

PT 98-18

Tax Type: PROPERTY TAX

Issue: Educational Ownership/Use

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

**ARCHITECTURAL METAL
TRAINEE SCHOOL for LOCAL 63,
APPLICANT,**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

Docket No: 93-16-1240

**Real Estate Exemption
for 1993 Assessment Year**

P.I.N. 15-16-406-038

Cook County Parcel

**Robert C. Rymek
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Anne E. Larsen of Frank A. Edelman, Ltd. on behalf of applicant Architectural Metal Trainee School for Local No. 63; Daniel E. Cannon of Kuser & Raucci on behalf of Intervenor Proviso Township High School District No. 209.

SYNOPSIS: This proceeding raises the issue of whether Cook County Parcel Index Number 15-16-406-038 (hereinafter the “subject property”) should be exempt from 1993 real estate taxes under sections 19.1 (school exemption) and 19.7 of the Revenue Act of 1939 (charity exemption).¹

This controversy arose as follows:

¹ In People ex. rel. Bracher v. Salvation Army, 305 Ill. 545 (1922), the Illinois Supreme Court held that the issue of property tax exemption necessarily depends on the statutory provisions in force during the time for which the exemption is claimed. This applicant seeks exemption from 1993 real estate taxes. Therefore, the applicable provisions are those found in the Revenue Act of 1939 (35 ILCS 205/19.1, 19.7 (1992)).

On April 11, 1994, the Architectural Metal Trainee School for Local No. 63 (hereinafter “AMTS” or “applicant”), filed a Property Tax Exemption Complaint with the Cook County Board of (Tax) Appeals. The Board reviewed AMTS’s complaint and on May 24, 1994, recommended that the exemption be denied. On October 27, 1995, the Illinois Department of Revenue adopted the Board’s recommendation and denied the exemption concluding that the property was not in exempt ownership or exempt use. AMTS filed a timely appeal from the Department’s denial of exemption. On February 10, 1997 and April 2, 1997, a formal administrative hearing was held at which evidence was presented.² Following a careful review of all the evidence it is recommended that the subject parcel not be exempted from 1993 real estate taxes.

FINDINGS OF FACT

1. Dept. Gr. Ex. No. 1 establishes the Department’s jurisdiction over this matter and its position that the subject parcel was not in exempt use or exempt ownership during 1993.
2. Title to the subject property is held in Trust No. 9273818. The beneficiary of that trust was not disclosed at the hearing. App. Ex. 4; Tr. pp. 41, 43-44, 61, 64-65.
3. The subject property is improved with a 12,408 square foot building which is located on a corner and consequently has two addresses: 1819 Beech Street and 2525 Lexington. Tr. pp. 10, 39, 49.
4. The building could be divided into roughly three parts:

² The hearing was held on two separate dates, several weeks apart from each other, because applicant’s main witness suffered a heart attack.

- (a) the front part of the building is used by the union and has three or four offices, a lunch room, and a general purpose room;
- (b) the back portion of the building is used for an Indian pre-apprenticeship training program and consists of three offices and a work area; and
- (c) the side portion of the building consists of a union hall which is used for both the training programs and monthly union meetings. Tr. pp. 49, 59-60.

- 5. The Indian pre-apprenticeship program uses the buildings' training areas during the day while the apprenticeship program uses those areas during the evenings. Tr. pp. 59-60
- 6. The Indian pre-apprenticeship training program is offered pursuant to a contract between AMTS and the Bureau of Indian Affairs under which AMTS provides 14-week pre-apprenticeship training programs to American Indians and subsequently helps them find employment in the iron-working industry through an apprenticeship program Tr. pp. 10, 14; App. Gr. Ex. 1.
- 7. The students enrolled in the Indian pre-apprenticeship program are not required to pay tuition. Tr. p. 11.
- 8. The money to pay for the Indian pre-apprenticeship training program comes primarily from the Bureau of Indian Affairs with a supplement from the International Association of Bridge, Structural, and Ornamental Ironworkers. Tr. pp. 11-12.

9. AMTS provides a four-year apprenticeship program which is open to both Indians and non-Indians during which the students are trained in tool usage, drafting, welding, blueprint reading, and general trade sciences. Tr. pp. 38, 47-53.
10. AMTS provides its students with “Apprenticeship Rules and Regulations” to apprise the students of what is expected of them. App. Ex. 10; Tr. pp. 53-55.
11. The apprenticeship rules require among other things that:
 - (a) apprentices may not voluntarily quit a job or seek employment with a contractor on their own;
 - (b) after 60 days the apprentice is required to pay one-half of an initiation fee;
 - (c) the second half of the initiation fee is required upon completion of the apprenticeship;
 - (d) the apprentice must pay a weekly fee to the union office for a permit;
 - (e) the apprentice is responsible for paying union dues on time.App. Ex. 10.
12. No tuition is charged for the apprenticeship program. Union dues fund that program. Tr. p. 44.
13. Before someone may enter the apprenticeship or pre-apprenticeship program, they must have a high-school diploma or G.E.D. certificate. App. Gr. Ex. Nos. 1, 11.
14. Prior to moving to the subject property, the apprenticeship program used to be run out of the Washburne Trade School. Tr. p. 51.

