process of adapting this parcel and the building thereon, for exempt use, except for the areas leased to the pharmacy and to the religious bookstore.

FINDINGS OF FACT: The position of the Illinois Department of Revenue

(hereinafter referred to as the "Department") in this matter, namely that this parcel and the building thereon, did not qualify for exemption during the 1993 assessment year, was established by the admission in evidence of Department's Exhibits numbered 1 through 6B.

Ms. Patricia Van Pelt, vice-president of the executive board of the Applicant, was present, and testified on the behalf of the Applicant.

On May 26, 1994, the Cook County Board of Appeals forwarded an Application for Property Tax Exemption To Board of Appeals, concerning the parcel here in issue and the building thereon, for the 1993 assessment year to the Department (Dept. Ex. No. 2). On November 17, 1994, the Department notified the Applicant that it was denying the exemption of this parcel and the building thereon, for the 1993 assessment year (Dept. Ex. No. 3). On December 1, 1994, the Applicant's attorney requested a formal hearing in this matter (Dept. Ex. No. 4). The hearing held in this matter on June 5, 1995, was held pursuant to that request.

The Applicant was incorporated on November 4, 1982, pursuant to the "General Not For Profit Corporation Act" of Illinois, for the following purposes:

"To help those that are in need, such as cloth them feed them; and to fulfill the great commission of our LORD Jesus Christ; to help people anyway we possibly can. Preach the gospel to every creature in all the world; and to preach the gospel through Radio and correspondence to the sick that are shut in their homes and that are not able to attend church services."

The Applicant acquired the parcel here in issue and the three-story building located thereon, on November 10, 1992. At the time of its acquisition, this building was vacant, filled with debris, and basically unusable, except for two store fronts on the first floor, which were being leased.

One store front, consisting of 1,284 square feet, was leased to Victor Cruz, doing business as V & M Pharmacy, during 1993. The other store

front, which was leased at that time, consisted of 1,662 square feet, and was leased to Jesus First Christian One Stop Bookstore. The bookstore was not affiliated in any way with the Applicant. During 1993, the pharmacy paid \$750.00 per month rent for the first eleven months, and \$800.00 during December. The bookstore paid \$800.00 per month during all of 1993.

During November and December of 1992, the members of the Applicant worked at cleaning up the building on this parcel. On December 17, 1992, the Applicant hired Gumecindo Joseph Jaramillo, a general contractor, to rehabilitate and remodel this building, so that it could be used for religious purposes. Mr. Jaramillo began work on January 3, 1993. During March and April 1993, the Applicant negotiated the financing, which was necessary to complete this renovation work. During July 1994, the rehabilitation and remodeling work on the building on this parcel was completed by the contractor. During all of the 1993 assessment year, the first floor of the building on this parcel, except for the bookstore and the pharmacy, consisting of 8,061 square feet, was in the process of adaptation, for religious use. In addition, all of the second floor, consisting of 11,785 square feet, and all of the third floor, consisting of 12,332 square feet, were in the process of being adapted for religious use.

During 1993, the Applicant owned and used the old Highland Theater as its church sanctuary. The old Highland Theater building is adjacent to this building, and, in fact, the entrance to the theater building is through an open entryway, through the building, on the parcel here in issue. The Applicant had been trying to acquire this parcel for some time, due to the fact that its members had to go through the deteriorated building on this parcel, to get to the Applicant's church building, and also because it needed additional space for its church activities. The address of the church sanctuary building is 7859 South Ashland Avenue, and the address of the building on this parcel is 7845 South Ashland Avenue.

During 1993, Applicant had approximately 600 members in the Chicago area. The Applicant's attendance at Sunday worship services averaged approximately 800 persons during 1993. I take Administrative Notice of the fact that the Department determined that the Applicant is a religious organization, and that the Applicant's church sanctuary building and adjoining parking lot qualified for exemption in Docket No. 90-16-868.

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

2. I also find that the Applicant owned the parcel here in issue and the building thereon, during the entire 1993 assessment year.

3. I further find that the Applicant, during 1993, was in the process of adapting this parcel and the building thereon, for religious use, except for the areas leased to the pharmacy and to the religious bookstore.

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...."

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).

Illinois Courts have held property to be exempt from tax where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. *Illinois Institute of Technology v. Skinner*, 49 Ill.2d 59 (1971); *People ex rel. Pearsall v. Catholic Bishop of Chicago*, 311 Ill. 11 (1924); *In re Application of County Collector*, 48 Ill.App.3d 572 (1st Dist. 1977); and *Weslin Properties, Inc. v. Department of Revenue*, 157 Ill.App.3d 580 (2nd Dist. 1987).

Consequently, I conclude that the building on this parcel, except for the areas of the first floor, which were leased to the pharmacy and to the religious bookstore, were in the process of being adapted for religious use by the Applicant, during the entire 1993 assessment year.

It should also be noted that the Illinois Courts have consistently held that the use of property to produce income, is not an exempt use, even though the net income is used for exempt purposes. *People ex rel. Baldwin v. Jessamine Withers home*, 312 Ill. 136 (1924). See also *The Salvation Army v. Department of Revenue*, 170 Ill.App.3d 336 (2nd Dist. 1988), leave to appeal denied. It should also be noted that if property, however owned, is let for return, it is used for profit, and so far as its liability for taxes is concerned, it is immaterial, whether the owner makes a profit, or sustains a loss. *Turnverein "Lincoln" v. Board of Appeals*, 358 Ill. 135 (1934).

I therefore conclude that the areas of the first floor leased to the pharmacy and to the religious bookstore, did not qualify for exemption during 1993.

The square footage of the areas of the building on this parcel which were leased during 1993, namely the pharmacy and the religious bookstore,

totaled 2,946 square feet. The remainder of the first floor plus the second floor, and the third floor, which were in the process of being adapted for exempt use during 1993, totaled 32,178 square feet. The total square footage of the building then was 35,124 square feet. Therefore, the leased areas constituted 8.4% of the total square feet of the building on this parcel during 1993, and the areas in the process of being adapted for religious use by the Applicant, during 1993, constituted 91.6% of the total square feet of the building.

Consequently, I recommend that 91.6% of Cook County parcel No. 20-29-317-040-0000 and the building thereon, be exempt from real estate tax for the 1993 assessment year.

I further recommend that 8.4% of Cook County parcel No. 20-29-317-040-0000 and the building thereon, remain on the tax rolls for the 1993 assessment year, and be assessed to the Ambassadors for Christ Church, the owner thereof.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge