

PT 17-03  
Tax Type: Property Tax  
Tax Issue: Educational Ownership/Use

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

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**MIDWEST MONTESSORI TEACHER  
TRAINING CENTER,**

**APPLICANT**

v.

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

**Docket No: 14-PT-046 (13-16-915)**

**Real Estate Tax Exemption**

**For 2013 Tax Year  
P. I.N. 11-07-120-049-8010**

**Cook County Parcel**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Ms. Ellen Berkshire and Mr. Kevin Fanning, Verros, Lafakis & Berkshire, on behalf of Midwest Montessori Teacher Training Center; Ms. Paula Hunter, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**SYNOPSIS:**

This proceeding raises the issue of whether Cook County Parcel, identified by Property Index Number 11-07-120-049-8010 (hereinafter the “subject property”), qualifies for exemption from 2013 real estate taxes under 35 ILCS 200/15-35(c) in which “property donated, granted, received or used for public school, college, theological seminary, university, or other educational purposes, whether held in trust or absolutely,” is exempted from real estate taxation. The controversy arises as follows: On July 8,

2014, Midwest Montessori Teacher Training Center (hereinafter “Midwest”) filed a Real Estate Exemption Complaint for the subject property with the Board of Review of Cook County (hereinafter the “Board”). The Board reviewed Midwest’s Complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the exemption be denied. Dept. Ex. No. 1.

The Department accepted the Board’s recommendation in a determination dated August 28, 2014 finding that the subject property was not in exempt use.<sup>1</sup> Dept. Ex. No. 1. On October 27, 2014, Midwest filed a request for a hearing as to the denial and presented evidence at a formal hearing on April 14, 2016 with Ms. Louise Kunert, Director of Education for Midwest, testifying. Following submission of all evidence and a careful review of the record, it is recommended that the Department’s determination denying property tax exemption for the subject property be affirmed.

**FINDINGS OF FACT:**

1. Dept. Ex. No. 1 establishes the Department’s jurisdiction over this matter and its position that the subject property, located at 926 Noyes Street in Evanston, was not in exempt use in 2013. Tr. pp. 10-12; Dept. Ex. No. 1.
2. Midwest was incorporated on April 7, 1965 under the Illinois “General Not For Profit Corporation Act.” Midwest is in “good standing” as a domestic corporation in the State of Illinois as of March 12, 2012. Tr. pp. 53-54; App. Ex. No. 16.

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<sup>1</sup> The subject property is owned by Garrett-Evangelical Theological Seminary, which is organized under a Special Charter, granted on February 15, 1855, by the Illinois Legislature. All of Garrett’s property is exempt and free from taxation. In 2002, Midwest leased the subject property from Garrett, creating a separate leasehold interest, not covered by Garrett’s exemption. Tr. pp. 6, 50; App. Ex. No. 32.

3. Midwest is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code and is exempt from sales tax “for educational purposes” in the State of Illinois. Tr. pp. 14-15; App. Ex. Nos. 17 and 42.
4. The preschool on the subject property teaches children, aged three to six. In 2013-2014, there were 30 students enrolled in two classrooms. Midwest does not offer day care services. Midwest sometimes offers a summer session for children if there is sufficient enrollment. The school is in session from August through June, with hours of 8:00 a.m. to 3:30 p.m., Monday through Friday. The subject property also is used as a teacher training facility for the Montessori Method and trains 25 to 30 teachers/year mainly in the summer months when preschool is not in session. Tr. pp. 32-33, 35, 65-66; App. Ex. No. 18.
5. The purposes of Midwest, according to its Bylaws, are “to prepare adequately qualified teachers to staff preschools utilizing the Montessori approach in helping children three to six years old develop within themselves the foundational learning skills and attitudes required in later learning.” “This includes designing a twelve-month curriculum of lectures, demonstrations, lab work, observations, assignments, and an internship under properly qualified supervisors.” It also includes evaluating trainees’ progress periodically and issuing a certificate attesting to the nature of their training and to the fact that the required training has been satisfactorily completed. Tr. pp. 13-14; App. Ex. No. 10.
6. Midwest was approved by the Illinois State Board of Higher Education in 1965 to operate a private postsecondary institution under the Private College Act and/or the Academic Degree Act. Tr. pp. 15-16; App. Ex. No. 14.

