

**PT 07-1**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

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

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**UNITARIAN UNIVERSALIST  
FELLOWSHIP OF MACOMB**

**v.**

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

**A.H. Docket # 06-PT-0014  
Docket # 06-55-10  
P.I. # 07-000-375-80**

**Barbara S. Rowe  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Ms. Terry Shafer, Special Assistant Attorney General, for the Illinois Department of Revenue

**Synopsis:**

The hearing in this matter was held to determine whether McDonough County Parcel Index No. 07-000-375-80 qualified for exemption during the 2006 assessment year. Reverend Ron Green of the Unitarian Universalist Fellowship of Macomb (hereinafter referred to as the "Applicant"), was present and testified on behalf of applicant.

The issue in this matter is whether applicant used the parcel for religious purposes during the 2006 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the requested exemption be denied. In support thereof, I make the following findings of fact and conclusions of law in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

**FINDINGS OF FACT:**

1. The jurisdiction and position of the Department that McDonough County Parcel Index No. 07-000-375-80 did not qualify for a property tax exemption for the 2006 assessment year were established by the admission into evidence of Dept. Ex. No. 1.

2. The Department received the application for exemption of the subject parcel from the McDonough County Board of Review. The Board recommended granting the exemption. The Department denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. The subject property is a vacant lot. The church derives no income from the lot. (Dept. Ex. Nos. 1, 2)

4. The property was farmed and harvested in 2006. The land was purchased with the intention of building a larger church once the applicant has the funds to do so. (Tr. pp. 13-16)

**CONCLUSIONS OF LAW:**

Article IX, §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.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill. 2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 ILCS 200/15-40.

A portion of the statute states:

- (a) Property used exclusively for:
  - (1) religious purposes, or

(2) school and religious purposes, or  
(3) orphanages  
qualifies for exemption as long as it is not used with a view to  
profit.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill. 2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill. 2d 272 (1967)

The Illinois Appellate Court found that a church owned building that was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App. 3d 981 (1<sup>st</sup> Dist. 1983). In addition, the Fifth District Appellate Court held that eighteen vacant lots did not qualify for a property tax exemption in Comp. Train. & Devel. v. Co. of Jackson, 261 Ill. App. 3d 37 (5<sup>th</sup> Dist. 1994)

The application submitted in this matter states that the property is a vacant lot. The pictures submitted with the application show a field with corn stubble. The applicant admits that this is vacant land. (Tr. p. 13) The land at issue is only two blocks from applicant's church. Applicant intends to use the land as an outdoor environmental center (Tr. p. 14) and eventually to build a larger church on it.

In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used

for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt.

The applicant has the burden of establishing that the property in question was used for exempt purposes during the 2006 assessment year. Applicant does not disagree with the Department's assessment of the use of the land in 2006. (Tr. p. 18-19). As the applicant has not established exempt use of the subject property in 2006, it is recommended that McDonough County Parcel Index No. 07-000-375-80 remain on the tax rolls for 2006 and be assessed to the applicant, the owner thereof.

Barbara S. Rowe  
Administrative Law Judge  
January 4, 2007