

**PT 98-14**  
**Tax Type: PROPERTY TAX**  
**Issue: Government Ownership/Use**

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

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<b>VILLAGE OF FULTS</b>	)		
<b>Applicant</b>	)		
	)	<b>Docket #</b>	<b>95-67-6</b>
<b>v.</b>	)		
	)	<b>Parcel Index #s</b>	<b>15-21-381-030</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		<b>15-21-381-031</b>
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

Synopsis:

The hearing in this matter was held at 1100 Eastport Plaza Drive, Collinsville, Illinois, on January 14, 1997, to determine whether or not Monroe County Parcel Index Nos. 15-21-381-030 and 15-21-381-031 should be exempt from real estate taxation for the 1995 assessment year.

Mr. Merrill W. Prange, treasurer and collector of Monroe County, and Mr. Eugene Williams, Mayor of the Village of Fults, were present and testified on behalf of the Village of Fults in this matter.

The issues in this matter include, first, whether the Village of Fults owned these parcels during the 1995 assessment year, and secondly, whether these parcels were located within the corporate limits of the Village of Fults during the 1995 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the Village of Fults did not own these parcels during the 1995 assessment

year. It is also determined that these parcels were located within the corporate limits of the Village of Fults during the 1995 assessment year. Since these parcels were not owned by the Village of Fults at any time during the 1995 assessment year, the exemption of said parcels is hereby denied.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that these parcels did not qualify for exemption for the 1995 assessment year, was established by the admission in evidence of Department's Exhibit Nos. 1 through 5A.

2. On June 26, 1996, the Monroe County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review, which had been filed by the Village of Fults with the board on September 5, 1995. This application for exemption concerned these parcels for the 1995 assessment year. (Dept. Ex. No. 1)

3. On November 15, 1996, the Department notified the Village of Fults that it was denying the exemption of these parcels for the 1995 assessment year for the reason that the Village of Fults did not own these parcels during 1995. (Dept. Ex. No. 2)

4. By a letter postmarked November 18, 1996, Mr. Merrill W. Prange, treasurer and collector of Monroe County, on behalf of the Village of Fults, requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing in this matter, which took place on January 14, 1997, was held pursuant to that request.

6. On March 8, 1995, Vernon C. Knobloch and Charlotte Kay Knobloch, his wife, conveyed these parcels to the County of Monroe, pursuant to the Stafford Act. (Dept. Ex. 1B)

7. Said deed recites that Monroe County, pursuant to a cooperative grant with the Illinois Emergency Management Agency, is authorized to acquire certain flood damaged

real property and buildings, demolish the buildings, and convert the land to perpetual open space pursuant to the Stafford Act regulations. (Dept. Ex. No. 1B)

8. Said deed was recorded on March 23, 1995. (Dept. Ex. No. 1B)

9. The tax bills for the 1995 assessment year concerning these parcels were issued by Merrill W. Prange, County Collector, and showed as the owners of these parcels the Village of Fults and the Knoblochs. (App. Ex. Nos. 2 & 3)

10. The parcels here in issue are located within the corporate boundaries of the Village of Fults. (Dept. Ex. No. 1)

11. These parcels had been flooded during the flood of 1993. (Dept. Ex. No. 1E)

12. The above described deed, dated March 8, 1995, has been described as a deed in error by Merrill W. Prange. (Dept. Ex. No. 1F)

13. On October 21, 1996, the County of Monroe conveyed these parcels to the Village of Fults. That deed was recorded on October 22, 1996. Said deed is not identified as a corrective deed. (Dept. Ex. No. 1G)

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 200/15-60 provides in part as follows:

Also exempt are:

(c) all property owned by any city or village located within its incorporated limits. . . .

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); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). 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) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). 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); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986).

The Illinois Courts have determined that for the property of a city or village located within its corporate limits to qualify for exemption, it must be owned by the city or village. Village of Oak Park v. Rosewell, 115 Ill.App.3d 497 (1st Dist. 1983); and People ex rel. Carr v. City of Chicago, 323 Ill. 68 (1926). In the case of People ex rel. Williamson v. City of Toulon, 300 Ill. 408 (1921), the Illinois Supreme Court determined that the Illinois Constitution required that for any property of a city or village to be exempt, it must be owned by that city or village. During 1995, the owners of these parcels were either the Knoblochs or the County of Monroe, and not at any time the Village of Fults.

35 ILCS 200/9-175 provides in part as follows:

The owner of property on January 1 in any year shall be liable for the taxes of that year, . . . .

35 ILCS 200/9-185 provides in part as follows:

The purchaser of property on January 1 shall be considered as the owner on that day. However when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise

transferred for a use exempt from taxation under this Code, that property shall be exempt from taxes . . . .

In view of the above provisions, it is clear that real estate shall be taxed to the owner thereof. It is also clear that if property is transferred to one who is exempt from taxes, the property shall be exempt, as it is then owned by an exempt entity. During the 1995 assessment year, the owners of these parcels pursuant to the deed dated March 8, 1995, were the Knoblochs and the County of Monroe. It is clear then, that the tax bills were issued in error to the Village of Fults, since the County of Monroe was the owner of these parcels, and not the Village of Fults.

The duties of the Boards of Review include the following found at 35 **ILCS** 200/16-70, which reads in part as follows:

The board of review shall hear and determine the application of any person who is assessed on property claimed to be exempt from taxation. . . .

In the case of Highland Park Women's Club v Department of Revenue, 206 Ill.App.3d 447 (2nd Dist. 1991), one Paul Hamer applied to the Lake County Board of Review concerning certain property owned by the Highland Park Women's Club and also certain property owned by the Ravina Festival Association. The Appellate Court, citing the Revenue Act of 1939, equivalent of the foregoing statutory provision, determined that Mr. Hamer did not have standing to apply for an exemption before the board, because he was not being taxed on the property. He was not being taxed on the property, because pursuant to the Revenue Act of 1939, equivalent of 35 ILCS 200/9-175, he was not the owner of the property. I have previously determined that the tax bills for the 1995 assessment year were erroneously addressed to the Village of Fults, since the property was owned by the County of Monroe. Since these parcels were owned by the County of Monroe, the Village of Fults had no standing to apply for an exemption concerning these parcels.

I therefore recommend that this application for exemption filed by the Village of Fults concerning Monroe County Parcel Index Nos. 15-21-381-030 and 15-21-381-031 be denied. Said parcels were not owned by the Village of Fults at any time during the 1995 assessment year, and the Village of Fults had no standing to apply for an exemption of these parcels.

It is respectfully suggested that once the Village of Fults acquired these parcels on October 21, 1996, it would be appropriate for the village to apply for an exemption for these parcels for the assessment year for which the Board of Review is currently convened, which is believed to be 1997.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
February 3, 1998