7. To teach in Montessori schools, including Midwest Montessori, teachers must have college degrees and certification for early childhood or elementary education and certification under the Montessori Method. Training in the Montessori Method in northern Illinois is only available at Midwest and at Seton Montessori Institute on the south side of Chicago. Tr. pp. 17-18, 37.
8. In 2013, there were 3 public schools in Chicago (Suder, Oscar Meyer and Drummond), 2 schools in Decatur and one school in Rockford using the Montessori Method. Midwest trained almost all of the teachers using the Montessori Method in the Chicago public schools.<sup>2</sup> Tr. pp. 18-19, 62-63.
9. At “Suder Montessori Magnet,” in 2013, there were three classrooms of 20 children each. These children, aged three to five, were taught the same program as taught at Midwest. Tr. pp. 19-20, 62-63; App. Ex. No. 46.
10. At “Drummond Montessori,” in 2013, there were three classrooms of 20 children each. These children, aged three to five, were taught the same program as taught at Midwest. Tr. pp. 20-21, 62-63; App. Ex. No. 47.
11. At “Oscar Mayer Magnet School,” which uses the Montessori Curriculum, in 2013, there were eight classrooms of children, aged three to five, totaling 160 children. These children were taught the same program as taught at Midwest. Tr. pp. 22-23, 62-63; App. Ex. No. 49.
12. Midwest not only trains public school teachers for the Montessori classrooms but is available for the trainees after their training. Montessori works with the public

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<sup>2</sup> Montessori School of Englewood, in Chicago, was not chartered until 2014. Tr. pp. 22, 62-63; App. Ex. No. 48.

schools and their auxiliary staff and provides support to public school administrators who may not be familiar with the Montessori Method. Tr. pp. 27-28, 40-41.

13. In 2013-2014, Midwest trained 25 teachers, 2 of whom taught in the Chicago public schools. Tr. pp. 28-29, 62.

14. The preschool located on the subject property serves as a demonstration model preschool for the teacher training program on the subject property. Teachers can see how the Montessori Method is implemented in the classrooms and the “reality” of using the Montessori Method when children are present. The classroom is a “microcosm of the world as a whole and [Midwest’s] demonstration school provides a yearlong model which demonstrates how to do this type of teaching and how to build this community.” Tr. pp. 29-32; App. Ex. No. 44.

15. Montessori classrooms are known as a “prepared environment.” Materials are laid out on shelves in sequence and ability levels and students may choose freely what work they can do. Classrooms using the Montessori Method are all laid out the same way. Most Montessori classrooms have 25 to 30 students. Tr. pp. 45-48; App. Ex. Nos. 1 and 12.

16. The “Montessori Method” is an individualized approach to teaching children between the ages of three and six in a prepared environment with Montessori designed materials that teach the basic concepts of language, mathematics, geography, history, science and geometry. The Montessori Method also assists the child with four basic goals for early childhood; order, concentration, coordination and independence. It also implies an understanding by the teacher that all children are different and learn at

different ways and at different paces. Teachers can observe the students and move the children forward as they see fit. Tr. pp. 30-32.

17. A twelve month curriculum is required for certification as a Montessori teacher. In the summer, Midwest offers a full-time training program of six weeks on the subject property, in which the trainees are taught how to use the Montessori materials. Trainees are instructed on the academic requirements which have to be completed during the year. There are lectures on a child development project that must also be completed during the year and on the theory and philosophy of founder, Marie Montessori. After the six weeks, trainees do an internship or practicum in a school for three hours/day. Trainees must also attend three institutes during the year, each lasting three days, to gather new information and submit written materials. The following summer, trainees attend an additional week of testing and assessment. If the trainee becomes the lead teacher in a classroom, they undergo, additionally, a two year internship with three visits by a consultant. Tr. pp. 35-36, 63-64; App. Ex. No. 7.

18. American Montessori Society programs must be accredited by the MACTE (“Montessori Accrediting Council for Teacher Education”) Commission on Accreditation. MACTE is the international standard setting and accrediting body for Montessori teacher education. Midwest had “full accreditation” for its early childhood teacher education certification course. Tr. pp. 51-52, 54; App. Ex. Nos. 9 and 25.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that Midwest has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 2013 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not qualify for exemption should be affirmed. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation 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 General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6, does not in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

Pursuant to this constitutional authority, the General Assembly enacted section 15-35 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*), which allows exemptions for

property used for schools and for educational purposes and provides in relevant part as follows:

Schools. All property donated by the United States for school purposes, and all property of schools, not sold or leased or otherwise used with a view to profit, is exempt, whether owned by a resident or non-resident of this State or by a corporation incorporated in any state of the United States. Also exempt is:

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(c) property donated, granted, received or used for public school, college, theological seminary, university or other educational purposes, whether held in trust or absolutely; 35 ILCS 200/15-35(c).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen's Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996). The subject property is used as both a preschool and as a teacher training center and it is necessary to look at both uses to determine if the exemption is applicable.

