

PT 06-20
Tax Type: Property Tax
Issue: Charitable Ownership/Use

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

SPORTING FUTBOL CLUB
Applicant

v.

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

A.H. Docket # 04-PT-0020
Docket # 03-72-103
PI # 152-09-23-301-002 (part of)

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kenneth R. Eathington, Husch and Eppenberger, LLC, for Sporting Futbol Club; Mr. Kent R. Steinkamp, Special Assistant Attorney General, for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held to determine whether part of Peoria County Parcel Index No. 152-09-23-301-002 qualified for exemption during the 2003 assessment year.

Mr. Edward Smith, President of the Sporting Futbol Club (hereinafter referred to as the "Applicant", "SFC" or the "Club"), was present and testified on behalf of Applicant.

The issues in this matter include whether the Applicant is a charitable organization and whether the Applicant used the parcel for charitable purposes during 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 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 a part of Peoria County Parcel Index No. 152-09-23-301-002 did not qualify for a property tax exemption for the 2003 assessment year were established by the admission into evidence of Dept. Ex. Nos. 1 through 3. (Tr. p. 9)

2. The Department received the request for exemption for a portion of the subject parcel from the Peoria County Board of Review. The Board made no recommendation “due to the lack of clarity of ‘charitable use’” of the property. The Department denied the requested exemption finding that the property was not in exempt ownership and not in exempt use. (Dept. Ex. No. 1)

3. Applicant acquired the subject parcel by a warranty deed dated September 30, 2002. (Dept. Ex. No. 1)

4. The subject property is a 48.944-acre outdoor athletic and recreational facility with approximately 20 soccer fields and areas for parking. Applicant has added drainage, grading and installed lights. There are no buildings on the property. (Dept. Ex. No. 1; Tr. pp. 18-20)

5. Applicant was incorporated under the General Not For Profit Corporation Act of the State of Illinois. According to the Articles of Amendment to Applicant’s Articles of Incorporation filed with the Illinois Secretary of State on February 6, 1995:

This organization is organized exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

No part of the net earnings of the corporation shall inure to the benefit of or be distributable to its members, trustees, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth herein. No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the corporation shall not participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code.

Upon the dissolution of this corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code (or corresponding section of any future tax code), or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes. (Dept. Ex. No. 2)

6. Applicant is exempt from the payment of federal income tax pursuant to a determination by the Internal Revenue Service that it qualifies under section 501(c)(3) of the Internal Revenue Code. (Dept. Ex. No. 1)

7. Applicant has been granted an exemption from Illinois sales and use taxes pursuant to a determination by the Department, dated November 8, 2002, that it is organized and operated exclusively for charitable purposes. (Dept. Ex. No. 2)

8. The amended and restated bylaws of the Club, adopted November 30, 1999, at §§ 4 and 5 to state:

Section 4. Purpose

The Club's purpose is to provide training to dedicated soccer players. In their training techniques, the Club's coaches shall provide equal emphasis to sportsmanship and playing proficiency. While conducting the affairs of the Club, coaches, directors, team managers, referees, and other involved individuals shall always strive to make decisions that are in the best interest of the players and the game of soccer.

Section 5. Purpose of Restated Bylaws

As a result of the Club's growth, the members of the Club's existing board of directors recognize the need to adopt a set of revised procedures to facilitate the efficient operation of the Club. Effective November 30, 1999, these bylaws replace any prior rules or procedures previously adopted (whether or not in writing) by the Club. (Dept. Ex. No. 2)

9. The Club does not require a formal application for membership. Applicant's membership is comprised of the members of the Club's competitive or recreational teams, parents of children that participate in the Club, directors or officers of the Club, referees that work for the Club, coaches, and any other volunteers for the Club. All voting rights vest solely in the team managers who elect the directors¹. The directors by majority vote may suspend or expel a member for cause after a hearing. (Dept. Ex. No. 2)

10. The officers and team managers of Applicant are all volunteers. (Tr. p. 34)

11. The SFC Amended and restated bylaws state that the board of directors manages the affairs of the Club. Each member of the board is an officer and there are no other officers. The 7-member board of directors consists of the President, Executive Vice-President, Secretary, Treasurer, Director of Coaching, Vice-President of Financial Management and Vice-President of Facilities Management. Each director serves for a two-year term. The team managers elect the

