

**PT 04-10**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**NEW LIFE CHURCH OF  
GOD IN CHRIST,  
APPLICANT**

**v.**

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

**No: 02-PT-0078  
(01-16-2568)**  
**PINS: 29-07-309-018<sup>1</sup>*et al.***  
**(See Appendix I)**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. Richard C. Baker of Mauk & Baker on behalf of the New Life Church of G-D in Christ (the “applicant”); Mr. Michael Abramovic, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue (the “Department”).

**SYNOPSIS:** This matter raises the limited issue of whether any or all of the real estate identified by the Cook County Parcel Index Numbers listed in the attached Appendix I (collectively referred to as the “subject properties”) was “used exclusively for religious purposes,” as required by 35 ILCS 200/15-40 during the 2001 assessment year. The underlying controversy arises as follows:

Applicant filed a Real Estate Tax Exemption Complaint with the Cook County Board of Review on May 22, 2002. The Board reviewed applicant’s Complaint and recommended to the Department that all of the requested exemptions be granted. On

January 31, 2002, the Department issued its initial determination in this matter, denying all of the requested exemptions *in toto* on grounds that none of the subject properties was in exempt use. Dept. Group Ex. No. 1.

Applicant filed an appeal as to the Department's initial determination and later presented evidence at a formal evidentiary hearing, at which the Department also appeared. Following a careful review of the record made at that hearing, I recommend that the Department's initial determination in this matter be affirmed.

**FINDINGS OF FACT:**

1. The Department's jurisdiction over this matter and its position herein are established by the admission of Dept. Group Ex. Nos. 1, 2, 3.
2. The Department's position in this case is that none of the subject properties was in exempt use. *Id.*
3. All of the 20 subject properties form a 62,744 sq. ft. (1.44 acre) contiguous tract of land situated in Harvey, IL. *Id.*; Applicant Ex. No. 7.
4. Applicant is an Illinois not-for-profit corporation organized for purposes of conducting worship, preaching and other related activities that promulgate the Christian faith. Applicant Ex. No. 2.
5. Applicant's main church facility, which is situated across the street from the subject properties, was exempted from real estate taxation pursuant to the Department's determination in Docket No. 01-16-3097. Dept. Group Ex. No. 1; Administrative Notice of Department Records.

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1. Any subsequent references to specific parcel index numbers shall be to the last three numbers of the parcel index number. Thus, for example, all subsequent references to parcel index number 29-07-309-018 shall be to parcel index number "018."

6. Applicant, which owned all of the subject properties throughout 2001,<sup>2</sup> purchased them with the intention of constructing a new church facility and related parking lot. Applicant Ex. Nos. 4, 5. Tr. pp. 21- 23.
7. Total cost for the project as a whole was estimated at \$1,420,000.00, of which applicant had raised \$100,000.00 between 1996 and the date of the hearing, August 5, 2003. Applicant Ex. No. 22; Tr. pp. 123-124.
8. The City of Harvey issued applicant a special use zoning permit for its proposed project on December 11, 2000. However, applicant had not applied for construction or other necessary permits as of the hearing date, August 5, 2003. Dept. Ex. No. 3; Tr. p. 225.
9. Applicant nonetheless made the following expenditures in furtherance of its project:

DATE	EXPENSE	AMOUNT	EXPLANATION
5/30/99	Tree Removal	\$ 40.00	
7/2/99	Cut Grass	\$ 200.00	
11/9/99	Tree Removal	\$ 475.00	
		<b>\$ 715.00</b>	<b>Total 1999 Expenses = \$715.00</b>
1/23/00	FBI Builders	\$ 3,900.00	Preliminary Design Work – Half of Balance Due
7/8/00	Tree Removal	\$ 75.00	
7/12/00	Cut Grass	\$ 75.00	
9/12/00	Cut Grass	\$ 100.00	
		<b>\$ 4,150.00</b>	<b>Total 2000 Expenses = \$4,150.00</b>
2/11/01	Architect	\$ 1,000.00	Retainer Fee
4/9/01	Builders Team	\$ 1,250.00	Soil Testing
4/16/01	Builders Team	\$ 1,500.00	Balance Due for Soil Testing Paid in Full
7/1/01	FBI Builders	\$ 3,900.00	Preliminary Design Work – Balance Due Paid in Full

2. The applicant's ownership of the subject properties was established by the series of deeds admitted as Applicant Ex. Nos. 4 and 5. In the interest of brevity, and because the applicant's ownership of these properties is not currently in dispute, I have elected not to provide further details about the specific instruments that provided applicant with its ownership interests in these various properties.