The "Montessori Method" is an individualized approach to teaching children between the ages of three and six in a prepared environment with Montessori designed materials that teach the basic concepts of language, mathematics, geography, history, science and geometry. The Montessori Method assists the child with four basic goals for early childhood; order, concentration, coordination and independence. It also implies an understanding by the teacher that all children are different and learn at different ways and at different paces. Teachers can observe the students and move the children forward as the teacher sees fit. Tr. pp. 30-32.

Midwest was incorporated on April 7, 1965 under the Illinois "General Not For Profit Corporation Act." Midwest is in "good standing" as a domestic corporation in the State of Illinois as of March 12, 2012. Tr. pp. 53-54; App. Ex. No. 16. Midwest is

exempt from income tax under Section 501(c)(3) of the Internal Revenue Code and is exempt from sales tax “for educational purposes” in the State of Illinois. Tr. pp. 14-15; App. Ex. Nos. 17 and 42.

The preschool on the subject property teaches children, aged three to six. In 2013-2014, there were 30 students enrolled in two classrooms. Midwest sometimes offers a summer session for children if there is sufficient enrollment. The school is in session from August through June, with hours of 8:00 a.m. to 3:30 p.m., Monday through Friday. The subject property is also used as a teacher training facility for the Montessori Method and trains 25 to 30 teachers/year mainly in the summer months when school is not in session and a classroom is available. Tr. pp. 32-33, 35, 65-66; App. Ex. No. 18. The teacher training facility will be discussed in the second part of this Recommendation.

**Preschool:** It is necessary to look at two factors to determine whether the preschool located on the subject property, constitutes a school or a facility used for “educational purposes,” in order to qualify for an exemption under 35 ILCS 200/15-35(c). First, does the property contain a school offering an established, commonly accepted program of academic instruction? Carpenters’ Apprentice and Training Program v. Dept. of Revenue, 293 Ill. App. 3d 600 (1<sup>st</sup> Dist. 1997). Under this standard, the courts have been inhospitable toward granting an exemption to a school whose curriculum does not consist of traditional subject matter common to accepted schools and institutions of learning. *Id.* at 608. Second, does the program in question substantially lessen what would otherwise have been a governmental obligation, *i.e.*, would the State be otherwise required to offer such a program of study in a tax supported public school? *Id.* at 609.

Both of these criteria received full articulation by the Illinois Supreme Court in Coyne Electrical School v. Paschen, 12 Ill. 2d 387 (1957), where the Supreme Court found that in order for an institution to qualify as a school for purposes of property tax exemption, its course of study must: (1) fit into the general scheme of education founded by the State and supported by public taxation, and (2) substantially lessen what would otherwise be a governmental function and obligation. *Id.* at 392-93.

In Rogy's New Generation, Inc. v. Department of Revenue, 318 Ill. App. 3d 765 (1<sup>st</sup> Dist. 2000), the First District Appellate Court applied this two-part test to determine that an organization operating a daycare center did not qualify for an exemption from retailers' occupation tax and use tax on the basis that it was operated for "educational purposes." The court in Rogy's New Generation stated that the fundamental flaw in the taxpayer's case was that the State of Illinois does not provide, nor mandate, education for children under the age of 5. As a result, the taxpayer did not establish that its early childhood learning program fit into the general scheme of education founded by the State. *Id.* at 772. Moreover, because Illinois is not required to provide and does not mandate education for children under the age of 5, there is no government obligation to educate these children and no corresponding public tax burden being relieved. *Id.*

It must be noted that since the decision in Rogy's New Generation, Illinois now offers and promotes early childhood education programs. For example, Illinois' "Preschool for All" Program is a voluntary, preschool state-funded education program with a parent education component. 105 ILCS 5/2-3.71. This Program is for children aged 3 through 5 who are eligible to participate "as determined by the screening process." "Programs are required to serve all children identified as being at risk of academic failure

before enrolling other children.” “A waiting list system is utilized when maximum program enrollment is reached.” Tr. pp. 41-44, 56-57; App. Ex. Nos. 34 and 35. Subsection (5) of the statute concerns evaluating children for school readiness prior to age 5 and includes the following statement: “The State Board of Education shall encourage local school districts and other eligible entities to evaluate the population of preschool children in their communities and provide preschool programs, pursuant to this subsection, where appropriate.” 105 ILCS 5/2-3.71(5).

