

PT 00-34
Tax Type: Property Tax
Issue: Charitable Ownership/Use

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

LONG LAKE VOLUNTEER FIRE)		
DEPARTMENT)		
)	A.H. Docket #	99-PT-0012
Applicant)		
)	Docket #	98-60-129
v.)		
)	Parcel Index #	17-2-20-02-17-302-009
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Gary L. Smith, attorney at law, appeared on behalf of Long Lake Volunteer Fire Department.

Synopsis:

Long Lake Volunteer Fire Department (hereinafter referred to as the "Applicant") filed an Application for Property Tax Exemption To Board of Review with the Madison County Board of Review on May 12, 1998. On February 4, 1999, the Illinois Department of Revenue (hereinafter referred to as the "Department") determined that this parcel was not in exempt use during 1998. A pre-trial conference and two status conferences were held by telephone. Pursuant to an agreement reached at the first status conference the attorney for the applicant submitted a request for an office disposition, 11 photographs, and an affidavit of Danny Kreher,

Fire Chief of the applicant before the second status conference. This Recommendation For Disposition is in response to the applicant's request for an office disposition.

The issues in this matter include: whether the applicant maintains a volunteer fire patrol; secondly, whether the applicant owned the parcel here in issue during all or any part of the 1998-assessment year; and lastly, whether the applicant used this parcel for the accommodation of the volunteer fire patrol during all or any part of the 1998-assessment year. Following a review of the documents originally submitted in this matter and the later filed documents it is determined that the applicant is a volunteer fire patrol. It is further determined that the applicant owned the parcel here in issue during the period March 17, 1998, through December 31, 1998. Lastly, it is determined that the applicant used this parcel for the accommodation of the volunteer fire patrol during the period March 17, 1998, through December 31, 1998.

It is therefore determined that Madison County Parcel Index No. 17-2-20-02-17-302-009 be exempt from real estate taxation for 79% of the 1998-assessment year.

Findings of Fact:

1. I take Administrative Notice of the Department's decision in Docket No. 91-60-115 in which it was determined that two parcels, owned by the applicant, one of which was Madison County Parcel Index No. 17-2-20-02-17-302-028 qualified for exemption for the 1991-assessment year.

2. From a review of the aerial Sidwell submitted to the Department in this matter, the photographs and the affidavit dated March 3, 2000, of Alan Naney, President of the applicant, I find that the applicant's main fire house is located on Madison County Parcel Index No. 17-2-20-02-17-302-028. This main firehouse is used for the storage of fire trucks and other equipment. These documents also show that this main firehouse encroaches on Madison County Parcel No. 17-2-20-02-17-302-009, the parcel here in issue.

3. The affidavit of Alan Naney and the affidavit of Danny Kreher, Fire Chief of the applicant, state that the area of the building which encroaches on the parcel here in issue is used by the firefighters as a training room. The area of the parcel here in issue other than the area

where the main firehouse encroaches on it is used by the applicant for equipment and exercise training for firefighters and fire-fighting and equipment demonstrations for the firefighters.

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)

Concerning fire protection purposes 35 **ILCS** 200/15-70 provides in part as follows:

All property of a corporation or an association which maintains a fire patrol and salvage corps for the public benefit is exempt if the property is:

- (a) used exclusively for providing suitable rooms, housing and storage facilities for fire and rescue equipment, and
- (b) necessary for the accommodation of a fire patrol and salvage corps, or otherwise used exclusively for the purpose of the fire patrol and salvage corps, and
- (c) used to provide a service that is rendered indiscriminately and without charge to the public, except reasonable charges for the use of fire covers after the lapse of 10 days following the occurrence of loss or damage.

Based on the Department's decision in Docket No. 91-60-115, I conclude that the Department has determined that the applicant is a volunteer fire patrol and has granted an exemption for the parcel which is improved with the fire station and adjoins the parcel here in issue. A portion of that fire station encroaches on Madison County Parcel Index No. 17-2-20-02-17-302-009, the parcel here in issue. Madison County Parcel Index No. 17-2-20-02-17-302-009 is also used for other firefighter training activities. I consequently conclude that this parcel

qualifies for exemption during the portion of the 1998–assessment year that the applicant owned it, namely from March 17, 1998 through December 31, 1998.

I therefore recommend that Madison County Parcel Index No. 17-2-20-02-17-302-009 be exempt from real estate taxation for 79% of the 1998-assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
May 15, 2000