

PT 95-65  
Tax Type: PROPERTY TAX  
Issue: Educational Ownership/Use

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

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OASIS CENTER FOR HUMAN POTENTIAL )  
Applicant ) Docket # 93-16-457  
 ) Parcel Index # 11-29-308-002-000  
versus )  
 ) Barbara S. Rowe  
THE DEPARTMENT OF REVENUE ) Administrative Law Judge  
OF THE STATE OF ILLINOIS )  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Paul R. Lieggi, Attorney for Oasis Center for Human Potential

SYNOPSIS: The Cook County Board of Review/Appeals filed an Application for Property Tax Exemption To Board of Review/Appeals - Statement of Facts with the Illinois Department of Revenue (the "Department") for Oasis Center for Human Potential (the "Applicant") on March 14, 1994 for the 1993 assessment year. The Department denied the application finding that the property was not in exempt ownership and use. The applicant filed a protest to the findings of the Department and requested a hearing in the matter. At the hearing it was established that the applicant conducts various kinds of personal development programs using a holistic and humanistic approach. Approximately 2700 people attended the programs during 1993. The applicant relies upon its change in the type of programs offered as well as a change in the Illinois Statutes as the basis for the requested exemption. It is recommended that the decision of the Director of the Department be that the parcel herein question was not in exempt ownership and use for the taxable year in question.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that Cook County permanent parcel index number 11-29-308-002-000 should not be exempt from property tax for the 1993 assessment year was established by admission into evidence of Dept. Ex. Nos. 1-5.

2. Applicant acquired the property in 1972. (Dept. Ex. 1; Tr. p. 16)

3. The applicant is the recipient of the beneficial interest of Suburban Trust and Savings Bank Trust No. 3505 concerning the property known as 7463 North Sheridan Road, Chicago. The trust agreement is dated February 12, 1982. (Dept. Ex. No. 1; Tr. p. 17)

4. The applicant acquired ownership of the property on January 14, 1995 by a Trustee's Deed. (App. Post-hearing Ex. 1-D)

5. The property is improved with a three-story building. The first floor consists of four rooms, three of which serve as meeting rooms for counseling sessions and programs which the Applicant operates. The fourth room is a kitchen. The second floor consists of two offices, two storage/utility room closets and an additional meeting room. During the evenings and late afternoons the two offices may be used for counseling services. A custodian rents the one room on the third floor of the building and pays for that room by providing services to the applicant. The basement contains three small rooms occasionally used by the applicant for small workshops and overflow counseling services. The attached garage is rented to an individual under a ten-year contract for \$110.00 per month. (Dept. Ex. No. 1; Tr. pp. 38-39; 55-56)

6. Applicant was incorporated under the General Not-For-Profit Corporation Act of the State of Illinois in 1968. The corporate charter provides that the purposes are:

To discover and disseminate those truths in religion, philosophy and the behavioral sciences which promote actualization of human potential and growth.

To receive and maintain a fund or funds of real or personal property, or both, and, subject to the restrictions and limitations hereinafter set forth, to use and apply the whole or any part of the income therefrom and the principal thereof exclusively for charitable, religious, scientific or educational purposes consistent with the corporate purposes set forth above.

To accept, acquire, receive, take and hold by bequest, devise, grant, gift, exchange, lease, transfer, judicial order or decree or otherwise, for any of its objects and purposes, any property, both real and personal, of whatever kind, nature or description and wherever situated.

No part of the net earnings of the corporation shall inure to the benefit of any member, trustee, officer of the corporation or any private individual, and no member, trustee, officer of the corporation or any private individual shall be entitled to share in the distribution of any of the corporate assets upon dissolution of the corporation; and no part of any of its activities shall be for the carrying on of propaganda or otherwise attempting to influence legislation.

Notwithstanding any other provisions of these Articles, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170 (c) (2) of such Code and Regulations, as they now exist or as they may hereafter be amended.