CONCLUSIONS OF LAW

An examination of the record establishes that this applicant has not demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to

warrant an exemption from property taxes for the 1993 tax year. Accordingly, under the reasoning given below, the determination by the Department that the above-captioned parcel does not qualify for exemption should be affirmed. In support thereof, I make the following conclusions:

AMTS first argues that the subject property should be exempt from property taxes because it is a school. Taxpayer relies on Section 19.1 of the Revenue Act of 1939 which provides an exemption from property taxes for:

all property of schools *** including the real estate on which the schools are located and any other real property used by such schools exclusively for school purposes, not leased by such schools or otherwise used with a view to a profit[.] 35 ILCS 205/19.1 (1992)).

Recently, in a remarkably similar case, the appellate court concluded that property used for a 12-week pre-apprenticeship training program and a 4-year apprenticeship program did not qualify for a property tax exemption even though the training was formerly offered by the State through the Washburne Trade School. Chicago & Northeast Illinois Dist. Council of Carpenters Apprenticeship Training Program v. Ill. Dept. of Revenue et al., No. 1-96-1834 (Nov. 26, 1997). In so holding, the appellate court noted there are two primary factors to be considered when determining whether a given property constitutes a school under the Revenue Act of 1939: (1) “whether the property in question contained a school which offered an established, commonly accepted program of academic instruction” (*id.* at 9) and (2) “whether the program in question substantially lessened what would otherwise have been a governmental obligation” (*id.* at 11).

In the instant case, there was no evidence that AMTS offered classes in traditional academic subject such as math, rhetoric, language, science or history. Rather, AMTS

offered vocational training. Moreover, the apprenticeship and pre-apprenticeship programs did not lessen what would otherwise have been a government obligation since AMTS's programs only accepted people who already had high-school diplomas or G.E.D. certificates and the State was not required to fund the type of classes offered by AMTS. Thus, the subject property did not constitute a school under the Revenue Act of 1939.

Moreover, even if it is assumed, for the sake of argument, that the subject property did qualify as a school, it would still be inappropriate to grant the subject property a school property tax exemption because the applicant did not establish that the subject property was used "exclusively for school purposes" (35 ILCS 205/19.1 (1992)).³ It is obvious that the subject property was sometimes used for union purposes since part of the building contained union offices and another part was used for union meetings. Under these circumstances, it was incumbent upon the applicant to show that the subject property was used primarily for school purposes rather than union purposes. The applicant failed to offer evidence establishing such facts as how many square feet of the building were occupied by the union offices and how often the union used those

³ The word "exclusively," when used in tax exemption statutes means "the primary purpose for which the property is used and not any secondary or incidental purpose." Gas Research Institute v. Department of Revenue, 145 Ill. App. 3d 430 (1987).

offices. Absent some such evidence establishing that the building was used primarily for school purposes and that the union use was only secondary or incidental the subject property is not entitled to a property tax exemption as a school. *Id.*; accord Coyne Electrical School v. Paschen, 12 Ill. 2d 387 (1957).

AMTS next argues that the subject property should be exempt from property taxes because it is owned by a charitable institution and used exclusively for charitable purposes. Taxpayer relies on Section 19.7 of the Revenue Act of 1939 which provides an exemption from property taxes for:

All property of institutions of public charity, all property of beneficent and charitable organizations *** when such property is actually and exclusively used for such charitable or beneficent purposes and not leased or otherwise used with a view to a profit[.] 35 ILCS 205/19.7 (1992)).

Our courts have long refused to grant a charitable exemption absent suitable evidence that the property in question is: (1) owned by an institution of public charity; and (2) used exclusively for purposes which qualify as charitable within the meaning of Illinois law. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156 (1968) (hereinafter "Korzen").

Here, it was established that title to the subject property is held in Trust No. 9273818. The beneficiary of a land trust is the owner for tax purposes. People v. Chicago Title & Trust, 75 Ill. 2d 499 (1979). Unfortunately, AMTS failed to present evidence establishing who was the beneficiary of that trust. Accordingly, it is impossible to say who owned the property, let alone whether that owner was an institution of public charity.

Even assuming AMTS was the beneficiary of the trust, AMTS's argument would still fail because there was no showing that AMTS qualifies as an institution of public charity under the terms of Korzen. Korzen held that all "institutions of public charity" share the following distinctive characteristics: (1) they have no capital stock or shareholders; (2) they earn no profits or dividends, but rather, derive their funds mainly from public and private charity and hold such funds in trust for the objects and purposes expressed in their charters; (3) they dispense charity to all who need and apply for it; (4) they do not provide gain or profit in a private sense to any person connected with it; and, (5) they do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Korzen at 157.

Here, the training programs are not open to all who seek to avail themselves to the benefits of such programs. Rather, the training programs are open only to those with high-school degrees or G.E.D. certificates, who agree to become apprentices and abide by the apprenticeship rules. Among the apprenticeship rules are the requirements that the students pay union dues, union fees, and initiation fees. Under these circumstances, AMTS does not meet Korzen's charitable institution requirements.

Finally, a substantial portion of the subject property was used to house union offices while other parts of the building were regularly used for union meetings. Thus, even if AMTS had been able to establish charitable ownership, the subject property would still not be entitled to exemption because it was not "exclusively used" for "charitable or beneficent purposes." 35 ILCS 205/19.7 (1992)).

For the reasons set forth above, I recommend that the subject parcel be denied exemption from 1993 real estate taxes.

Date

Robert C. Rymek
Administrative Law Judge