

**PT 05-4**  
**Tax Type: Property Tax**  
**Issue: Religious Ownership/Use**

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

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**NEW WINE FELLOWSHIP**  
**Applicant**

**v.**

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

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**A.H. Docket # 03-PT-0046**  
**Docket # 03-54-03**

**Parcel Index # 54-08-030-034-000**

**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. George Logan, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. Jon Wright, Assistant State's Attorney of Logan County; Ms. Shirley Barry appeared *pro se* for New Wine Fellowship.

**Synopsis:**

The hearing in this matter was conducted to determine whether Logan County Parcel Index No. 54-08-030-034-00 qualified for exemption during the 2003 assessment year. Shirley Barry, treasurer of New Wine Fellowship, (hereinafter referred to as the "Applicant" or "New Wine") and Bob Armstrong, developer and consultant for New Wine were present and testified on behalf of Applicant.

The issue in this matter is whether the parcel was used or sufficiently adapted by New Wine for religious purposes to qualify for a property tax exemption in the 2003 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 and conclusions 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 Logan County Parcel Index No. 54-08-030-034-00 did not qualify for a property tax exemption for the 2003 assessment year were established by the admission into evidence of Dept. Ex. No. 1. The property is a 3.66 acre parcel. (Dept. Ex. No. 1; Tr. p. 9)

2. The Department received the request for exemption of the subject parcel from the Logan County Board of Review. The board recommended denying the exemption because the property was found not to be in exempt use. The Department agreed with the Logan County board and denied the requested exemption finding that the property was not in exempt use. (Dept. Ex. No. 1)

3. I take administrative notice of the decision rendered in Docket No. 00-PT-0043 for the subject property wherein it was decided that there was not sufficient adaptation of the subject parcel to qualify for a religious property tax exemption in the 1999 and 2000 assessment years.

4. I take administrative notice of the decision rendered in Docket No. 03-PT-0022 for the subject property wherein it was decided that there was not sufficient adaptation of the subject parcel to qualify for a religious property tax exemption in the 2001 assessment year.

5. I take administrative notice of the fact that New Wine has been granted religious use property tax exemptions pursuant to Docket Nos. 85-54-5 and 96-54-9 for properties and for tax years other than the one at issue.

6. Applicant acquired the subject property in 1999 to construct its new church building. When the property was purchased it was vacant land. New Wine's expenses for 2003

of \$48,926 included payments for a water main extension, a surety Bond – License and Permit, and seed mix. Applicant’s total expenses for the property at the end of 2003 were \$211,855.48. The total expenses include fees paid to an engineering company, a publicity sign service, and a consulting service. (Applicant’s Ex. Nos. 1-7)

7. New Wine has chosen to erect the church in phases. New Wine decided to proceed in phases so that the church can be completed without having to take out a loan or mortgage. New Wine, at the time of the hearing, had \$332,000 in its building fund and pledges for an additional \$400,000. Applicant estimates the project will cost a total of \$2,000,000 when it is completed. (Tr. pp. 15-19)

8. Phase I is adapting the land. It includes getting water to the property and erecting the entrance. Phase II is actually erecting the building. The building hopefully will have an educational and administrative wing, as well as the sanctuary. Phase III is the finishing and beautification of the building. New Wine believes it has completed Phase I and is in the planning stages of Phase II. (Tr. pp. 16-17, 26-27)

9. New Wine’s building committee, over the years, has changed its mind about the type of structure to be put on the subject property. At the time of the hearing a pre-cast concrete, rather than the steel building previously preferred, was anticipated to eventually be erected on the property. Applicant has no firm commitment as to the type of building to be erected. No final plans for the building or layout were approved by the building committee in 2003. (Tr. pp. 12-13, 18, 25-26)

10. Applicant is basically “still in the fund-raising stages and still headed toward building and working with our Building Committee.” (Tr. p. 13)

11. There are no religious services being held on the property. (Tr. p. 15)

12. Applicant was advised that it could be represented by an attorney in this matter. It

chose to proceed *pro se*. (Tr. p. 10)

**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. In 2003, a portion of that statute stated:

- (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.

