

PT 02-21
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

MIDWEST CATHEDRAL)		
Applicant)	A.H. Docket #	01-PT-0024
)	Docket #	00-50-92
v.)		
)	Parcel Index #	11-11-102-014
)	Barbara S. Rowe	
THE DEPARTMENT OF REVENUE)	Administrative Law Judge	
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held on November 21, 2001, to determine whether La Salle County Parcel Index No. 11-11-102-014 qualified for exemption during the 2000 assessment year.

Reverend Thomas E. Arnold of Midwest Cathedral, (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issue in this matter is whether the applicant used the subject real property for exempt purposes during the 2000 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemption be granted for 47% of the 2000 assessment year. In support thereof, I make the following findings and conclusions in

accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that La Salle County Parcel Index No. 11-11-102-014 did not qualify for a property tax exemption for 2000 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 9)

2. On November 30, 2000, the Department received the request for exemption of La Salle County Parcel Index No. 11-11-102-014. On March 1, 2001, the Department denied the requested exemption finding that the property was not in exempt use. On March 16, 2001, the applicant timely protested the denial and requested a hearing. The hearing on November 24, 2001, was held pursuant to that request. (Dept. Ex. No. 1)

3. The applicant acquired the subject parcel by a quitclaim deed dated July 13, 2000. (Dept. Ex. No. 1)

4. The subject property is 5.71 acres. Located on it is a 3,985 square foot one-story house with a garage. (Dept. Ex. No. 1)

5. In conjunction with the application process, the Department sent the applicant its PTAX-305 "Request for Additional Information" form. In response to question no. 1: "Is the minister required to reside in the parsonage or convent as a condition of employment?" the applicant replied "no." In response to question no. 4: "Are there any duties that require the minister to live in close proximity to the church?" the applicant responded "no." (Dept. Ex. No. 1)

6. One of the senior pastor's assistants filled out the form and the senior pastor signed it. The senior pastor of the applicant was not familiar with the form. (Tr. pp. 10-11)

7. The board of directors of the applicant passed a resolution on April 27, 1995, designating a Housing/Parsonage Allowance. The resolution stated that such housing allowance

or parsonage provided by the church to its ministers shall constitute a condition of their employment. (Dept. Ex. No. 1)

8. On June 5, 2000, the applicant and senior pastor entered into an employment contract. A provision of the contract entitled “Benefits” states that the applicant will provide the senior pastor with a parsonage in which to live in close proximity to the church. A portion of the pastor’s salary may be used as a housing allowance pursuant to §107 of the Internal Revenue Code. (Dept. Ex. No. 1)

9. The senior pastor must live in close proximity to the church to efficiently perform pastoral duties and oversee the day care and Christian academy at the church. The senior pastor’s office is in the home and counseling and leadership training take place there. (Dept. Ex. No. 1)

10. The power of attorney filed in this matter was withdrawn. (Tr. pp. 3-4)

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.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the 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). Further, 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 it. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers (including bishops, district superintendents and similar church officials whose ministerial duties are not limited to a single congregation), their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions or for such religious denominations, and including the convents and monasteries where persons engaged in religious activities reside.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the church, religious institution, or denomination requires that the above listed persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility.

Property owned by a church and used as a parsonage or monastery was taxable prior to 1957. People ex rel. Carson v. Muldoon, 306 Ill. 234 (1922), People ex rel. Pearsall v. Methodist Episcopal Church, 315 Ill. 233 (1925)

The Illinois Supreme Court in McKenzie v. Johnson, 98 Ill. 87 (1983) addressed the statutory provision granting an exemption for a parsonage used primarily for religious purposes and found it constitutional. The court also required that the parsonage must reasonably and substantially facilitate the aims of religious worship because the pastor's religious duties required that he live in close proximity to the church or because the parsonage had unique facilities for religious worship and instruction or was primarily used for such purposes.

In the case at bar, the applicant acquired the property on July 13, 2000. Prior to that, on June 5, 2000, the minister and the applicant executed the employment agreement that stated that the applicant would provide the pastor with a parsonage. In 1995 the applicant passed a resolution that a parsonage would be a condition of employment of its minister. The pastor performs ministerial functions within the parsonage and his religious duties require that he live in close proximity to the church. The applicant misunderstood the questions on the Department's form and completed it inaccurately.

For the foregoing reasons, it is recommended that La Salle County Parcel Index No. 11-11-102-014 be exempt from real estate taxation for the period of July 13, 2000 through December 31, 2000, or for 47% of the 2000-assessment year, the portion that the applicant owned the property.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
April 8, 2002