Upon the dissolution of the corporation or the winding up of its affairs, the assets of the corporation shall be distributed exclusively to charitable, religious, scientific or educational organizations which would then qualify under the provisions of Section 501 (c) (3) of the Internal Revenue Code and its Regulations, as they now exist or as they may hereafter be amended. (Dept. Ex. No. 1)

7. Applicant is exempt from payment of federal income tax pursuant to a 501(c)(3) designation from the Internal Revenue Service. (Dept. Ex. No. 1)

8. Applicant's overhead for the period ending September 30, 1993 was \$180,531.00. The applicant's contribution to overhead for the same period was \$156,575.00 for a net loss of \$23,956.00. (Dept. Ex. No. 1)

9. During the taxable year in question, the applicant actually had an operating surplus. (Tr. p. 49)

10. The applicant is governed by an uncompensated board of 19

directors. The occupations of the board members consist of medical professionals, psychotherapists, people in business and housewives. (Tr. pp. 14-15)

11. The applicant has approximately 400 members. Two types of membership are offered. The life membership costs \$350.00. Yearly membership is \$35.00. The total membership dues raised in 1993 was \$11,767.00. (App. Ex. 1-E-2; Tr. pp. 15-16; 37-38)

12. Applicant's members get a reduction in the fees for the programs. (Tr. p. 60)

13. Most of applicant's life members do not attend the programs, rather they are supporters and contributors to the organization. (Tr. p. 64)

14. During the taxable year in question, the applicant conducted 87 (eighty-seven) individual on-going programs, 90 (ninety) one and two-day programs, and 9 (nine) training programs for a total of 186 programs. (Tr. p. 21-22)

15. Applicant gets the teachers for the various programs either by direct contact by the prospective teacher or by a recommendation from someone who has attended a workshop. (Tr. p. 19)

16. The applicant has criteria to determine whether someone qualifies to teach a program. This includes academic credentials or determining whether the prospective teacher seems to actually know what they are trained to teach. (Tr. p. 20)

17. Applicant advertises the programs offered through the catalogs that they print and mail. The catalogs are mailed to members and also distributed in at least 50 places around the Chicago area, including book stores, health food stores and libraries. (Tr. p. 20)

18. The subject matter of the programs concerns personal development, greater health, better communication skills, spiritual development and

emotional health dealing with re-thinking career paths. (Tr. p. 22)

19. Applicant's approach is holistic and humanistic. (Tr. p. 22)

20. Some of applicant's specific programs are: psychotherapeutic care for cancer patients; psychodrama for people working with those who have AIDS; Yoga relaxation techniques; a professionals program; a hydrotherapy program to teach professionals how to use hydrotherapy in their practices; and an Atria Expressive Arts program. (Tr. p. 27-29)

21. The curriculum of each program is developed by the director of the particular program. (Tr. p. 29)

22. The applicant charged fees ranging from \$6.00 to \$195.00 for programs offered in 1993. Applicant charged \$275.00 - \$1,400 per semester for the training programs offered. The brochures offer a reduction in fees for some of the programs if the participant is a member of the applicant. (App. Ex. No. 1)

23. Some programs are recognized by professional groups for continuing educational credits. The State of Illinois, Department of Professional Regulation, recognizes the applicant as a registered Social Worker continuing education sponsor. The National Board for Certified Counselors has approved the applicant as a continuing education provider. (App. Ex. No. 1; Tr. p. 29)

24. Applicant is also affiliated with Wright College concerning some of the colleges non-credit class offerings. The programs cover relaxation meditation, massage and tachi. (Tr. pp. 58-59)

25. The Applicant conducts programs in holistic health. One of the changes in applicant's programs since 1973 is that the applicant offers programs done under the guidelines of the National Force on Alternative Medicine. The Office of Alternative Medicine was initiated through Congressional mandate in 1992.

Alternative Medicine is often described as any medical practice or intervention that : (a) lacks sufficient documentation in the

United States for safety and effectiveness against specific diseases and conditions; (b) is not generally taught in U.S. medical schools; and (c) is not generally reimbursable by health insurance providers. (App. Ex. 1-F; Tr. pp. 67-68)

26. The applicant is entitled to grant generic continuing education units for programs that are not accredited directly to anything. In approximately 1970, the National Task Force for Continuing Education established criteria whereby ten contact hours equaled one continuing education unit. (Tr. pp. 69-70)

27. Approximately 2,700 people attended the programs applicant conducted during the taxable year in question. (Tr. p. 41)

28. Applicant pays the instructors of the program on a percentage basis of the people who attend the program. (Tr. pp. 42, 64)