Pursuant to Docket Nos. 85-54-5 and 96-54-9, the Department has determined that New Wine is a religious organization that qualified for property tax exemptions for religious use of properties other than the one at issue.

The issue herein is whether there was sufficient adaptation of the subject property by New Wine for religious use in 2003 to qualify for a property tax exemption. Illinois Courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.

App.3d 572 (1<sup>st</sup> Dist. 1977); Weslin Properties Inc. v. Department of Revenue, 157 Ill. App.3d 580 (2<sup>nd</sup> Dist. 1987) and Lutheran Church of the Good Shepherd of Bourbonnais v. The Department of Revenue, 316 Ill. App.3d 828 (3<sup>rd</sup> Dist. 2000).

In Lutheran Church of the Good Shepherd, *supra*, the church had purchased land next to its exempt church property for use as additional churchyard and recreational areas. The court found that the church had ceased its leasing of the property for planting agricultural products and the parcels had been mowed and tilled for planting grass seed for those specific purposes. The court found that to be sufficient adaptation for granting a property tax exemption as religious use of the property.

Weslin Properties, *supra*, concerns the construction of a multi-million dollar hospital. In 1980 Weslin began to study ways to expand and continue its provision of health services. In 1981 it employed long-range planning consultants who recommended buying the 30-50 acres for the planned construction. In 1982 a second consultant was hired to make in-depth studies of health care needs and a financial feasibility study. In 1983, Weslin's board recommended buying the 24.309 acres; the board approved the purchase for \$2,197,000.00; Weslin met with architects to develop a master site plan and schematic drawings; an ad hoc planning committee approved the plan; and the physical adaptation of the property was begun with landscaping and the construction of berms. In 1984 the construction manager was hired, the final design and changes were completed, and the ground breaking ceremony was held. The urgent care center was completed in 1985. The court found that there was sufficient development and adaptation to grant the exemption for the urgent care center for 1983.

New Wine has significantly less adaptation and development in 2003 than was shown in either Weslin or Lutheran Church of the Good Shepherd. Although New Wine's property was purchased in August 1999, New Wine was still not sure what type of building would be on the

property on the day of the hearing.

The only thing completed on the property by the day of the hearing was the street entrance and the water main extension. No religious activities take place on the property. As of the date of the hearing, New Wine had not raised sufficient funds to complete the project and had no firm commitment regarding the structure to be placed on the property. New Wine intends to ultimately use the property for a religious sanctuary, educational and administrative area.

In Illinois Institute of Technology v. Skinner, *supra*, the court granted an exemption for a portion of a 107-acre tract used by the school for educational purposes. In denying an exemption for the rest of the property the court stated:

In arguing that the entire tract should be exempt, plaintiff proposes that its intention to develop in the future a complete satellite campus, fully utilizing the entire 107 acres, should qualify the property for exemption. However, the constitution and statute permit exemption only on the basis of a qualifying use. We have often held that property must be in actual use for the exempting purpose, to qualify for exemption. “(E)vidence that land was acquired for an exempt purpose does not eliminate the need for proof of actual use for that purpose. Intention to use is not the equivalent of use.” *Id.* at 64.

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).

Initially New Wine planned to have a Bible School, visiting minister apartments and fellowship area on the parcel at issue. Over the years, other properties have been acquired and

New Wine's needs have changed regarding the uses of the property at issue. Applicant, at the prior hearing for this same parcel, pursuant to Docket No. 00-PT-0043, submitted what it called final architectural plans. However, as of the date of the hearing in this matter, New Wine's treasurer testified that New Wine was still unsure about the specific structure that would be erected on the property and New Wine's building committee was still considering different options. Also in Docket No. 00-PT-0043, New Wine anticipated construction to begin in August 2001. Construction, as of the date of the hearing, had yet to commence.

I find that New Wine's use of the property during 2003 was a speculative rather than the specific use for exempt purposes as necessitated by the Illinois Constitution and statutes and illustrated in Weslin, *supra*, and Lutheran Church of the Good Shepherd, *supra*.

For the foregoing reasons, it is recommended that Logan County Parcel Index No. 54-08-030-034-00 remain on the tax rolls for the 2003 assessment year and be assessed to New Wine, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
January 28, 2005