

**PT 05-36**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

---

---

<b>CENTRAL ILLINOIS TRIBAL COUNCIL CHIPPEWA BAND Applicant v.</b>	<b>A.H. Docket # 04-PT-0055</b>
<b>THE DEPARTMENT OF REVENUE OF THE STATE OF ILLINOIS</b>	<b>Docket # 04-92-25 Parcel Index # DOL 4860</b>
	<b>Barbara S. Rowe Administrative Law Judge</b>

---

---

**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue.

**Synopsis:**

The hearing in this matter was held to determine whether Vermilion County Parcel Index No. DOL 4860 qualified for exemption during the 2004 assessment year.

Mr. John "Chief AJ" Huffer and Mr. Paul Lampley, Deputy Chief, of the Central Illinois Tribal Council Chippewa Band, (hereinafter referred to as the "Applicant") were present and testified on behalf of Applicant.

The issues in this matter include, first, whether Applicant was the owner of the parcel during the 2004 assessment year; secondly, whether Applicant is a religious or charitable organization; and lastly, whether Applicant used the parcel for religious or charitable purposes during the 2004 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the property remain on the tax roll for the 2004 assessment year. 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 Vermillion County Parcel Index No. DOL 4860 did not qualify for a property tax exemption for the 2004 assessment year was established by the admission into evidence of Dept. Ex. No. 1<sup>1</sup>. (Tr. p. 5)

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

3. The Applicant acquired the subject parcel by a Quitclaim Deed dated November 25, 2003. The property was donated to the Applicant. (Dept. Ex. No. 1; Tr. pp. 16-17)

4. Applicant was incorporated under the Illinois Not For Profit Corporation Act on November 20, 2004. (Dept. Ex. No. 1)

5. I take administrative notice that Article four of Applicant's Articles of Incorporation states that the purposes for which the corporation is organized are: "To act as a charitable and educational organization for the betterment of native Americans." (Admin. Notice)

6. "Chief AJ" John Huffer and the Native American Christian Church, Tuscola, Illinois entered into a partnership with the New Church Establishment Committee of the Christian Church (Disciples of Christ) in Illinois and Wisconsin on February 28, 2004. Training

---

<sup>1</sup> The transcript and exhibit have Docket No. 04-PT-0014. The correct docket number for this case is 04-PT-0055.

for the New Church Ministry Team Planters and Coaches was also held in February. (Dept. Ex. No. 1; Applicant's Exhibits F, G)

7. On February 28, 2004, John Huffer was granted a license by the Regional Ministry Committee to serve as a minister of the Gospel as CCIW<sup>2</sup> New Church Pastor Developer, Tuscola, Illinois to perform all the duties which normally pertain to the Christian ministry. The license is valid for one year from the date of issue. (Dept. Ex. No. 1; Applicant's Ex. E; Tr. pp. 18-20)

8. On May 1, 2004, twenty-six people signed the "Native American Christian Church Charter" that states:

We believe that Jesus is the Christ the Son of the Living God. We have been buried with Jesus in the watery grave of baptism and have risen with Him to walk in newness of life. On this First Day of May in the year of our Lord, 2004 we the undersigned have come together to form this congregation of equals in Jesus to worship and glorify His name above all others. (Applicant's Ex. D)

9. The state addresses listed for the signers of the charter were Illinois, Arkansas, Missouri, and Arizona. (Applicant's Ex. D)

10. The Applicant is exempt from the payment of Federal Income Tax because the Internal Revenue Service has determined that it qualifies as a charitable organization under Section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 1)

11. The subject property was at one time ancestral land of the Indians. The land is vacant. Applicant intends to have annual outdoor activities of Native American Culture appreciation including teaching canoeing to the youth on a lake adjacent to the subject property. Land use would include Native American Christian meditation. (Dept. Ex. No. 1)

12. On August 31, 2004, Applicant's tribe rededicated the land at issue. Applicant

---

<sup>2</sup> It was not explained what the initials stand for.

held training in archery for two young men on that day. The youths also helped clean up the underbrush. (Applicant's Ex. C; Tr. pp. 18, 22-23)

13. Applicant's use of the land is for "natural training of the youths more than just religious." Applicant held three "tribal events" on the property in 2004. (Tr. pp. 14, 18, 22-23)

14. Applicant was advised that an attorney could represent it in this matter. It chose to proceed without counsel. (Tr. pp. 6-7)

**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 are the religious and charitable exemptions. The religious exemption is 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) orphanagesqualifies for exemption as long as it is not used with a view to profit. . . .

Also at issue is the provision found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) Institutions of public charity.
- (b) Beneficent and charitable organizations incorporated in any state of the United States, . . .
- (c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, . . .

Illinois courts have long refused to apply the charitable exemption absent suitable evidence that the property in question is owned by an "institution of public charity" and "exclusively used" for purposes which qualify as "charitable" within the meaning of Illinois law. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 139, 156 (1968). They have also ascribed to the following definition of charity originally articulated in Crerar v. Williams, 145 Ill. 625, 643 (1893) which states: "a charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare - or in some way reducing the burdens of government." In determining what is charitable use of property, courts consider the following factors:

1. Whether the benefits derived from the property are for an indefinite number of persons;
2. Whether the property benefits the public in such a way as to persuade them to an educational or religious conviction, for their general welfare;
3. Whether the property benefits the public in such a way that it reduces the burdens of government;
4. Whether the organization has no capital, capital stock, or shareholders and earns no profits or dividends;
5. Whether the organization's funds are derived mainly from public and private charity;
6. Whether such funds are held in trust for the objects and

purposes expressed in the organization's charter;

7. Whether the organization dispenses charity to all that need and apply for it;
8. Whether the organization provides gain or profit in a private sense to any person connected with it;
9. Whether the organization places obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed; and
10. Whether the exclusively (primary) use of its property is for charitable purposes. Methodist Old Peoples Home v. Korzen, *supra*, at 156-57.

These factors are not requirements, but are guidelines that are considered in assessing an organization's charitable status. Du Page County Board of Review v. Joint Commission on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 468 (2<sup>nd</sup> Dist. 1995) (*leave to appeal denied*, 164 Ill. 2d 561)

The subject property was donated to the Applicant. It is vacant land. Applicant held three events on the property in 2004. Applicant eventually intends to have training or camps for adults and children to teach them basic Indian beliefs. (Tr. pp. 8-9)

Applicant supplied no financial data or any other information regarding membership, standards, or any other criteria to explain exactly what the Applicant is and does. Although Chief Huffer was granted a license to serve as a minister of the Gospel, no evidence of church services was provided. The only evidence of record of activities taking place on the subject property were pictures of Chief Huffer with two young men standing in a vacant field and holding a sign that said Central Illinois Chippewa Band. The other pictures showed the two youths with bows and arrows shooting at a stuffed deer and using a weed-whacker. (Applicant's Ex. C) The land was overgrown.

The Illinois appellate court found that a church owned building which 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). Although Chief Huffer is a licensed minister, the witness for Applicant admitted that the primary use of the property was for training of youths rather than religious. 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. Although Applicant intends to eventually have camping and training opportunities on the property, it has not established that happened in 2004 or that those would be religious or charitable activities.

As Applicant has not established that it is a charitable or religious organization as envisioned by the statutes, or that any charitable or religious use occurred on Vermilion County Parcel Index No. DOL 4860 in 2004, it is recommended that the property remain on the tax rolls for the 2004 assessment year.

Barbara S. Rowe  
Administrative Law Judge  
October 7, 2005