DATE (Cont'd.)	EXPENSE	AMOUNT	EXPLANATION
9/21/01	Demolition	\$ 4,000.00	Demolition of Vacant House and Related Garage Facility Situated on Parcel 035
9/25/01	Demolition	\$ 5,000.00	Same as above – Balance Due Paid in Full
10/23/01	Architect	\$ 7,100.00	Remaining Balance Due Paid in Full as a Manifestation of Applicant's Acceptance of the Architect's Proposal
12/23/01	Engineering	\$11,100.00	Invoice Paid In Full for Services Related to Site Plan Preparation and Layout
		<b>\$ 34,850.00</b>	<b>Total 2001 Expenses = \$34,850.00</b>
5/20/02	Landscaping	\$ 3,000.00	Removal of trees situated on parcels 033, 034, 035 and 036
8/6/02	Cut Grass	\$ 75.00	
8/16/02	Clean Lot	\$ 300.00	
8/16/02	Dumping	\$ 52.00	
10/2/02	Engineering	\$ 2,220.00	Invoice for Services Rendered Paid in Full
12/22/02	Tree Removal	\$ 25.00	
		<b>\$ 5,672.00</b>	<b>Total 2002 Expenses = \$5,672.00</b>
5/2/03	Grass Cut	\$ 100.00	
6/1/03	Lawn Care	\$ 100.00	
		<b>\$ 200.00</b>	<b>Total 2003 Expenses = \$200.00</b>
<b>Total</b>		<b>\$ 45,587.00</b>	

Applicant Ex. Nos. 7, 9A, 9B, 9C, 10A, 10B, 10C, 11A, 11B, 12, 13,14, 15A, 15B, 15C, 16A, 16B,17,19; Tr. pp. 65-67, 84-85, 92-94, 97-98, 182-184.

10. The vacant house and related garage facility that applicant demolished in September of 2001 occupied approximately 1,950.08 square feet or 3% of the subject properties as a whole.<sup>3</sup> Applicant Ex. No. 6.

3. I computed these figures as follows:

- A. Dimensions of House Per Plat of Survey  
(Applicant Ex. No. 6) ..... 39.93 sq. ft. x 39.09 sq. ft. = 1,560.86 sq. ft. (rounded)
- B. Dimensions of Garage Per Plat of Survey .... +19.50 sq. ft. x 19.96 sq. ft. = + 389.22 sq. ft.
- C. Total Dimensions Per Plat of Survey ..... 59.43 sq. ft. x 59.05 sq. ft. 1,950.08 sq. ft.
- D. Percentage of Subject Property ..... 1,950.08 sq. ft./62,744 sq. ft. = 0.031 (rounded)  
or 3%.

11. The applicant used the subject property for periodic church-related outdoor activities throughout 2001. Applicant Ex. No. 18; Tr. pp. 115-118, 166.
12. These activities included picnics and prayer services on July 4 and 5, 2001 and a back-to-school event on August 24, 2001. *Id.*; Tr. pp. 115-118.
13. Applicant held all of these outdoor activities in a 30 ft. x 40 ft. (1,200 sq. ft.) area that occupied 2% of the total area of the subject properties.<sup>4</sup> Tr. p. 166.

## **CONCLUSIONS OF LAW:**

### **I. CONSTITUTIONAL AND STATUTORY CONSIDERATIONS**

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*, which provides, in relevant part, for exemption of the following:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise use with a view to a profit ...[.]

35 **ILCS** 200/15-40.

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4. 1,200 sq. ft./ 62,744 sq. ft = 0.0191 (rounded) or 2% of the subject properties as a whole.

Statutes conferring property tax exemptions are to be strictly construed, with all facts construed and debatable questions resolved in 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). Moreover, it is applicant that bears the burden of proving, by clear and convincing evidence, that the property it is seeking to exempt falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App.3d 678 (4th Dist. 1994).

