

PT 02-61
Tax Type: Property 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)	
)	Docket No. 02-PT-0006
v.)	P. I. N. 11-00-012-643
)	Tax Year 2001
SALEM CHRISTIAN FELLOWSHIP)	
)	Dept. # 01-61-5
Applicant)	

RECOMMENDATION FOR DISPOSITION

Synopsis:

This case concerns whether certain property that is located in Marion County and owned by Salem Christian Fellowship (“applicant”) qualifies for a property tax exemption for the year 2001. The applicant alleges that the property qualifies for an exemption on the basis that it is used exclusively for religious purposes. A residence is located on the property, and the applicant alleges that its pastor is required to live in the residence as a condition of his employment. The Department of Revenue (“Department”) denied the exemption because it believed that the pastor was not required to live there. The applicant timely protested the denial and an evidentiary hearing was held. George and Barbara Hiltibidal, who are the director and treasurer of the

applicant, appeared on behalf of the applicant. After reviewing the record, it is recommended that the property be exempt for the entire 2001 assessment year.

FINDINGS OF FACT:

1. The applicant applied for a property tax exemption for property located at 1239 N. Miller Street in Salem, Illinois. A one-story parsonage is on the property. (Dept. Ex. #1)

2. The applicant is a not-for-profit corporation that was incorporated in Illinois on September 17, 1984. The applicant acquired ownership of the property by means of a warranty deed dated September 2, 1976. (Dept. Ex. #1)

3. When the applicant's current minister came to work for the applicant, attendance at the church was low and the parsonage was in need of repairs. The applicant's Board decided to waive the requirement that the pastor live at the parsonage. (Applicant Ex. #1; Tr. p. 10)

4. On November 1, 2000, the Board members decided to reinstate the requirement to have the pastor live at the parsonage as part of his employment. The applicant began to remodel the home. (Applicant Ex. #1; Tr. p. 14)

5. The applicant's pastor and his family began living at the parsonage on March 24, 2001. (Applicant Ex. #1)

CONCLUSIONS OF LAW:

The applicant has requested an exemption from the property tax pursuant to section 15-40 of the Property Tax Code (35 ILCS 200/1-1 *et seq.*), which provides in part as follows:

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 profit, is exempt, including all such property owned by churches or religious institutions or denominations and used in conjunction therewith as housing facilities provided for ministers * * *, their spouses, children and domestic workers, performing the duties of their vocation as ministers at such churches or religious institutions * * *.

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

In determining whether property is exempt under this provision, the primary use of the property, rather than its incidental use, must be considered. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59, 65-66 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11, 16 (1924). In order to qualify for the exemption, the property must actually be used for the exempting purpose. Illinois Institute of Technology at 64. Intention to use is not the same as actual use. Id.

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 party claiming the exemption has the burden of clearly proving that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992).

As the above-cited statutory provision indicates, parsonages will be exempt from property taxes if they are (1) "owned by churches or religious institutions or denominations;" (2) used 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. The Department denied the exemption because it believed that the pastor was not required to live at the parsonage as a condition of his employment. (Tr. p. 8) This is the only requirement of the statute that is at issue in this case.

The applicant's treasurer testified that the applicant's minister is required to live at the parsonage as a condition of his employment. (Tr. p. 14) The applicant presented an affidavit from its pastor that states the same. (Applicant Ex. #1) This evidence indicates that the third requirement for the exemption has been met.

Because the pastor did not begin living in the home until March 24, 2001, the remaining question is whether the property should be exempt for the entire year or from the time that the

pastor began living in the home. In Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5th Dist. 1990), the court found that the mere temporary vacancy or lack of use of a parsonage did not render the parsonage portion of the property taxable. In Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987), the court determined that the development and adaptation of the property for exempt use allowed the property to qualify for the exemption. In this case, once the Board decided to reinstate the residency requirement, the applicant immediately began to remodel the home. From November 1, 2000 until March 24, 2001, repairs were done to the home, and the applicant was in the process of developing and adapting the property for exempt use. This activity warrants an exemption for the full year.

Recommendation:

It is therefore recommended that the applicant be granted an exemption from property taxes for the entire 2001 tax year.

Linda Olivero
Administrative Law Judge

Enter: December 16, 2002