There was considerable testimony at the evidentiary hearing about other schools in Illinois using the Montessori Method. There were 3 public schools in Chicago (Suder, Oscar Meyer and Drummond), 2 schools in Decatur and one school in Rockford using the Montessori Method. Midwest trained almost all of the teachers using the Montessori Method in the Chicago public schools. Tr. pp. 18-19, 62-63. At “Suder Montessori Magnet,” in 2013, there were three classrooms of 20 children each. These children, aged three to five, were taught the same program as taught at Midwest. Tr. pp. 19-20, 62-63; App. Ex. No. 46. At “Drummond Montessori,” in 2013, there were three classrooms of 20 children each. These children, aged three to five, were taught the same program as taught at Midwest. Tr. pp. 20-21, 62-63; App. Ex. No. 47. At “Oscar Mayer Magnet School” which uses the Montessori Curriculum, in 2013, there were eight classrooms of children, aged three to five, totaling 160 children. These children were taught the same program as taught at Midwest. Tr. pp. 22-23, 62-63; App. Ex. No. 49.

But there is no evidence in the record, and I am not able to conclude, that these schools are exempt from property tax because they are using the Montessori Method. The Montessori Method, by itself, does not provide a basis for exemption under the Property

Tax Code. I surmise that these schools are exempt because they are public schools or because they are funded by the State under the “Preschool for All” Program. Midwest, on the other hand, is a private school and not part of “Preschool for All.” The fact that Midwest uses the Montessori Method, similar to other public schools, does not in itself, give me a reason to recommend that the subject property be exempt from property taxes.<sup>3</sup>

“Preschool for All” demonstrates the legislature’s intent to promote preschool education. The statute does not, however, show the legislature’s intent to incorporate preschool education into the general scheme of mandated education for the State of Illinois. The Illinois General Assembly has clearly recognized the value and importance of preschool education. Nevertheless, encouraging preschool education and recognizing its importance is not the same as requiring it. The Preschool for All statute does not mandate that every child in this State receive a preschool education, and it does not require the State to provide preschool education for those who want it. It simply provides a possible source of funding for some preschools. As Counsel for the Department argued in her closing statement, the State funds preschool, it encourages preschool, it promotes preschool [but] it doesn’t have to. “If the State decided not to do it anymore then it would not have to, and the fact that the preschools ... are funded by the State voluntarily doesn’t mean that [other preschools] should be exempt when there is no requirement that this type of education be provided to students.” Tr. pp. 69-70.

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<sup>3</sup> In a property tax exemption case, “Crystal Lake Montessori School,” 11-PT-0063, the Department granted an exemption for 68% of the property and Crystal Lake protested the denial of the exemption for the remainder of the property. After an evidentiary hearing, in which Crystal Lake was represented by the same Counsel as Midwest, the Administrative Law Judge granted an exemption for the remainder of the property reasoning, *inter alia*, that the 13% of the property devoted to early childhood education programs was “a mere incident of the School’s primary use of the property.” Again, the use of the Montessori Method in Crystal Lake was not the basis for the exemption. Additionally, Midwest’s use of the subject property as a preschool is not a “mere incident.” It is the primary use of the primary.

Because the State does not mandate education for children under the age of five, the preschool program operated on the subject property does not lessen the tax burden of the public by providing an education which would otherwise have to be furnished by the State. Because education is not required for children under the age of five, there is no governmental obligation to educate these children, and therefore, no corresponding public tax burden to lessen. I am unable to conclude, based on the record of this case, that the preschool program conducted on the subject property qualifies for exemption from property tax for “educational purposes” under 35 ILCS 200/15-35(c). Counsel for Midwest argued in her closing statement that “[w]e’re moving forward to educate more and more children under the age of five, and that’s because a growing body of scientific evidence indicates that these learning programs result in large, positive economic returns to society.” Tr. p. 71. Whereas this argument does have merit, the appropriate place to lobby for mandatory preschool education is before the Illinois General Assembly, rather than this Tribunal. I can only recommend a property tax exemption in this case if a public tax burden is being lessened by Midwest. At the present time, that is not the case.

