

PT 16-08
Tax Type: Property Tax
Tax Issue: Religious Ownership/Use

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

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

v.

**COVENANT OF PEACE MINISTRIES
a/k/a CATALYST CHURCH
Applicant**

Docket # 14-PT-043

Tax Year 2013

Dept. # 13-16-888

RECOMMENDATION FOR DISPOSITION

Appearances: Seth Schriftman, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Reverend Gregory A. Stanton, *pro se*, for Covenant of Peace Ministries a/k/a Catalyst Church

Synopsis:

This case concerns whether certain property that is located in Cook County and owned by Covenant of Peace Ministries a/k/a Catalyst Church (“applicant” or “church”) qualifies for a property tax exemption for the year 2013. The applicant alleges that the property qualifies for an exemption pursuant to section 15-40 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*) on the basis that it is used as a parsonage. The Cook County Board of Review recommended that the property receive a full year exemption, and the Department of Revenue (“Department”) disagreed with that decision. The applicant timely protested the denial, and an evidentiary hearing was held by administrative law judge Ken Galvin.¹ After reviewing the record, it is recommended that this matter be resolved in favor of the applicant.

¹ This recommendation has been written by the undersigned, ALJ Linda Olivero. It is not a requirement that the ALJ who heard and took the evidence be the one to make the recommendation. American Welding Supply Co. v. Department of Revenue, 106 Ill. App. 3d 93, 98-99 (5th Dist. 1982).

1. The applicant is a church that was organized in 1901 under the name Peace Church of Bellwood. After other name changes, in 2006 the name of the church was changed to Covenant of Peace Ministries. (Dept. Ex. #4; Tr. pp. 15-16)
2. The applicant is also known as Catalyst Church and operated under that name in 2013. (Dept. Ex. #10; Tr. pp. 66-67)
3. In 1996, the applicant's church building was located at 4517 St. Charles Road in Bellwood, Illinois, and the applicant owned a parsonage that was two blocks away from the church building. (Dept. Ex. #9; Tr. pp. 16-17)
4. In 1996, the current pastor became the pastor of the applicant, and at that time he owned his own home. The applicant decided to sell the parsonage because it needed a lot of repairs, and the applicant gave the pastor a housing allowance as part of his employment contract. The allowance was consistent with the fair market value of homes in the area. (Dept. Ex. #3, 4; Tr. pp. 15-17)
5. In August of 2006, the applicant purchased the property that is at issue in this case, which is a residence, to be used as a parsonage. The property is located at 5737 Rose Court in Berkeley, Illinois, which was approximately 1.5 miles from the church building that it owned at the time. (Dept. Ex. #2; Tr. pp. 22-23, 46)
6. The applicant required the pastor to live in the parsonage as a condition of his employment in order for the applicant to save money. It was more economical for the applicant to own a parsonage than to pay the pastor a housing allowance. The pastor's housing allowance was rescinded when the pastor moved into the parsonage. (Dept. Ex. #2, 3, 4, 6; Tr. pp. 22-23, 46, 54)

7. In 2007, the congregation voted to sell the church building and find a smaller one because the building was too large to maintain. The applicant was initially unable to sell the building, and from 2007 to 2009 the building was closed because the applicant could not afford the upkeep. (Tr. pp. 17-18)
8. While the church building was closed, the pastor held small group assemblies in the basement of his parsonage where there is seating for about 30 people. For gatherings larger than 20 to 25 people, the applicant rented space at the Hillside Holiday Inn, which was approximately 3 miles from the church building. (Dept. Ex. #3, 6; Tr. pp. 17-18, 20-21, 47)
9. In 2009, the applicant filed a Chapter 11 bankruptcy petition. (Dept. Ex. #4)
10. In April 2010 (during the bankruptcy), both the church building and the parsonage were listed to be sold at an auction. Prior to the auction, the bank agreed that if the church building sold for enough money to pay off the mortgage on the parsonage, the parsonage would not be sold. The church building sold for enough money to pay the mortgage on the parsonage. (Dept. Ex. #4; Tr. pp. 19-20)
11. Since the church building was sold in 2010, the applicant has been operating out of the parsonage and having larger assemblies at other facilities. (Dept. Ex. #5; Tr. pp. 38-39)
12. Since January 2011, the following activities have taken place at the parsonage: daily morning prayer via telephone; small group Bible studies on Saturday evenings; telephonic Bible studies on Wednesday evenings; some Sunday worship services; quarterly Board meetings; pastoral care, counseling and administrative duties. (Dept. Ex. #4, 6; Tr. pp. 46-47)
13. From January 2011 until September 2013, most Sunday worship services were conducted at Berkeley Hillside Presbyterian Church, which is one block east of the parsonage. For