The word "exclusively," when used in Section 200/15-40 and other 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). As applied to the uses of property, "religious purposes" refers to those uses by religious societies or persons as stated places 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).

The sole question presented in this case is whether the applicant used the subject property "exclusively" or primarily for purposes that qualify as "religious" within the meaning of Section 15-40 during the 2001 assessment year. It is well established that each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980). Consequently, for technical purposes, the one and only state of affairs that is relevant to

the outcome of this case is the one that took place during the 2001 assessment year, which ran from January 1, 2001 through December 31, 2001.<sup>5</sup>

## II. DEVELOPMENT FOR EXEMPT USE

This case is one wherein the applicant was attempting to adapt and develop the subject property for future “religious” uses throughout the tax year in question. Such adaptation and development can constitute exempt use if the applicant moves beyond preliminary planning, and into active development during that year. *Compare, Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App.3d 981 (1st Dist. 1983) (church property that was intended for religious use but 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 that was totally undeveloped throughout relevant tax year, held exempt); 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).*

In analyzing whether or to what extent this applicant engaged in an appropriate level of exempt use, I am required to evaluate the efforts that applicant made to develop the subject property during 2001 in light of the realities of modern construction and applicant’s ultimate intended use. Weslin Properties v. Department of Revenue, *supra*; Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828, 834 (3<sup>rd</sup> Dist. 2000). Thus, it cannot be denied that

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5. Section 1-155 of the Property Tax Code defines the term “year” for Property Tax purposes as meaning a calendar year. 35 ILCS 200/1-155.

building a modern church facility and related parking area<sup>6</sup> on a tract of land as large as the subject properties is a complicated undertaking. At the same time, however, the applicant's actual, and not its intended uses of the subject properties are determinative for present purposes. Skil Corporation v. Korzen, 32 Ill.2d 249 (1965); Comprehensive Training and Development Corporation v. County of Jackson, 261 Ill. App.3d 37 (5th Dist. 1994).

Moreover, public policy dictates that an administrative agency cannot fail to recognize or decline to enforce the otherwise valid legal constraints that govern all of the endeavors that the applicant was required to undertake throughout the developmental process. Nor can an administrative agency ignore the fundamental business realities associated with a construction project as complex as the one currently at issue.

Perhaps the most basic of these realities pertains to the level of financing that is necessary to ensure the long-term viability of a project of this magnitude. The applicant argues that nothing in the Weslin line of cases establishes a blackletter rule requiring that it must obtain and/or maintain an appropriate level of financing in order to receive a finding of exempt use. It further argues that, if and to the extent that the Weslin line of cases do impose such a requirement, the applicant's history of paying its construction-

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6. The exemption statute that pertains to parking areas is found at 35 **ILCS** 200/15-125, which states that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt [from real estate taxation].

35 **ILCS** 200/15-125. *See also*, Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1<sup>st</sup> Dist. 1986).

related financial obligations as they come due provides the necessary evidence of financial viability.

**A. Financial Viability Under Weslin**

The applicant is technically correct in asserting that nothing in the Weslin line of cases establishes a blackletter rule mandating that its project be financially viable. However, the Weslin court specifically based its finding of exempt use, in part, on evidence that the applicant therein had expended “large” sums of money while engaging in the initial phases of its project. Weslin, *supra* at 585-586.

The exact amount of these “large” sums was unspecified in the court’s opinion. Nevertheless, it is clear that one of “the realities of modern construction practice” that concerned the Weslin court was ensuring that complicated development projects remain financially viable. As such, it is neither novel nor contrary to law to require an applicant undertaking such a complex project to submit appropriate evidence demonstrating that financially, its plans for development were more than speculative.

**B. Overall Financial Viability of the Applicant’s Project**

The overall financial viability of the applicant’s project remained dubious, at best, throughout the 2001 tax year. The applicant’s pastor, LeRoy Jones, testified that the applicant had raised about \$100,000.00 (or 7%)<sup>7</sup> of the \$1,420,000.00 in construction costs necessary to ensure that this project remained viable. Tr. pp. 123-124, 129. However, the applicant did not submit any bank statements or other documentary evidence that would support Pastor Jones’ testimony. Tr. p. 194. Absent this

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<sup>7</sup>.  $\$100,000.00/\$1,400,000.00 = 0.0704$  (rounded) or 7%.

documentation, Pastor Jones' mere testimony does not rise to the level of clear and convincing evidence necessary to sustain the applicant's burden of proof.

