

PT 04-11
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

CHRISTIAN ASSEMBLY
RIOS DE AGUA VIVA,
APPLICANT

v.

ILLINOIS DEPARTMENT
OF REVENUE

No: 02-PT-0067
(01-16-1934)
PINS: 19-14-423-016 et al.
(See Appendix I)

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Richard C. Baker of Mauk & Baker on behalf of the Christian Assembly Rios De Agua Viva (the “applicant”); Mr. Gary Stutland, 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 any part of 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 8, 2002. The Board reviewed applicant’s Complaint and recommended to the Department that all of the subject properties be exempt as of September 18, 2001. On October 18, 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. No. 1, Documents A, B and C.
2. The Department's position in this case is that none of the subject properties was in exempt use. Dept. Group Ex. No. 1, Document B.
3. The subject properties form a 125' x 124' (15,500 sq. ft.) contiguous tract of land situated in Chicago, IL. Dept. Group Ex. No. 1, Document A, B.
4. The subject properties are improved with a 1 story, 9,000 square foot building that had formerly been used as a medical clinic. *Id.*; Applicant Ex. No. 17A.
5. The improvement was vacant when the applicant, an Illinois not-for-profit corporation organized for purposes of conducting Christian worship activities, obtained its ownership interest in the subject properties on September 18, 2001. Dept. Group Ex. No. 1, Document A; Applicant Ex. Nos. 1, 5C.
6. Applicant purchased the subject properties because its existing church facility, which was exempted from real estate taxation pursuant to the Department's determination in Docket No. 94-16-1258, became too small to suit the needs of its expanding

congregation. Applicant Ex. No. 2B; Administrative Notice of Department Records; Tr. p. 59.

7. The improvement, which applicant intended to serve as its new, expanded main church facility, was in need of substantial repairs and renovations¹ when applicant obtained its ownership interest in the subject properties. Applicant Ex. No. 3; Tr. p. 59.
8. Applicant also intended that part of the subject properties be developed to provide parking facilities for its new church complex. Applicant Ex. No. 3.
9. On November 17, 2000, the City of Chicago Zoning Board of Appeals approved a special use variance that authorized the applicant to use the subject properties as a church facility and related parking area. However, the applicant could not actually proceed with any of its intended repairs and renovations until it obtained necessary construction-related permits from the City of Chicago Department of Buildings (the “Department of Buildings”). Applicant Ex. Nos. 4, 17.
10. Applicant filed an Application for Permit to do Electrical Work with the Department of Buildings on November 29, 2001. The Department of Buildings did not, however, issue any permits pursuant to this particular permit application. Applicant Ex. No. 8. Tr. pp. 26-27, 45-46, 81.
11. On December 19, 2001, an architect advised the applicant that its total estimated fees for preparing the construction documents that were necessary to obtain building and

1. For a detailed listing of the needed renovations and repairs, which included, *inter alia*, restructuring part of the roof to create a cathedral effect, extending certain walls to accommodate the restructured ceiling, installing various electrical devices, hanging drywall and installing beams, *see*, Applicant Ex. No. 7.

other necessary permits from the Department of buildings would be \$8,320.00.
Applicant Ex. No. 9.

12. The applicant filed an Application for a Building Permit with the Department of Buildings on February 4, 2002. However, the Department of Buildings did not issue any building permits in response to this application until November 18, 2002. Applicant Ex. No.10; Applicant Ex. Nos. 17A, 17B, 17C.

A. The first of the three permits that the Department of Buildings issued authorized the applicant to perform the electrical work and other renovations that were necessary to convert the building improvement into a church. Applicant Ex. No. 17A.

B. The second and third permits that the Department of Buildings issued authorized the applicant to erect certain fences and other enclosures called for in its architect's plans. Applicant Ex. Nos. 17B, 17C.

13. On March 5, 2002, the applicant's remodeling contractor boarded up the entire building improvement due to recurring vandalism. Applicant Ex. No. 11; Tr. p. 26, 31-32.

14. On April 3, 2002, the City of Chicago (the "City") filed a Complaint for Equitable and Other Relief in the Circuit Court of Cook County. This complaint alleged, *inter alia*, that the applicant, as owner and operator of the subject property, operated said property in violation of the Unsafe Property statute (65 ILCS 5/11-31-1 *et seq.*), the Injunction Statute for Building and Zoning Violations (65 ILCS 5/11-13-15) and various provisions of the Municipal Code of Chicago that govern building safety standards. Applicant Ex. No. 14A.