29. Applicant has a provision in its by-laws for a reduction of fees called a scholarship for those who are financially disadvantaged. The scholarship program is based upon the individual's ability to pay. (Tr. p. 44)

30. The applicant grants scholarships from what is called a Satir Scholarship and from training programs. The applicant's scholarship is usually a third to one-half reduction of the fee. However, applicant will reduce that figure if the person is very, very needy. Applicant's general rule is that the participant will pay one-half of the normal fee. (Tr. p. 46)

31. Applicant awarded a total of \$5,335.00 in scholarships or fee reductions for individuals during the 1993 assessment year. (Tr. p. 46-47)

32. Applicant has no policy for waiving fees. However, on rare occasions they have done so. (Tr. p. 61)

33. Applicant has one full-time salaried employee, and three to four part-time employees whose work time ranges from 10 to 30 hours a week. (Tr. p. 61)

34. In the late 1970's, the applicant established a counseling

service. (Dept. Ex. No. 1; Tr. p. 76-77)

35. The counseling service is conducted by the applicant. The payments are made to the applicant and then the applicant pays a stipend to the counselor. (Tr. pp. 43-44; 89-90)

36. The stipend is 40% of the fee or \$15.00 depending upon the client's financial ability to pay. (Tr. p. 80)

37. The counseling service is set up with a sliding scale fee to accommodate people who do not have the means to afford a private therapist. (Tr. p. 77)

38. Currently there are eight counselors in the service. During the taxable year in question there were between six and eight counselors. (Tr. pp. 79-80)

39. The applicant's counselors are all experienced professionals who hold, at least, Masters degrees in their area of expertise. (Tr. p. 81)

40. Applicant does not have a written policy for waiver of fees. Occasionally when someone comes in for counseling and cannot afford it the applicant will waive the fee. Only one person was turned away for counseling services during the taxable year in question and that was due to a duplication of services. (Tr. pp. 83-84)

41. Applicant had approximately 55 to 60 counseling clients during the 1993 assessment year. The clients were usually seen on a weekly basis. (Tr. p. 84)

42. Applicant's counseling service has an average intake of 100 new clients per year. (Tr. p. 85)

43. Applicant also has a consulting psychiatrist who is available to the counselors for questions they may have. (Tr. p. 85)

44. The counseling service offers art therapy, Gestalt therapy, some psychodynamic therapy and Adlerian-type work. Most come from the holistic and humanistic theoretical base. (Tr. p. 86)

45. The current sliding fee scale for the counseling service is set at a minimum amount of \$20.00 per hour although some clients are carried at the previous minimum of \$15.00. (App. Ex. 1)

46. Applicant's personnel provide support for the counseling service in that they take telephone calls, keep a log of people who call in and incidental clerical work. (Tr. p. 87)

47. All of the counselors have other jobs and work elsewhere as well as at the property in question. (Tr. p. 92)

48. Applicant conducts fundraising benefits known as special events in hotels in the Chicago area. (Tr. pp. 32-22)

49. Applicant ran seven special events in 1993 which raised \$61,178.00. (Tr. pp. 27, 36)

50. Administrative notice is taken of Oasis v. Rosewell, 55 Ill. App.3d 851 (1977), wherein the applicant was denied a property tax exemption for the property at issue. In that case, the applicant applied under what is currently 35 ILCS 205/19.2 and 19.7, both as an educational and a charitable organization. The court found that the applicant did not use the property as a school nor did applicant qualify under the charitable provisions.

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, and all property of not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, and all property of not-for-profit health maintenance organizations certified by the Director of the Illinois Department of Insurance under the provisions of the Health Maintenance Organization Act 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; and all free public libraries. 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 *Oak Park Club v. Lindheimer*, 369 Ill. 462 (1938) the Illinois Supreme Court found that the fact that no profit was made by a corporation claiming to be a charitable organization was not of controlling importance in determining whether its property was exempt from taxation.

In *Crerar v. Williams*, 145 Ill. 625 (1893), the Illinois Supreme Court defined charity as follows:

A charity, in a legal sense, may be more fully defined as a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their

bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public government. It is immaterial whether the purpose is called charitable in the gift itself, if it is so described as to show that it is charitable in nature.