Even if this were not true, the most Pastor Jones' testimony proves is that the applicant raised only 7% of the necessary construction costs. Thus, without evidence that applicant had secured a mortgage or other financing to cover the remaining 93%, the financial viability in 2001 of the applicant's ambitious project seems, on an overall basis, speculative.

I am required to resolve the doubts associated with such speculation against the applicant and in 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). Therefore, I must conclude that the applicant did not have sufficient financing to ensure that its construction project was more than speculative throughout 2001.

**C. Payment for Construction-Related Services as They Come Due**

The applicant, nevertheless, argues that its demonstrated capacity to pay for construction-related services as they came due provides whatever assurances of financial viability may be necessary. This argument fails to recognize that, as a technical matter, each year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980). Therefore, the fact that applicant demonstrated a capacity to pay construction-related costs as they came due in tax years other than 2001 is, for technical purposes, irrelevant to this case.

The applicant nonetheless argues that, as a practical matter, the "realities of modern construction" practice analysis set forth in Weslin implies that events occurring

in tax years that surround the one immediately at issue should be considered in cases where it is unrealistic to expect that the project will be completed within the confines of a single tax year. I do agree that the overall viability of a project as complex as this one should not be evaluated without some consideration of the events that transpired outside of 2001. Those events must, however, be placed in their proper context, which seeks to discern whether applicant's capacity to pay its construction-related financial obligations as they came due proves by the requisite clear and convincing evidence that the applicant's project was financially viable during 2001. For the following reasons, I conclude that it does not.

First, all of the costs that applicant actually paid were, in the overall scheme of its project, but a precursor to the \$1,400,000.00 in total construction costs that applicant needs to pay in order to bring its project into fruition. Thus, for example, the \$34,850.00 in construction-related expenses that applicant incurred during 2001 amounts to only 2%<sup>8</sup> of the total construction costs. Furthermore, the \$45,587.00 in construction-related expenses that applicant incurred between May of 1999 and June of 2003 amount to only 3% of such costs.<sup>9</sup> This, therefore, leaves no less than 97% of applicant's total construction costs unpaid.

Applicant had, in the best case scenario, raised only 7% of the funds necessary to pay this remaining 97%. Thus, business reality dictates that the applicant cannot continue to pay construction costs as they come due unless it either: (a) has an existing financial structure that enables it to continue paying such costs in this manner; or, (b) procures a

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8.  $\$34,850.00/\$1,400,000.00 = 0.0249$  (rounded) or 2%.

9.  $\$45,587.00/\$1,400,000.00 = 0.0326$  (rounded) or 3%.

construction mortgage or other financing that provides a secure source of funding for the remaining payments.

The applicant did not submit any financial statements or other documentation that details its financial structure. Without this documentation, I am unable to determine whether that structure will permit the applicant to continue paying all of its construction-related bills as they come due. Furthermore, the applicant had not obtained a construction mortgage or other needed financing as of the hearing date, August 5, 2003. Consequently, there remains a real question as to whether actual construction leading to the development of these properties for applicant's intended use was more than speculative. I must conclude from the evidence of record, that applicant's past history of paying relatively lesser amounts of construction costs on an ongoing basis fails to clearly and convincingly prove that it possessed, in 2001, the necessary resources to make its project, as a whole, financially viable.

**D. Other Considerations Affecting Lack of Viability**

The part of the subject properties that contained the demolished house and related garage area have remained fallow since demolition. In addition, with the exception of what amounts to some incidental tree removal and related lawn care, all of the subject properties remained fallow, and therefore primarily undeveloped, throughout the tax year currently in question, 2001.

More importantly, the subject properties remained primarily fallow all through 2001 largely because, in addition to its lack of necessary financing, the applicant had yet to procure whatever permits were necessary to enable it to proceed with construction. This element of legal impossibility creates yet another layer of uncertainty to the

development of this particular project. Because I am required to resolve all such doubts in favor of taxation, (People ex rel. Nordland v. Home for the Aged, *supra*; Gas Research Institute v. Department of Revenue, *supra*), I must conclude that, on an overall basis, this project was only speculative during 2001. Therefore, whatever incidental preparatory work applicant performed in 2001 does not rise to the level of adaptation and development necessary to exempt the subject properties from 2001 real estate taxes under the holding in Weslin Properties, *supra*.

