

PT 01-29

Tax Type: Property Tax

Issue: Religious Ownership/Use

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

**UNIVERSALIST
UNITARIAN CHURCH
OF JOLIET,
APPLICANT**

v.

**ILLINOIS DEPARTMENT
OF REVENUE**

**No. 00-PT-0050
(99-99-227)
P.I.N: 06-11-300-023**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Michael N. Gorcowski of Michael N. Gorcowski, P.C. on behalf of the Universalist Unitarian Church of Joliet (hereinafter the “applicant”).

SYNOPSIS: This matter raises the following issues: (1) whether applicant is entitled to a pro-rated exemption from 1999 real estate taxes because it acquired ownership of real estate identified by Will County Parcel Index Number 06-11-300-023 (hereinafter the “subject property”) on October 1, 1999; and, (2) whether applicant’s post-acquisitional uses of the subject property qualified as “exclusively religious” within the meaning of Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* The underlying controversy arises as follows:

Applicant filed an Application for Property Tax Exemption with the Will County Board of Review (hereinafter the “Board”) on December 8, 1999. The Board reviewed applicant’s petition and recommended to the Illinois Department Of Revenue (hereinafter

the “Department”) that the requested exemption be granted. On April 21, 2000, the Department issued a determination finding that the subject property was not in exempt use throughout 1999.

Applicant filed an appeal as to this denial and later presented evidence at a formal evidentiary hearing. Following a careful review of the record made at that hearing, I recommend that the Department’s determination be modified to reflect that the subject property be exempt from real estate taxes for 25% of the 1999 assessment year.

FINDINGS OF FACT:

1. The Department’s jurisdiction over this matter and its position herein, namely that the subject properties was not in exempt use throughout 1999, are established by the admission of Dept. Ex. Nos. 1, 2.
2. Applicant, an Illinois not for profit corporation, is a Unitarian Church affiliated with the Central Midwest District of the Unitarian Universalist Association. Applicant Ex. Nos. 2, 3.
3. The subject property is located at 3401 W. Jefferson Street, Joliet, IL and improved with a one story building that was formerly used as a bank. Dept. Ex. No. 1; Applicant Ex. No. 6.
4. Applicant obtained ownership of the subject property by means of a special warranty deed dated October 1, 1999. Applicant Ex. Nos. 5, 11.
5. Applicant purchased the subject property with the intention of converting the bank facility into its main church complex. It could not do this immediately following the date of purchase because the bank left most of its equipment, including vaults and safety deposit boxes, in the building. Tr. pp. 11–13, 30-31.

6. Applicant did, however, hold a prayer and consecration service in the building on the evening of October 1, 1999. It also held numerous clean-up events, as well as various meetings that related to its renovations project, at the building throughout the remainder of 1999. Applicant Ex. Nos. 8, 9, 10, 11, 12, 13; Tr. pp. 14–37, 43-47.
7. Applicant began the actual renovations process, which included removing the bank vaults and related equipment, in early 2000 and began using the building for religious services and other related activities in the fall of that year. Applicant Ex. Nos. 14, 15, 16, 17; Tr. pp. 37-40.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from real estate taxes for 25% of the 1999 assessment year under Sections 15-40 and 9-185 of the Property Tax Code, 35 ILCS 200/1-1, *et. seq.* Accordingly, under the reasoning given below, the determination by the Department that said property was not in exempt use throughout the entire 1999 assessment year should be modified. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides 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.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-40 of the Property Tax Code, 35 ILCS 200/1-1 *et seq.*, (hereinafter the “Code”), wherein the following are exempted from real estate taxation:

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 a profit ... [.]

35 ILCS 200/15-40.

Statutes conferring property tax exemptions are to be strictly construed so that all factual and legal inferences favor of taxation. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968); Gas Research Institute v. Department of Revenue, 154 Ill. App.3d 430 (1st Dist. 1987). Consequently, applicant bears the burden of proving that the property it is seeking to exempt falls within the pertinent statutory exemption. *Id.*

Here, the relevant statute requires applicant to prove that it actually used or developed the subject properties for some specifically identifiable purpose that qualifies as “exclusively ... religious” within the meaning of Section 15-40. *Compare*, Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was completely vacant throughout the tax year in question held non-exempt); *with*, People ex rel. Pearsall v. Catholic Bishop of Chicago 311 Ill. 11 (1924) (all portions of seminary property being actively developed for seminary-related purposes, except one tract which lie fallow throughout relevant tax year, held exempt).¹

As applied to uses of property, a religious purpose means “a use of such property by a religious society or persons as a stated place for public worship, Sunday schools and religious instruction.” People ex rel. McCullough v. Deutsche Evangelisch Lutherisch Jehova Gemeinde Ungeanderter Augsburgischer Confession, 249 Ill. 132, 136-137 (1911). Furthermore, the word “exclusively” when used in Section 15-40 and other

1. *See also*, Weslin Properties v. Department of Revenue, 157 Ill. App. 3d 580 (2nd Dist. 1987) (part of medical facility that was under active construction during tax year in question held exempt).

property tax exemption statutes means “the primary purpose for which property is used and not any secondary or incidental purpose.” Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

Applicant did hold one prayer and consecration service at the subject property following its purchase thereof. Such “religious” use was nevertheless incidental to the series of meetings wherein applicant began the inherently complex process of transforming an existing bank facility into its main church complex.

That process must be viewed in light of the realities of modern construction and applicant’s ultimate intended use. Weslin Properties, supra; Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828, 834 (3rd Dist., October 13, 2000). Inasmuch as all of applicant’s post-acquisitional uses were consistent with carrying that larger developmental process into effect, I conclude that applicant should receive a property tax exemption that accounts for those uses.

That accounting is achieved pursuant to Section 9-185 of the Property Tax Code which provides, in pertinent part, as follows:

... when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from the date of the right of possession, except that property acquired by condemnation is exempt as of the date the condemnation petition is filed.

35 ILCS 200/9-185.

The special warranty deed (Applicant Ex. No. 5) proves that applicant obtained its “right of possession” on October 1, 1999. Accordingly, I conclude that the subject property should be exempt from real estate taxation for that 25% of the 1999 assessment

year which transpired between October 1, 1999 and December 31, 1999. Therefore, the Department's determination in this matter should be modified to reflect such exemption.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by Will County Parcel Index Number 06-11-300-023 be exempt from real estate taxes for 25% of the 1999 assessment year under Sections 15-40 and 9-185 of the Property Tax Code, 35 **ILCS** 200/1-1, *et seq.*

April 9, 2001
Date

Alan I. Marcus
Administrative Law Judge