

PT 05-33
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. 05-PT-0002
v.)	PIN 09-17-408-009
)	Tax Year 2004
FIRST CHURCH OF GOD)	
)	Dept. Docket No. 04-69-10
Applicant)	

RECOMMENDATION FOR DISPOSITION

Appearances: George Logan, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Reverend Alvin D. Dial, *pro se*, for First Church of God.

Synopsis:

This case concerns whether property that is located in Morgan County and owned by First Church of God (“applicant”) qualifies for a property tax exemption for the year 2004. 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 it is used as a church annex. The applicant contends that various church activities take place on the property. The pastor’s office is also located there, and the pastor and his wife sometimes stay in one of the bedrooms. The Department of Revenue (“Department”) denied the exemption because it believed that

the residence was a parsonage and that the pastor was not required to live there as a condition of his employment. The applicant timely protested the denial and an evidentiary hearing was held. After reviewing the record, it is recommended that the property be exempt for the 2004 assessment year beginning January 27, 2004.

FINDINGS OF FACT:

1. The applicant applied for a property tax exemption for property located at 900 N. Church Street in Jacksonville, Illinois. The property has a residence on it. (Dept. Ex. #1)

2. The applicant acquired ownership of the property by means of an Executor's Deed dated January 27, 2004. (Dept. Ex. #1)

3. The applicant's church building has only a sanctuary, and the church members acquired the residence to be used for other church activities, such as Sunday school, fellowship and counseling. (Applicant's Ex. #1; Tr. p. 22)

4. On the application for the property tax exemption, the applicant responded to one question by indicating that the minister or other official is required to reside in the property as a condition of employment or association. (Dept. Ex. #1)

5. The applicant responded to a separate questionnaire by indicating that the minister is not required to live in the residence. (Dept. Ex. #1)

6. The pastor and his wife have a home in Illiopolis, Illinois, but they also sometimes stay at the residence in question. The pastor and his wife are the sole users of one of the bedrooms of the house. The remaining rooms in the house are used for various church activities. (Tr. pp. 8-10)

7. When someone from the church wants to use the kitchen of the house to prepare a meal, such as for a wedding reception or fellowship dinner, the pastor and his wife must give the church members access to the kitchen. (Tr. p. 8; Applicant's Ex. #2)

8. The dining room, living room, and basement are used for Sunday school, fellowship and counseling. The dining room contains bulletin boards that are used for church notices. (Applicant's Ex. #2; Tr. pp. 10-12, 16)

9. The pastor is not required to stay in the house if he desires to live somewhere else, but the house is always used for church purposes. When the pastor and his wife travel, other people, such as summer interns for the church, live at the house. (Tr. pp. 11-13)

10. Sometimes the elders of the church ask the pastor and his wife to return to their home in Illiopolis for a couple days so that church members can use the house. (Tr. p. 14)

11. One of the bedrooms is used for the pastor's office. Church members may use that room, including the computer. None of the furnishings in the house, including the computer, belong to the pastor or his wife. (Applicant's Ex. #2; Tr. pp. 9-10, 15-16)

12. The bedroom used by the pastor and his wife is approximately 120 square feet. The first floor of the house is approximately 900 square feet, and the house has a full basement. (Dept. Ex. #1; Tr. pp. 18-19)

CONCLUSIONS OF LAW:

The applicant has requested an exemption from 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, *supra* 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).

The applicant has established that the primary use of the property is for religious purposes. The pastor testified that when he answered the questionnaire, he believed that it was asking whether the pastor is allowed live in the house if he needs to live there (Tr. p. 8). The Department denied the exemption because it believed that the house was a parsonage and the pastor was not required to live there as a condition of employment (Tr.

p. 6). The evidence presented shows that the house, with the exception of one of the bedrooms, is used for church purposes. The house is used for Sunday school, fellowship and counseling. The kitchen is used to prepare meals for weddings and other church events, and the pastor and his wife have been asked to leave when the kitchen or other rooms are required for church functions. None of the furnishings in the house belong to the pastor or his wife, and the dining room has bulletin boards on the walls to notify church members of various church activities. The atmosphere in the house is more like a church annex rather than a home. The church members use the house primarily for church activities, and the property is therefore entitled to the exemption.

Recommendation:

For the foregoing reasons, it is recommended that the property be exempt from taxation for 2004 beginning on January 27, 2004.

Linda Olivero
Administrative Law Judge

Enter: August 26, 2005