#### **E. Case Analysis**

The holding in Mount Calvary Baptist Church v. Zehnder, 302 Ill. App. 3d 661 (1<sup>st</sup> Dist. 1998), does not alter any of the above conclusions. In Mount Calvary Baptist Church, the court considered whether a church building that had suffered severe structural damage in a fire could qualify for exemption under the then-existing version of Section 15-40.<sup>10</sup> The church had been regularly used for exempt purposes prior to the tax year in question. However, those uses were severely curtailed throughout the relevant period due to damage from the fire. Mount Calvary *supra* at 666-670.

The court held the church property exempt. In doing so, the court was careful to point out that the church was one “which but for the [intervening] fire, presumably would have continued to be used, *as it had been for years*, as a place of worship.” Mount Calvary at 669 (emphasis added). Here, none of the subject properties were used for “religious” or any other exempt purposes prior to the tax year in question, 2001, because they were, and largely remained, vacant, unimproved tracts of land. Therefore, this case is quite different from Mount Calvary in that the lack of exempt use herein is not

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10. That version (which for present purposes is substantially identical to Section 15-40) was found in Section 19.2 of the Revenue Act of 1939, Ill. Rev. Stat. ch. 120, ¶¶ 482-811, 500.2.

attributable to any type of “interruption” in a *pre-existing* exempt use. Rather, the lack of exempt use in this matter stems from a multiplicity of causes (i.e. lack of financing, legal impossibility), that, for the most part, left the subject properties in vacant, unused and unimproved conditions before, during and after the tax year at issue. For this reason, the condition of these properties is more akin to the property denied exemption in Antioch Missionary Baptist Church v. Rosewell, *supra*, than the condition of the properties held exempt in Mount Calvary.

The two remaining cases that the applicant cites in support of its position, In re Application of the County Collector v. Olsen, 48 Ill. App.3d 572 (1<sup>st</sup> Dist. 1977) (“Olsen”) and Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois Department Of Revenue, 316 Ill. App.3d 828, 834 (3<sup>rd</sup> Dist. 2000) (“Lutheran Church”), are also distinguishable from the present matter. The property at issue in Olsen was acquired in an eminent domain proceeding by a public entity, the County of Cook, for eventual use in the construction of the Dan Ryan expressway. Olsen, *supra* at 581.

As a general matter, public policy strongly disfavors situations wherein public entities, which raise most of their operating revenues strictly by levying and collecting taxes, are required to expend those same revenues on the payment of other taxes. United States v. Hynes, et al., 20 F.3d 1437 (7th Cir. 1994). This is especially true where, as in Olsen, the tax in question was levied against property that was to be used for public purposes. Olsen, *supra* at 579; 581-582.

Here, however, none of the subject properties are to be used for public purposes. Nor are they are owned by public entities. Accordingly, the public policy concerns that strongly dictated against taxation in Olsen are not present herein. Therefore, the applicant's reliance on Olsen is misplaced.

With respect to the Lutheran Church case, it is first noted that the applicant in that case acquired the property at issue for purposes of extending its existing yard area. Lutheran Church, *supra* at 829. The Lutheran Church applicant also intended to develop that property for use as a playground or picnic area for recreational activities associated with its church. *Id.* It did not, however, plan to make any major structural improvements to the property. *Id.* As such, the Lutheran Church court had little, if any, reason to be concerned with the financial viability of the project before it and the Church's activities regarding the property were of the manner designed to adapt the property for the specific use intended.

The construction project at issue in this case is far more complex than the one at issue in Lutheran Church exactly because it involves making major structural improvements to properties that were otherwise unimproved and in fallow conditions throughout the tax year currently in question. Given that the economics involved in a project of this magnitude are significantly more intricate than those of the much simpler project in Lutheran Church, there is a definite need to scrutinize the financial viability of applicant's project in this case.