the remainder of 2013, the Sunday worship services were conducted at the Hillside Holiday Inn or the parsonage. (Dept. Ex. #4; Tr. pp. 38-39)

14. In January 2013 a Sunday worship service was held at the parsonage. (Dept. Ex. #12)

15. During 2013, the pastor had an office in the parsonage where he provided counseling to church members. The pastor also conducted meetings, other ministering services, and administrative duties from the parsonage. (Dept. Ex. #4; Tr. pp. 21, 36-38)

16. During 2013, the applicant had approximately 50 to 100 members. (Tr. p. 65)

17. During 2013, the pastor was the owner and CEO of Catalyst Coaching & Counseling, Inc. His office for the business was located at 3408 W. Roosevelt Road in Chicago, Illinois. (Dept. Ex. #15; Tr. pp. 81-82)

18. During 2013, the pastor did not have any coaching clients and did not receive any fees from the business. (Tr. pp. 81-82, 89)

CONCLUSIONS OF LAW:

It is well-established under Illinois law that taxation is the rule, and tax exemption is the exception. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285 (2004). “[A]ll property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto.” *Id.* Statutes granting tax exemptions must be strictly construed in favor of taxation. *Id.* at 288; Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996); People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). All facts are to be construed and all debatable questions resolved in favor of taxation. Eden Retirement Center, Inc., at 289. Every presumption is against the intention of the State to exempt the property from taxation. Oasis, Midwest Center for Human Potential v. Rosewell, 55 Ill. App. 3d 851, 856 (1st Dist. 1977). Whenever doubt arises, it must be

resolved in favor of requiring the tax to be paid. Quad Cities Open, Inc. v. City of Silvis, 208 Ill. 2d 498, 508 (2004).

The burden of proof is on the party who seeks to qualify its property for an exemption. Eden Retirement Center, Inc., *supra*; Chicago Patrolmen's Association, *supra*. The burden is a heavy one. Oasis, Midwest Center for Human Potential, *supra*. The party claiming the exemption bears the burden of proving by clear and convincing evidence that the property in question falls within both the constitutional authorization and the terms of the statute under which the exemption is claimed. Eden Retirement Center, Inc., *supra*; Board of Certified Safety Professionals of the Americas, Inc. v. Johnson, 112 Ill. 2d 542, 547 (1986) (citing Coyne Electrical School v. Paschen, 12 Ill. 2d 387, 390 (1957)).

Authority to grant property tax exemptions emanates from article IX, section 6 of the Illinois Constitution of 1970. Section 6 authorizes the General Assembly to exempt certain property from taxes and 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. Ill. Const. 1970, art. IX, §6.

The constitution does not require the legislature to exempt property from taxation; an exemption exists only when the legislature chooses to create one by enacting a law. Eden Retirement Center, Inc., at 290. “The legislature cannot add to or broaden the exemptions that section 6 of article IX specifies.” *Id.* at 286. By enacting an exemption statute, the legislature may place restrictions, limitations, and conditions on an exemption, but the legislature cannot make the exemption broader than the provisions of the constitution. *Id.* at 291.

Pursuant to this constitutional authority, the General Assembly enacted section 15-40 of the Property Tax Code, which allows exemptions for religious purposes and provides, in part, as follows:

(a) Property used exclusively for:

- (1) religious purposes, or
 - (2) school and religious purposes, or
 - (3) orphanages
- qualifies for exemption as long as it is not used with a view to profit.

