

PT 09-18
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

MT. MORIAH
2 MB CHURCH,

APPLICANT

v.

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

Docket No: 08-PT-0035

Real Estate Exemption

For 2007 Tax Year
P.I.N. 16-15-407-017-000

Cook County Parcel

Kenneth J. Galvin
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. James M. Childs, Childs, Willis & Associates, on behalf of Mt. Moriah #2 MB Church; Ms. Paula Hunter, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

SYNOPSIS:

This proceeding raises the issue of whether the Applicant has standing to bring a complaint seeking to exempt real estate, identified by Cook County Parcel Index Number 16-15-407-017-000 (hereinafter the "subject property"), from real estate taxes under 35 ILCS 200/15-40, wherein all property used exclusively for religious purposes is exempted from real estate taxation.

The controversy arises as follows: On May 15, 2008, Mt. Moriah #2 MB Church (hereinafter "Mt. Moriah") filed an Application for Property Tax Exemption with the Cook County Board of Review (hereinafter the "Board"). The Board reviewed Mt.

Moriah's application and recommended to the Illinois Department of Revenue (hereinafter the "Department") that a full-year exemption be granted. After reviewing the Board's recommendation, the Department issued a determination dated August 14, 2008, denying the requested exemption on the grounds that the Applicant was the lessee, rather than the owner, of the subject property. Dept. Ex. No. 1. On September 30, 2008, Mt. Moriah filed a request for a hearing as to the denial and presented evidence at a formal evidentiary hearing on June 30, 2009, with Fred Johnson, Pastor of Mt. Moriah, testifying. Following submission of all evidence and a careful review of the record, it is recommended that the Department's denial be affirmed.

FINDINGS OF FACT:

1. Dept. Ex. No. 1 establishes the Department's jurisdiction over this matter and its position as established by the determination issued by the Department's Office of Local Government Services on August 14, 2008. Tr. pp. 7-8; Dept. Ex. No. 1.
2. The Department's position in this matter is as follows: "Applicant is not the owner of the property. Applicant is lessee of the property. No leasehold assessment has been made for the assessment year for which application has been made." Dept. Ex. No. 1.
3. Mt. Moriah is located at 4013 West Harrison Street in Chicago. Tr. pp. 9-10.
4. Pastor Johnson is the owner of the subject property. After he purchased the property, he entered into a lease with Mt. Moriah. Tr. pp. 10, 12.

CONCLUSIONS OF LAW:

An examination of the record establishes that the Applicant, Mt. Moriah, lacks standing to bring a complaint seeking to exempt the subject property from 2007 real estate taxes under Section 15-40 of the Property Tax Code. 35 ILCS 200/15-40. In support thereof, I make the following conclusions.

The issue of standing rarely comes up in exemption cases because the property owner, who is liable for real estate taxes under Section 9-175 of the Property Tax Code, is also the Applicant in most cases. Section 9-175 states that the owner of the property on January 1 in any year shall be liable for the taxes of that year. 35 ILCS 200/9-175. Because Section 9-175 imposes this liability, the owner's standing is not questioned, as the owner is presumed to have a "direct and substantial" financial interest in the outcome of the exemption proceeding. Highland Park Women's Club v. Department of Revenue, 206 Ill. App. 3d 447 (2d Dist. 1991).

In the instant case, however, the person who owns the subject property is not the Applicant herein. The owner, Pastor Fred Johnson, has a separate and distinct legal identity from the Applicant, Mt. Moriah. Consequently, only Fred Johnson, and not Mt. Moriah, can benefit from the statutory grant of standing contained in Section 9-175.

The Property Tax Code establishes procedures for the filing and administrative review of exemption complaints. Here, the owner of the property did not file an appropriate exemption complaint with the Board. Pastor Johnson did not seek any determination that his use of the subject property qualified as exempt. Pastor Johnson testified at the hearing that he and Mt. Moriah, "for all intended purposes," are "one and the same." Tr. p. 14. Neither the Property Tax Code nor the Departmental Hearing Regulations authorize me to conclude that the Pastor and Mt. Moriah are the same entity.

Any conclusion that they are the same entity eludes the mandated statutory review process required by the Property Tax Code. There is currently no statutory or regulatory authority that allows me to permit such circumvention.

Applicant, Mt. Moriah, cannot benefit from the statutory grant of standing contained in Section 9-175 because it does not own the subject property. Consequently, Mt. Moriah can obtain the requisite financial stake in the outcome here, if and only if: 1) it is contractually obligated to pay real estate taxes on the subject property; or 2) it, in fact, paid such taxes for the 2007 assessment year; or 3) it is legally required to pay such taxes because its interest in the property at issue is subject to a leasehold assessment. *Id.* Pastor Johnson testified that he entered into a lease with Mt. Moriah. Tr. p.12. The lease was not included in the exemption complaint or offered into evidence at the hearing. There was no testimony at the hearing as to who is obligated to pay the property taxes on the subject property or who paid the property taxes for 2007 on the subject property. Accordingly, I am unable to conclude that Mt. Moriah has the requisite financial stake to bring a complaint seeking to exempt the subject property from 2007 real estate taxes under Section 15-40 of the Property Tax Code.

WHEREFORE, for the reasons stated above, it is recommended that the Department's determination which denied the exemption from 2007 real estate taxes should be affirmed and Cook County Parcel identified by P.I.N. 16-15-407-017-000 should not be exempt from property taxes in 2007.

ENTER:

September 21, 2009

Kenneth J. Galvin
Administrative Law Judge