15. On April 11, 2002, part of the building improvement sustained severe structural damage in a fire. The applicant's remodeling contractor re-boarded the affected areas immediately after the fire occurred. Applicant Ex. Nos. 11, 12, 13.
16. On August 23, 2002, the applicant's insurance carrier estimated that the repair costs for all of the fire-related damage would amount to \$82,797.26 and issued the applicant a check in the amount of \$65,748.92 as an initial payment for such costs. Applicant Ex. No. 13.
17. On February 11, 2003, the Circuit Court of Cook County entered an "Order of Dismissal with A Mandatory Injunction For Full Compliance by a Date Certain" that dismissed the City's Complaint for Equitable and Other Relief on the following conditions: (a) the applicant was to bring the subject property into full compliance with the Municipal Code of Chicago on or before July 1, 2003; (b) the applicant was to permit the City to make four site inspections in order to verify that the applicant was making satisfactory progress toward placing the subject property in compliance; and, (c) the applicant was to pay the City's litigation costs in the amount \$309.00 by March 11, 2003. Applicant Ex. No. 14C.

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 200/15-40.²

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.

2. The General Assembly amended Section 15-40 as follows via enactment of Public Act 92-333:

Sec. 15-40. Religious purposes, orphanages, or school and religious purposes.

- (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.

Public Act 92-333, effective August 10, 2001.

The changes made by Public Act 92-333 do not affect the outcome of this case because they address leasing issues that are not raised by the facts presented herein.

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 (4th 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, 2001.³ However, because the applicant did not acquire ownership of the subject properties until September 18, 2001,

3. 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.

any exemptions that it might receive herein are limited to that 29% of the 2001 assessment year that transpired between September 18, 2001 and December 31, 2001 by operation of Section 9-185 of the Property Tax Code.⁴

II. Adaptation and Development for Exempt Use

Applicant offers that it was attempting to adapt and develop the subject property for future “religious” uses throughout the 29% of the 2001 assessment year that is currently under review. 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

4. Section 9-185 of the Property Tax Code, which governs changes in exempt status attributable to changes in ownership states, in relevant part, that:

... when a fee simple title or lesser interest in property is purchased, granted, taken or otherwise transferred for a use exempt from taxation under this Code, that property shall be exempt from the date of the right of possession, except that property acquired by condemnation is exempt as of the date the condemnation petition is filed.

35 ILCS 200/9-185.

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 (3rd Dist. 2000). Thus, it cannot be denied that converting real estate formerly used as a medical clinic into a modern church facility and related parking area⁵ 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). For the following reasons, I conclude that the evidence applicant submitted at hearing does not meet the standard of clear and convincing evidence necessary to prove that the applicant was actually adapting and developing the subject properties for their intended uses at any point during the 2001 assessment year.

A. Overall Viability of Applicant's Project

Notwithstanding any technical limitations that arise by operation of law, this record contains numerous evidentiary deficiencies that cause the instant exemption application to fail. First, although the Application to do Electrical Work (Applicant Ex. No. 8) proves that the applicant filed such an Application on November 29, 2001, the

5. 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.

record does not contain any evidence proving that the City actually issued an appropriate permit in response to this particular permit application. Indeed, the general contractor in charge of applicant's project, Ned Milenkovic, testified that his crews were forced to stop working after they performed some very initial cleanup and other preparatory work in November or December of 2001 precisely because the applicant had not procured the necessary permits. Tr. pp. 26-27, 45-46.

Furthermore, the three permits that the record does contain (Applicant Ex. Nos. 17A, 17B and 17C), were issued pursuant to the permit application that the applicant submitted to the Department of Buildings on February 4, 2002. Applicant Ex. No. 10. One of these permits, Applicant Ex. No. 17A, does specifically authorize the applicant to perform the electrical work necessary to convert the building improvement into a church. However, I must emphasize that this permit was granted on November 17, 2002. Thus, in light of Mr. Milenkovic's testimony, the conclusion I must reach is that applicant did not obtain any of the necessary permits during the period currently under review. Therefore, at the very least, it remained legally impossible for the applicant to perform any of the necessary electrical work throughout this period.

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. To the extent that these constraints obligated the applicant to obtain one or more permits that it did not have during the period under review, the applicant's project was not viable during this period.

The applicant argues that the present inquiry should be expanded to include events that transpired after this period ended on December 31, 2001. Thus, in applicant's view, the "realities of modern construction" practice analysis set forth in Weslin implies that it is appropriate to expand the inquiry in this manner in cases when 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 might be evaluated with some consideration of the events that transpired outside of the period immediately under review. However, the evidence that the applicant presented relative to such events fails to prove that the applicant's project became viable between September 18, 2001 and December 31, 2001.

