

**PT 11-03**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

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

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**END TIME FULL GOSPEL  
MINISTRIES,**

**APPLICANT**

**v.**

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

**Docket No: 10-PT-0018 (08-16-868)**

**Real Estate Tax Exemption**

**For 2008 Tax Year**

**P.I.N.S 21-32-206-001-0000,  
21-32-206-002-0000**

**Cook County Parcels**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Burton A. Brown and Mr. Abrar Azamuddin, Law Office of Burton A. Brown, on behalf of End Time Full Gospel Ministries; 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 real estate identified by Cook County Parcel Index Numbers 21-32-206-001-0000 and 21-32-206-002-0000 (hereinafter the “subject property”) qualifies for exemption from 2008 real estate taxes under 35 ILCS 200/15-40, wherein all property used exclusively for religious purposes is exempted from real estate taxation and 35 ILCS 200/15-125, which exempts parking areas. The controversy arises as follows: On October 2, 2009, End Time Full Gospel Ministries

(hereinafter “End Time”) filed an Application for Property Tax Exemption with the Cook County Board of Review (hereinafter the “Board”). The Board reviewed End Times’ application and recommended to the Illinois Department of Revenue (hereinafter the “Department”) that a full year exemption be granted for the subject property. The Department rejected the Board’s recommendation in a determination dated November 25, 2009, finding that the subject property was not in exempt use in 2008. Dept. Ex. No. 1. On January 20, 2010, End Time filed a request for a hearing as to the exemption denial and presented evidence at a formal evidentiary hearing on December 7, 2010, with Pastor Donald Williams testifying. Following submission of all evidence and a careful review of the record, it is recommended that the Department’s denial 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 was not in exempt use, or being prepared for exempt use, in 2008. Tr. p. 10; Dept. Ex. No. 1.
2. The subject property is located at 8401 South Buffalo Avenue in Chicago. Tr. p. 4.
3. An invoice dated May 10, 2008, from “Total Rehab,” proposes the furnishing of labor and material for “metal frame out eastside interior walls,” “install plumbing drains in bathroom according to client’s plans,” and “dispose of all debris.” The invoice is signed by Pastor Donald Williams. The invoice is noted “paid-n-full \$8,000 cash” but this notation is undated. Tr. pp. 24-28; App. Ex. No. 2.

**CONCLUSIONS OF LAW:**

An examination of the record establishes that End Time has not demonstrated by the presentation of testimony, exhibits and argument, evidence sufficient to warrant an exemption of the subject property for the 2008 tax year. 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).

In accordance with its constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code which exempts property used exclusively for religious purposes and Section 15-125, which exempts parking areas not leased or used

for profit, when owned by a religious institution which meets the qualification for exemption. 35 ILCS 200/15-40 and 35 ILCS 200/15-125, respectively.

The Department's November 25, 2009, determination denying the instant exemption request was based solely on the Department's conclusion that the subject property was not in exempt use in 2008. Because the Department denied the exemption solely on lack of exempt use, it is implicit that the Department determined that End Time owned the subject property and qualified as a "religion." These conclusions were unchallenged in the instant proceeding.

**P.I.N. 21-32-206-002-0000:** "Parking areas" are exempt if the areas are owned by a religious institution, not leased or used for profit, and used as a part of a use for which exemption is provided by the Property Tax Code. 35 ILCS 200/15-125. According to the testimony at the evidentiary hearing, it is planned that this P.I.N., which is now vacant, will be a parking lot. The P.I.N. is referred to as "vacant," or a "vacant lot," in several places in the transcript. Tr. pp. 16, 17, 26. Pastor Williams testified that in 2008, "when the weather got warm, we would take the Sunday School classes over there on Saturday." "After Sunday School, they'll have something there to eat and play a little ball, because the lot is a nice-sized lot." Tr. pp. 16-17. "Well, we set up basketball nets on each side, and they were able to play basketball." Tr. p. 18.