Furthermore, because property tax exemptions cause injury to public treasuries by imposing lost revenue costs thereon, it is legally inappropriate to remove these particular

subject properties from the tax rolls unless and until the applicant proves that it has acted to develop an actually viable project. Applicant has failed to provide facts to show this.

Once again, I must resolve all dubious matters in favor of taxation. People ex rel. Nordland v. Home for the Aged, *supra*; Gas Research Institute v. Department of Revenue, *supra*. Based on this and all the other factors identified above, the ultimate conclusion I must reach is that any efforts that the applicant made in furtherance of its construction project during 2001 did not rise to the level of adaptation and development necessary to qualify the subject properties for exemption from real estate taxes under Weslin Properties. Therefore, the Department's initial determination in this matter, denying the subject properties exemption from 2001 real estate taxes under 35 ILCS 200/15-40 on grounds of lack of exempt use, should be affirmed.

### **III. OTHER USE ISSUES AND SUMMARY**

Applicant's final argument centers around the periodic set of outdoor activities that applicant held on the subject properties in 2001. These activities, which applicant held on July 4, 2001, July 5, 2001 and August 24, 2001, were church related. *See*, Tr. pp. 115-118, 166. Nevertheless, the statute under which the applicant seeks to exempt these properties, 35 ILCS 200/15-40, mandates that such activities do not constitute legally sufficient grounds for exemption unless the properties were used "exclusively" or primarily for these activities during 2001. 35 ILCS 200/15-40;<sup>11</sup> Pontiac Lodge No. 294, A.F. and A.M. v. Department of Revenue, 243 Ill. App.3d 186 (4th Dist. 1993).

In analyzing whether these activities, in fact, constituted the primary use, it is appropriate to compare the relative extent to which these property were used for taxable

and tax exempt purposes. Metropolitan Water Reclamation District of Greater Chicago v. Illinois Department of Revenue, 313 Ill.App.3d 463 (1<sup>st</sup> Dist. 2000), *leave to appeal denied*, October 4, 2000. Because applicant held the activities in question on only a very limited number of specifically identified days (Tr. pp. 115-118, 166), I must conclude that, when compared to the overall fallow condition of the subject properties, such activities constituted but isolated instances of exempt use. *See, MacMurray College v. Wright*, 38 Ill.2d 272, 279 (1967).

Furthermore, although Pastor Jones testified that applicant held a groundbreaking ceremony on the subject properties, he was unable to identify a precise date when that ceremony took place. Tr. pp. 104-106. Nor do the photos of that ceremony contain any information that would identify such a date. Applicant Ex. No. 18. In light of such evidentiary deficiencies, I am unable to ascertain whether the groundbreaking ceremony took place during the tax year currently in question, 2001.

Once again, each tax year constitutes a separate cause of action for exemption purposes. People ex rel. Tomlin v. Illinois State Bar Ass'n, 89 Ill. App.3d 1005, 1013 (4<sup>th</sup> Dist. 1980). More importantly, it is the applicant that ultimately bears the burden of proving all elements of its exemption claim by clear and convincing evidence. People ex rel. Nordland v. Home for the Aged, 40 Ill.2d 91 (1968).

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11. Section 15-40 of the Property Tax Code, 35 ILCS 200/15-40, provides in relevant part, for the exemption of “[a]ll property used *exclusively* for religious purposes, or used *exclusively* for school and religious purposes.” (emphasis added) 35 ILCS 200/15-40.

Based on the above, I conclude that the most applicant has proven is that the subject properties were incidentally used for “religious” purposes throughout 2001. Therefore, the Department’s initial determination in this matter, denying said properties exemption from 2001 real estate taxes under 35 **ILCS** 200/15-40, should be affirmed.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that real estate identified by the Cook County Parcel Index Numbers identified on Appendix I not be exempt from 2001 real estate taxes.

Date: 3/2/2004

Alan I. Marcus  
Administrative Law Judge

**APPENDIX I**

**LIST OF PARCEL INDEX NUMBERS**

**DOCKET # 02PT0078- NEW LIFE CHURCH OF G-D IN CHRIST**

29-07-309-018  
29-07-309-019  
29-07-309-020  
29-07-309-021  
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29-07-309-036  
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29-07-309-040  
29-07-309-041  
29-07-309-042