(b) Property that is owned by

- (1) churches or
 - (2) religious institutions or
 - (3) religious denominations
- and that is 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, including the convents and monasteries where persons engaged in religious activities reside also qualifies for exemption.

A parsonage, convent or monastery or other housing facility shall be considered under this Section to be exclusively used for religious purposes when the persons who perform religious related activities shall, as a condition of their employment or association, reside in the facility. ... 35 ILCS 200/15-40.

The term “exclusively” refers to the primary purpose for which the property is used, and the fact that the property is incidentally used for a secular purpose will not destroy the exemption.

McKenzie v. Johnson, 98 Ill. 2d 87, 98 (1983).

The Department argues that the parsonage in this case should not be exempt because there is no physical church building, and a building cannot be both a church and a parsonage. There is no support, however, in the statute or the case law for this contention that property cannot be used for two religious purposes. Under subsection (a) of section 15-40, property will be exempt if it is used exclusively for religious purposes and not used with a view to profit. Under subsection (b), property will be exempt if it is (1) owned by churches or religious institutions or denominations; (2) used in conjunction therewith as housing facilities provided for ministers; and (3) required to

be the minister's residence as a condition of employment. 35 ILCS 200/15-40. Nothing in the statute indicates that a parsonage will not be exempt if it is also used for other religious purposes.

In addition, the case law supports a finding that a parsonage may be exempt if it serves dual religious purposes. In McKenzie, *supra*, the plaintiff challenged the constitutionality of the exemption for parsonages and argued that parsonages are primarily used for residential purposes and therefore, cannot be used exclusively for religious purposes.² In rejecting the argument, the Supreme Court found that this extremely narrow construction of primary religious use was "out of step" with more recent Illinois exemption cases. *Id.* at 98-99. As an example, the court stated that

in one case it allowed an exemption for school property "if it is established that the property is primarily used for purposes which are reasonably necessary for the accomplishment and fulfillment of educational objectives, or efficient administration, of the particular institution." *Id.*,

citing MacMurray College v. Wright, 38 Ill. 2d 272, 278 (1967). The court then stated as follows:

Under the MacMurray standard a parsonage qualifies for an exemption if it reasonably and substantially facilitates the aims of religious worship or religious instruction because the pastor's religious duties require him to live in close proximity to the church *or* because the parsonage has unique facilities for religious worship and instruction *or* is primarily used for such purposes. ... Whether a particular parsonage may be entitled to exemption turns on the evidence showing how the parsonage is being used ... (emphasis added) *Id.* at 99-100.

The parsonage in the present case is being used for religious worship and instruction as well as a home for the pastor, who lives there as a condition of his employment. The pastor performs administrative duties there, as well as meetings, counseling, and pastoral care for the members. Because of its financial circumstances, the applicant did not have a church building

² The statute at issue in McKenzie is different than the current statute and provided, in relevant part, as follows: "[a]ll property used exclusively for religious purposes ... and not leased or otherwise used with a view to profit, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as parsonages or other housing facilities provided for ministers ... their spouses, children and domestic employees, 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." Ill.Rev.Stat. 1981, ch. 120, par. 500.2.

during 2013, but the members sometimes had Sunday services at the parsonage. Most of the Sunday services took place at either Berkeley Hillside Presbyterian Church, which is one block east of the parsonage, or at the Hillside Holiday Inn, which was also in the vicinity. Although these circumstances may be unusual, the property is still being used for a purpose that reasonably and substantially facilitates religious worship and instruction. These facts support a finding that the parsonage meets the statutory requirements for the exemption.

The Department also argues that there is some overlap and ambiguity between the pastor's role with the applicant and his role as a coach in his business. The pastor explained that he provides counseling to members of the applicant without charge, and he did not have any clients or receive fees from his business during 2013. In addition, his business office was located at an address that is different than the parsonage, so there were no services for a fee that took place on the property.

Recommendation:

For the foregoing reasons, it is recommended that the exemption be granted for the year 2013.

Enter: January 29, 2016

Linda Olivero
Administrative Law Judge