There is no testimony in the record as to what work was done on this P.I.N. to develop and adapt it for use as a parking lot in 2008. There is no exemption in the Property Tax Code for "vacant lots." It is unclear from the record how basketball is a "part of a use for which exemption is provided by the Property Tax Code." 35 ILCS 200/15-125. I cannot recommend an exemption for unspecified hours on Saturday,

“when the weather is warm,” and the lot is used for basketball. There is no evidence in the record that this P.I.N. was used for any other purposes in 2008.

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1<sup>st</sup> Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof upon the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4<sup>th</sup> Dist. 1994). Although exemptions have been allowed where property is in the actual process of development and adaptation for exempt use, there is insufficient evidence and testimony in the record for me to conclude that P.I.N. 21-32-206-002-0000 was in the process of adaptation and development for use as a parking lot in 2008.

**P.I.N. 21-32-206-001-0000:** P.I.N. 21-32-206-001-0000 is planned to be a building of approximately 6,000 square feet, of which 2,000 square feet will be used for a sanctuary seating 400 people and 4,000 square feet will be used for multi-purpose rooms, offices and classrooms for Sunday school. Tr. pp. 12-14, 26. The only evidence in the record of work completed on the building is an invoice dated May 10, 2008, from “Total Rehab,” which proposes the furnishing of labor and material for “metal frame out eastside interior walls,” “install plumbing drains in bathroom according to client’s plans,” and “dispose of all debris.” This invoice is signed by Pastor Donald Williams. The invoice is noted “paid-n-full \$8,000 cash” but this notation is undated. Tr. pp. 24-28;

App. Ex. No. 2. There is nothing in the invoice that states when the work was done. Pastor Williams testified that the work was “contracted for in 08, completed in 08.” Tr. p. 28.

Section 200/15-40 provides an exemption for property used exclusively for religious purposes. 35 ILCS 200/15-40. There is no evidence in the record that this P.I.N. was exclusively used for religious purposes in 2008. Applicant’s actual use determines whether the property in question is used for an exempt purpose. “Intention to use is not the equivalent of use.” Skil Corp v. Korzen, 32 Ill. 2d 249 (1965). The invoice discussed above may indicate an intention to eventually use this P.I.N. for religious purposes, but this intention is not the equivalent of actual use.

However, exemptions have been allowed where property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop, 311 Ill. 11 (1924). Adapting and developing a property for an eventual exempt use can be sufficient to satisfy the actual use requirement. Weslin Properties v. Department of Revenue, 157 Ill. App. 3d 580 (2d Dist. 1987).

The invoice from “Total Rehab” does not show that the P.I.N. is in the actual process of development and adaptation for religious use. Metal frames for eastside interior walls and installing plumbing drains in the bathroom would appear to be an insignificant amount of work in converting a 6,000 square foot building for use as a sanctuary, multi-purpose rooms, offices and classrooms. The activities in the invoice constitute a series of very preliminary steps directed toward the development of the site. There is no evidence in the record as to what was done on the building before 2008.

Pastor Williams testified that his congregation has “a lot of tradesmen” who were going to supply the labor. But a lot of his parishioners lost jobs and “so our finances fell.” Tr. p. 13. No documentary evidence of any kind was admitted to support this testimony. No trades person who was volunteering their time or services testified at the evidentiary hearing. It is unclear from the testimony whether End Time has the funds to continue or finish the renovation. No documentary evidence was admitted to show the amount of funds spent for rehabbing through 2008 or the funds available for completing the renovations. Based on the testimony and evidence admitted, I am unable to conclude that the subject property was in the process of actual development and adaptation for exempt use in tax year 2008.

WHEREFORE, for the reasons stated above, it is recommended that the Department’s determination which denied the exemption from 2008 real estate taxes on the grounds that the subject property was not in exempt use should be affirmed and Cook County parcels, identified by P.I.N.S. 21-32-206-001-0000 and 21-32-206-002-0000 should not be exempt from property taxes for the 2008 assessment year.

ENTER:

February 9, 2011

Kenneth J. Galvin  
Administrative Law Judge