Accordingly, if the subject property qualifies for exemption, the Montessori Teacher Training Program must be the basis for the exemption.

The Illinois Constitution of 1970 allowed the General Assembly to exempt property used “exclusively” for school purposes. “Property is generally susceptible of more than one use at a given time and the exemption is determined upon the primary use, and not any secondary or incidental use.” People ex rel. Marsters v. Missionaries, 409 Ill. 370, 375 (1951). The fact that some educational use is made of property does not qualify

it for exemption where the primary use is not tax-exempt. Northern Ill. University Foundation v. Sweet, 237 Ill. App. 3d 28, 37 (2d Dist. 1992).

**Teacher Training Program:** I am forced to conclude from the record of this case that the primary use of this subject property is for the preschool program, which, as discussed above, is a non-exempt use of the subject property. The preschool on the subject property teaches children, aged three to six. In 2013-2014, there were 30 students enrolled in two classrooms. Midwest sometimes offers a summer session for children if there is sufficient enrollment. The school is in session from August through June, with hours of 8:00 a.m. to 3:30 p.m., Monday through Friday. Tr. pp. 32-33, 35, 65-66; App. Ex. No. 18. On the other hand, the Montessori Teacher Training Center on the subject property, trains 25 to 30 teachers/year mainly in the summer months when school is not in session and a classroom is available. Tr. pp. 32-33, 35, 65-66. In 2013-2014, Midwest trained 25 teachers. Tr. pp. 28-29, 62.

A twelve month curriculum is required for certification as a Montessori teacher. In the summer, Midwest offers a full-time training program of six weeks on the subject property, in which the trainees are taught how to use the Montessori materials. Trainees are instructed on the academic requirements which have to be completed during the year. There are lectures on a child development project that must also be completed during the year and on the theory and philosophy of founder, Marie Montessori. After the six weeks training on the subject property, trainees do an internship or practicum in a school (not on the subject property) for three hours/day. Trainees must also attend three institutes during the year (not necessarily on the subject property), each lasting three days, to gather new information and submit written materials. The following summer, trainees attend an

additional week of testing and assessment on the subject property. Tr. pp. 35-36, 63-64; App. Ex. No. 7. After the summer session, the majority of the training program does not occur on the subject property.

More preschoolers (30 in 2013) used the subject property than teachers in training (25 in 2013). Preschoolers also use more space on the subject property and use this space over a longer period of time. Preschoolers use 2 classrooms for approximately 9 months and 1 classroom for approximately 3 months if there is a summer program. Teachers in training use the subject property for 6 weeks in the summer and may occasionally use the subject property for more training throughout the year. But clearly, the primary and exclusive use of the subject property is for preschool purposes.

There was testimony that the preschool located on the subject property serves as a demonstration model school for the teacher training program on the subject property. Teachers can see how the Montessori Method is implemented in the classrooms and the “reality” of using the Montessori Method when children are present. The classroom is a “microcosm of the world as a whole and [Midwest’s] demonstration school provides a yearlong model which demonstrates how to do this type of teaching and how to build this community.” Tr. pp. 29-32; App. Ex. No. 44. Montessori classrooms are known as a “prepared environment.” Materials are laid out on shelves in sequence and ability levels and students may choose freely what work they can do. Classrooms using the Montessori Method are all laid out the same way. Tr. pp. 45-48; App. Ex. Nos. 1 and 12.

If the preschool truly serves as a “demonstration school” for the Montessori Method, this alone does not provide a basis for a property tax exemption. If it did provide a basis for exemption, I could not recommend a year-long exemption for six weeks of

teacher training and occasional and sporadic visits by trainees. The record forces me to conclude that teacher training and occasional visits from trainees does not constitute the exclusive use of the subject property, which is the basis for exemption under the Property Tax Code. The subject property is used exclusively as a preschool. There may be trainees, interns and observers on the subject property but the activity that is always happening on the property is the preschool, a use which is not exempt.

WHEREFORE, for the reasons stated above, it is recommended that the Department's determination which denied the exemption from 2013 real estate taxes should be affirmed, and Cook County Parcel 11-07-120-049-8010 should not be exempt from 2013 real estate taxes.

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January 23, 2017

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Kenneth J. Galvin  
Administrative Law Judge