For example, the permit application that applicant submitted on February 2, 2002 (Applicant Ex. No. 10) contains an addendum which indicates, *inter alia*, that the Department of Buildings would not issue any permits for applicant's project unless and until the applicant resolved an unspecified "Administrative Review" matter. Neither the permit application nor any other evidence of record identifies the precise nature of this "Administrative Review" matter. Nevertheless, it is clear that the applicant's failure to resolve this matter did delay issuance of the necessary permits. Because it remained legally impossible for the applicant to engage in an appropriate level of adaptation and development until the Department of Buildings issued such permits on November 18, 2002, the applicant's project was not legally viable before that date, as a matter of law.

Moreover, the two other significant events that affected the applicant's overall capacity to engage in developmental activity, the fire and the court proceedings relative to the City's Complaint for Equitable and Other Relief, took place well after the period at

issue ended on December 31, 2001. Consequently, absent other explanatory evidence that the record does not contain, neither of these events had any impact on the applicant's capacity to adapt and develop the subject properties for their intended uses during the period currently under review. Thus, consideration of the events that transpired after December 31, 2001 fails to provide any basis for altering any of the conclusions reached above.

B. Financial Issues

Notwithstanding such conclusions, it is noted that the evidence pertaining to the financial viability of the project in question does not rise to the level of clear and convincing evidence that is necessary to sustain the applicant's burden of proof. As an initial matter, 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 for a finding of exempt use. While the applicant is technically correct in making this assertion, the Weslin court did specifically base 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 proving that the financial aspects of its project are in order.

The statement of financial position submitted as Applicant Ex. No. 15 describes the applicant's financial position only as of the year ended December 31, 2000. Consequently, as a technical matter, this statement does not contain any information that is relevant to this case. People ex rel. Tomlin v. Illinois State Bar Ass'n, *supra*. Even if it did, the accountant who prepared the statement made the following written declaration in his introduction thereto:

I have compiled the accompanying statement of financial position of Christian Assembly as of December 31, 2000, and the related statement of activities for the year then ended, in accordance with standards established by the American Institute of Certified Public Accountants.

A compilation is limited to presenting, in the form of financial statements, information that is the representation of [Christian Assembly's] management. I have not audited or reviewed the accompanying financial statements and accordingly, do not express an opinion or any other form of assurance on them.

Management has elected to omit substantially all of the disclosures (and the statement of cash flows) required by generally accepted accounting principles. If the omitted disclosures were included in the financial statements they might influence the user's conclusions about the organization's financial position. Accordingly, these financial statements are not designed for those who are not informed about such matters.

[Signed]
Lambert H. Kamp, C.P.A.

Applicant Ex. No. 15.

The lack of the reliability of this financial statement impacts negatively in a case where the applicant must satisfy a standard of clear and convincing evidence in order to sustain its burden of proof. People ex rel. Nordland v. Home for the Aged, *supra*; Gas Research Institute v. Department of Revenue, *supra*. This lack of reliability is

compounded by the applicant's failure to include many of the necessary disclosures that would enhance the reliability of the financial statement that Mr. Kamp compiled. Absent these disclosures, this statement does not have sufficient credibility to prove, by the requisite clear and convincing evidence, that the applicant maintained sufficient financial resources to make its project financially viable.

Even if the applicant did in fact maintain such resources, the record lacks cancelled checks or other documentary evidence to competently prove how the applicant applied whatever financial resources it had during the period under review. Both Mr. Milenkovic and the applicant's senior pastor, Luis A. Ruiz, testified that applicant made certain payments pursuant to a construction contract that was admitted as Applicant Ex. No. 7. However, their testimony regarding the payment history of this contract was inconsistent. Tr. pp. 49-51, 73. In fact, Mr. Milenkovic specifically admitted that he could not remember when he received the initial payment of \$41,000.00 called for under the terms of the construction contract. Amidst such testimonial deficiencies, the applicant's failure to submit cancelled checks or receipts that properly document the payment schedule adds yet another layer of insufficient evidence, which, in combination with those detailed above, is fatal to its case.

Based on the above, I conclude that the applicant has failed to clearly and convincingly prove that it was engaging in a level of adaptation and development necessary to exempt the subject properties from real estate taxes for the period under review under the holding in Weslin Properties, *supra*. Therefore, the Department's initial determination in this matter, finding that said properties were not in exempt use, as required by 35 **ILCS** 200/15-40, should be affirmed.

