

PT 95-51  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

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

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LUTHERAN GENERAL HEALTHSYSTEM )  
Applicant ) Docket #91-16-844  
 ) Parcel Index #09-22-200-028-1030  
 v. )  
 ) Barbara S. Rowe  
THE DEPARTMENT OF REVENUE ) Administrative Law Judge  
OF THE STATE OF ILLINOIS )  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: The Cook County Board of Appeals forwarded a Property Tax Exemption Application to the Illinois Department of Revenue (the "Department") requesting an exemption for Lutheran General HealthSystem (the "Applicant") for the 1991 assessment year. The Department denied the exemption finding that permanent use of the property was not charitable and the property was not in exempt use. The applicant requested a hearing in the matter. Prior to the hearing, the applicant contacted the Department and requested that this matter be concluded as an office disposition. Based upon the information submitted by the applicant, it is recommended that Parcel Index no. 09-22-200-028-1030 be exempt from July 15, 1991 through December 31, 1991.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Cook County Parcel Index no. 09-22-200-028-1030 did not qualify for a property tax exemption was established by Dept. Ex. No. 1-5.
2. The Department has previously found that the applicant is an exempt organization that owns Parcel Index nos. 09-22-200-028-1007, 09-22-200-028-1049, 09-22-200-028-1068, 09-22-200-028-1069, 09-22-200-028-1087,

and 09-22-200-028-1102. A real estate exemption certificate was granted for the parcels pursuant to Departmental Docket number 92-16-1510. (Dept. Ex. No. 5)

3. The Department exempted the subject parcel, Parcel Index no. 09-22-200-028-1030 as of January 1, 1992 pursuant to Docket no. 92-16-1510. (Dept. Ex. No. 5)

4. The sole voting member of applicant is the Evangelical Lutheran Church in America. (App. Ex. No. 1)

5. The parcel herein question is a one (1) and part eight (8) level condominium medical office facility consisting of 96 condominium units situated in the heart of the Lutheran General HealthSystem campus in Park Ridge, Illinois. (App. Ex. No. 1)

6. Lutheran General Medical Group is an Illinois corporation registered under the Medical Corporation Act and exempt from taxation under 501(c (3) of the Internal Revenue Code. The facility is a hospital-based, multi-specialty practice of licensed Illinois physicians. (App. Ex. No. 1)

7. Lutheran General Medical Group operates a group medical practice which promotes and conducts the medical, surgical and scientific research and education programs for the applicant and Lutheran General Hospital, and serves as the faculty practice plan for Lutheran General HealthSystem's Graduate Medical Education Program. (App. Ex. No. 1)

8. During 1991, Lutheran General Medical Group had the cardiology practice in Suite 150 of the Parkside Center, the property herein question. (App. Ex. No. 1)

9. The subject parcel is 1,412 square feet. (App. Ex. No. 1)

10. Suite 150 was owned by a private doctor from May, 1984 until the date conveyed to the applicant, July 15, 1991. (App. Ex. No. 1)

11. During the time that the applicant owned the subject property in 1991, Suite 150 did not undergo any renovation or material change. (App.

Ex. No. 1)

12. Applicant leased Suite 150 to Lutheran General Medical Group for cardiology care services not with a view to profit, but for the actual and exclusive use in furtherance of the charitable purposes of the applicant.

(App. Ex. No. 1)

13. The use and services provided in Suite 150 are similar to services provided to tax-exempt units of the applicant such as the Obstetrics and Gynecology Clinic which was designated exempt under Docket no. 90-16-872. The applicant also operates a Cancer Care Center in a similar manner which was granted an exemption under Docket no. 89-16-1262.

(App. Ex. No. 1)

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.

The statutes of Illinois have provisions for property tax exemptions. In particular, 35 ILCS 205/19.7 (1992 State Bar Edition), (1991 Illinois Revised Statutes, Chapter 120, Paragraph 500.7), exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States, all property of old people's homes and facilities for the developmentally disabled, ...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;...All old people's homes or homes for the aged or facilities for the developmentally disabled...shall qualify for the exemption stated herein if upon making an application for such exemption, the applicant provides affirmative evidence that such home or facility...is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code,...and...the bylaws of the home or facility...provide for a waiver or reduction of any entrance fee, assignment of assets or fee for services based upon the individual's inability to pay,...

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 (1941). 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 *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

The Department has previously examined similar arrangements by the applicant and its affiliated groups and granted them real estate tax exemptions. The Department also found this parcel to be 100% exempt for the 1992 assessment year on January 21, 1994, pursuant to docket number 92-16-1510.

I therefore find that the subject 1,412 square foot area in question of Parcel Index no. 09-22-200-028-1030, comprising the cardiology practice

located at Suite 150 of the Parkside Center, should be found exempt from Cook County real estate taxes for the period of July 15, 1991 thru December 31, 1991.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge

August 10, 1995