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 Appellate court has previously found that the applicant did not qualify for a property tax exemption for the 1973, 1974 and 1975 assessment years. Currently, the applicant is relying on the fact that there has been a statutory change in 35 ILCS 205/19.7 pursuant to Public Act 85-312. The applicant is relying on the added language that exempts from property tax "...and all property of not-for-profit organizations providing services or facilities related to the goals of educational social and physical development..".

In the State Senate, Senator Dawn Clark Netsch, On May 19, 1987, explained Senate Bill 203, which became Public Act 58-312, as follows:

Thank you, Mr. President. The amendment addresses a problem that has arisen with respect to the property tax exemption provision. The Department of Revenue has been suggesting that some traditionally tax exempt nonprofit groups might be partially taxable on part of their property and the one particularly in issue is the YMCA.

Again, on May 21, 1987, Senator Netsch expressed the intent of the framers of this amendment as follows:

Thank you, Mr. President. This is the amendment ... or a revised version of the amendment that we started to discuss last...a few days ago and Senator Rigne raised a question which we have now resolved by revising it. It has to do with the property ...the tax exemption of property, primarily of YMCA's and...because they have some activities that are in the athletic area, there were some disputes with the Department of Revenue. We have made it clear that...that that kind of agency's property is tax exempt which I think was expected all along. (Emphasis added)

I therefore conclude that it was the intent of the General Assembly when it enacted Public Act 85-312 to ensure that exempt organizations which provide services and facilities for physical development and physical fitness, like the YMCA, may still qualify for exemption under 35 ILCS 205/19.7. Applicant's holistic and humanistic programs and lectures do not meet the criteria intended by the legislature.

It should also be noted that the real estate tax exemption provision concerning veterans' organizations requiring that the property be used for charitable, patriotic and civic purposes was held by the Illinois Supreme Court North Shore Post No. 21 v. Korzen, 38 Ill.2d 231 (1967), to require that for property to qualify for exemption, it must be used for all three enumerated purposes. See also Coalition for Political Honesty v. State Board of Elections, 65 Ill.2d 453 (1976), in which the Supreme Court determined that the language of Article XIX, Section 3 of the Illinois Constitution of 1970, which provides that Article IV of said Constitution may be amended by constitutional initiative, and which requires that "[a]mendments shall be limited to structural and procedural subjects in Article IV", required that amendments by initiative to the legislative article affect both the structure and procedure of the legislature. Consequently, I conclude that the provision of 205/19.7 discussed above which exempts facilities related to the goals of educational, social and physical development, requires that the facilities relate to all three

goals for the facilities to qualify for exemption. Applicant's evidence establishes that the parcel in issue and the building on it were used for activities related to humanistic psychology, and while those activities may have been somewhat educational, they did not meet the criteria of facilities related to the goals of educational, social and physical development.

I further find that the changes that the applicant relies upon, the addition of a counseling service and the affiliation with the National Force on Alternative Medicine, do not change the analysis. The applicant does not have a policy, either in writing or in fact, of waiving fees. Therefore the benefits do not accrue to mankind with no obstacles placed in the way of those seeking the benefits, as required by Methodist Old Peoples Home. The applicant has not changed the charter nor the fundamental type of use of the property since 1973. I therefore find that the applicant did not qualify as a charitable organization during the 1993 assessment year.

I recommend that Cook County Parcel Index Number 11-29-308-002-000 remain on the property tax rolls for the 1993 assessment year and be assessed to the applicant.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge

June 30, 1995

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IN THE MATTER OF THE  
Oasis Center for Human Potential  
7463 N. Sheridan Road  
Chicago, Illinois 60626

COPY TO:  
Suburban Trust & Savings Bank  
as Trustee of Trust No. 3505  
840 South Oak Park Avenue  
Oak Park, Illinois 60304

COPY TO:

VS. DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS

COPY TO:  
Mr. Jack O'Malley  
State's Attorney  
ATTN: Tax Division  
500 Richard J. Daley Center  
Chicago, Illinois 60602

COPY TO:  
Secretary of the Board of Appeals



Time	Docket Number	Name and Address	Parcel Index Number(s)
9:30 a.m.	93-16-457	Oasis Center for Human Potential 7463 N. Sheridan Rd. Chicago, Illinois 60626	11-29-308-002-0000

cc: Administrative Law Judge

List Ernesto R. Espiritu & Associates  
Property Tax Exemption Unit  
Margaret