

PT 96-20
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

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

FIRST BAPTIST CHURCH)		
OF SESSER, ILLINOIS)		
Applicant)		
)	Docket #	95-28-11
v.)		
)	Parcel Index #	2-51-102-03
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Curtis R. Barnes appeared on behalf of the First Baptist Church of Sesser, Illinois (hereinafter referred to as the "Applicant").

Synopsis:

The hearing in this matter was held at 2309 West Main Street, Marion, Illinois, on June 26, 1996, to determine whether or not Franklin County parcel number 2-51-102-03 and the residence thereon should be exempt from real estate tax for all or part of the 1995 assessment year.

Rev. Woody Wilson, pastor of the applicant, and Mr. John Phillips, Jr., a member of the housing committee of the applicant, testified on behalf of the applicant.

The issues in this matter include first, whether the applicant owned this parcel and the residence located thereon during the 1995 assessment year. The second issue is whether the applicant is a religious organization. The last issue is whether this parcel and the residence located thereon qualified as a parsonage during all or part of the 1995 assessment year. Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned this parcel for real estate tax purposes, during the period October 10, 1995, through December 31, 1995. It is also determined that

the applicant is a religious organization. Finally , it is determined that this parcel and the residence thereon qualified as a parsonage during the period October 10, 1995, through December 31, 1995.

Findings of Fact:

1. The position of the Illinois Department of Revenue (hereinafter referred to as the "Department") in this matter, namely that the parcel here in issue and the residence thereon, did not qualify for exemption for the 1995 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 5B.

2. On November 15, 1995, the Franklin County Board of Review forwarded an Application for Property Tax Exemption To Board of Review concerning this parcel, for the 1995 assessment year. (Dept. Ex. No. 1)

3. On February 8, 1996, the Department notified the applicant that it was denying the exemption of the parcel here in issue and the residence thereon, for the 1995 assessment year. (Dept. Ex. No. 2)

4. The applicant's attorney on February 16, 1996, requested a formal hearing in this matter. (Dept. Ex. No. 3)

5. The hearing held on June 26, 1996, was held pursuant to that request.

6. The applicant executed a contract for deed and obtained possession of this parcel on October 10, 1995. (Tr. p. 14)

7. Shortly thereafter, Rev. Kevin Wright, his wife and two children moved into the house on this parcel. (Tr. pp. 13 & 14)

8. The evidence in this case includes an affidavit by Charles D. Dame, trustee of the Charles Dame Trust, the seller on the contract for deed, stating that the applicant is actually ahead on the contract payments, pursuant to the contract for deed. (Appl. Ex. No. 1)

9. During August or September of 1995, the applicant hired Rev. Wright to be its full time youth pastor and minister of music. The agreement with Rev. Wright included a stipulated salary and also housing. (Tr. p. 8)

10. It is a condition of his employment that Rev. Wright live in the house located on this parcel. (Tr. p. 15)

11. Rev. Wright has no ownership interest in the house on this parcel and does not pay rent to live there. (Tr. pp. 15 & 16)

12. Rev. Wright has a seminary education and was licensed by his home church, Suburban Baptist Church in Collinsville. (Tr. pp. 8 & 9)

13. Rev. Wright is authorized to marry, to bury and to engage in all other religious activities conducted by various Southern Baptist Churches. (Tr. pp. 10-12)

14. During 1995, the applicant had approximately 275 members and an average attendance at Sunday worship services of approximately 140. (Tr. p. 16)

15. During 1995, the applicant held worship services on Sunday mornings, Sunday evenings and Wednesday evenings. (Tr. p. 17)

16. Based on the foregoing, I find that the applicant owned this parcel for real estate tax purposes during the period October 10, 1995, through December 31, 1995.

17. I also find that the applicant is a religious organization.

18. Finally, I find that this parcel and the house thereon qualified as a parsonage during the period October 10, 1995, through December 31, 1995.

Conclusions of Law:

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

35 **ILCS** 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes,...and not leased or otherwise used with a view to profit, is exempt, including all such property owned by churches...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 or for such

religious denominations,...where persons engaged in religious activities reside.

A parsonage,...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.

I have previously found that the applicant and Rev. Wright meet each of the foregoing criteria.

In the case of Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978), the Court held that the ministry, the contract purchaser pursuant to a contract for deed, was the owner of the real estate in question for real estate tax exemption purposes. I therefore conclude that the applicant, the contract purchaser in this case, was the owner of this parcel for real estate tax purposes during the period October 10, 1995, through December 31, 1995.

Consequently, I conclude that the applicant, a religious organization, owned the parcel here in issue for real estate tax purposes during the period October 10, 1995, through December 31, 1995 and that this parcel qualified as a parsonage during that period.

I therefore recommend that Franklin County parcel No. 2-51-102-03 be exempt from real estate tax for 23 percent of the 1995 assessment year.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
July ,1996