III. Other Use Issues

The applicant also argues, that notwithstanding any Weslin-related issues, the subject property was actually used for “religious” purposes during part of the period under review. Pastor Ruiz testified that applicant held prayer services in the building improvement on Monday evenings between January of 2001 and November of 2001. Tr. pp. 77-78.

As a technical matter, the applicant cannot receive an exemption for any uses it may have made of the subject properties prior to September 18, 2001 because it lacked the “right of possession” required under Section 9-185 of the Property Tax Code. *See, supra* at pp. 7-8. However, notwithstanding any technical limitations that arise by operation of law, there are numerous deficiencies in the evidence that the applicant submitted relative to the prayer services.

The photographs that the applicant submitted of these services (Applicant Ex. No. 6) were not dated. As such, they fail to verify Pastor Ruiz’s testimony concerning the periods during which the applicant held such services. Even if they did, the photographs appear as if the applicant actually used only part of the building improvement for prayer.

Where real estate is used for multiple purposes and can be divided according to specifically identifiable areas of exempt and non-exempt use, it is proper to exempt those parts that are in actual, exempt use and subject the remainder to taxation. Illinois Institute of Technology v. Skinner, 49 Ill. 2d 59, 64 (1971). In this case, however, nothing in Pastor Ruiz’s testimony, the photographs, or any other evidence of record specifically identifies the area wherein the applicant actually held prayer services. Thus, in the absence of proof that identifies this area, either in terms of square footage used or a

percentage of the building improvement as a whole, I must conclude that the evidence applicant presented relative to this alleged partial exempt use is unacceptably conclusory.

Pastor Ruiz further testified that the applicant used “some [unspecified portion] of the office space” (Tr. p. 77) and conducted other church-related functions at the subject property at various times from January of 2001 through November of 2001. Tr. pp. 77-78. Once again, however, the remaining evidence of record fails to provide any information that identifies the specific amount or amounts of space that the applicant used for such purposes. Without these details, the evidence relative to these alleged partial exempt uses does not rise to the level of clear and convincing evidence that is necessary to sustain the applicant’s burden of proof. Therefore, the Department’s initial determination in this matter, denying the entirety of said properties exemption from real estate taxation for the period under review on grounds of lack of exempt use, should be affirmed.

IV. Case Analysis and Summary

The holding in Mount Calvary Baptist Church v. Zehnder, 302 Ill. App. 3d 661 (1st 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 15-40.⁶ 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.

6. 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.

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.” (emphasis added) Mount Calvary at 669. Here, none of the subject properties were used for “religious” purposes prior to the period currently in question because they were the site of an unused medical facility before the date on which applicant purchased said properties, September 18, 2001. Therefore, this case is quite different from Mount Calvary in that the lack of exempt use herein is not attributable to any type of “interruption” in a *pre-existing* exempt use.

Applicant nonetheless argues that this case is similar to Mount Calvary in that the applicant’s capacity to use the subject properties for their intended purposes was severely curtailed by structural damage from a fire. The building improvement at issue in this case did in fact sustain such damage. Applicant Ex. Nos. 12, 13. However, the fire that caused this damage did not occur until April 11, 2002.

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 (4th Dist. 1980). Therefore, the fact that the building improvement sustained fire damage in a tax year *subsequent* to the one currently at issue is irrelevant to this case in the first instance and fails to establish the type of interrupted use necessary to obtain an exemption under Mount Calvary in the second.

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 (1st Dist. 1977) (“Olsen”) and Lutheran Church of the Good Shepherd of Bourbonnais v. Illinois

Department Of Revenue, 316 Ill. App.3d 828, 834 (3rd 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. Thus, applicant’s reliance on Lutheran Church is misplaced.

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 for a period wherein it was legally impossible for the applicant to develop the subject properties for their intended use. More importantly, to the extent that I must resolve all unproven matters in favor of taxation. (People ex rel. Nordland v. Home for the Aged, supra; Gas Research Institute v. Department of Revenue, supra), and this record contains numerous evidentiary deficiencies in the proofs that the applicant submitted, the ultimate conclusion I must reach is that this record simply does not support a finding of exempt use. 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.

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: 3/24/2004

Alan I. Marcus
Administrative Law Judge

APPENDIX I

LIST OF PARCEL INDEX NUMBERS

ADMINISTRATIVE HEARINGS DOCKET # 02PT0067

CHRISTIAN ASSEMBLY RIOS DE AGUA VIVA

15-14-432-016

15-14-432-017

15-14-432-018

15-14-432-019

15-14-432-020