¹ There was conflicting testimony that Applicant has a board of directors and a slate of 6 officers. They are directly responsible for the oversight of the club. Managers of each team are part of the board of directors. They "have voting rights as well on behalf of the parents and players." (Tr. p. 16)

board of directors at a meeting in June of odd numbered year. The board of directors meets monthly except in July and December. Directors do not receive any stated salaries for their services but may serve the Club in other capacities that are compensated. (Dept. Ex. No. 2)

12. The Director of Coaching is responsible for the development of the Club's players and coaches. The Director may appoint one or more head coaches and assign the duties of the coaching staff. The Director has final authority on all matters relating to the appointment of coaches to teams, selection of team managers, and the assignment of players. (Dept. Ex. No. 2)

13. The Club does not issue certificates of membership. The board of directors may determine the amount, if any, that the Club will charge as an initiation fee and the amount, if any, of the annual dues payable to the Club by its members. If the board provides for the payment of fees or dues, the failure to pay dues shall be grounds for termination of membership. (Dept. Ex. No. 2)

14. Players who participate in the Club's activities fill out a registration form. The form for the year at issue is entitled "SPORTING FC TRAVEL PLAYER REGISTRATION 2003-2004 SEASON." The form requires the player's name, address, father and mother's names, and other relevant information. The form explains the fee structure, liability waiver, medical release, and "Parent Involvement Policy." By signing the form, the parent agrees to the fee structure, the terms of the liability waiver and medical release and, unless electing the volunteer hours "buy out", agrees to the parent involvement policy. (Dept. Ex. No. 1)

15. The "Parent Involvement Policy" requires each player have a 10-hour volunteer commitment from a parent for regular maintenance work during the outdoor season and a minimum of two hours volunteer commitment time per player (maximum four hours) at SFC tournaments. If this commitment is unfilled, the club is authorized to bill the parents at the rate

of \$20 per hour. A parent may choose to “buy out” from the maintenance commitment for \$200 per player. This does not dismiss the obligation for the tournament commitment. (Dept. Ex. No. 1)

16. Applicant’s Club has 19 traveling teams, each based upon age. Roughly 14 players are on each team. Each team practices a minimum of two times a week for two hours. The teams also play games on the subject property and each game is approximately one hour long. (Tr. p. 21)

17. Teams for players ages 11 or younger have a maximum number of 14 players. Teams of players 12 and older have a maximum of 18 players. (Tr. p. 39)

18. Applicant’s teams consist of about 275 players. Parents of players must put in 14 hours volunteer time to mow grass, pull weeds, and put up nets as part of membership. The obligation is for 10 regular hours and 4 hours for the tournaments. (Tr. pp. 20, 33)

19. SFC is more than just a soccer club. It has professional coaches assigned to each team that are paid to teach soccer. (Tr. p. 17)

20. Traveling team soccer is distinguished from recreational soccer on the basis of commitment and coaching. Recreational soccer is generally taught by concerned parents for a relatively short period of time and is handled through a park district or church group. Travel or competitive soccer, which Applicant’s members play, takes the recreational soccer player and develops and trains that player to play soccer in high school and beyond. (Tr. p. 38) (testimony of Ed Smith, Applicant’s president)

21. The primary importance of Applicant’s program is training the player. (Tr. p. 39) (testimony of Ed Smith)

22. The benefits of membership in SFC are that member’s children receive year-

round coaching in soccer foot-skills and tactical play. Children of members participate in league play with other downstate soccer teams and compete in six to eight tournaments a year. Members receive discounts on the indoor "footskills" development training and member's teams have access to the property at issue "that will always be available for soccer purposes." (Dept. Ex. No. 1)

23. Applicant holds advertised tryouts during the first part of the year. Applicant can only roster 14 or 18 members per team. (Tr. pp. 39-40)

24. In order to be rostered on a team a soccer player must be good enough. (Tr. p. 40)

25. Each team might play 20 games a session or 40 games a year. (Tr. pp. 21-22)

26. Applicant runs two weekend tournaments each year; one in the spring and one in the fall. Typically 150 teams participate in the spring and 100 in the fall. The teams come from a six-state radius with children aged 8 through 19. Typically each team will play a minimum of three games-the younger teams play 4. Children 11 and older play a Round Robin tournament and if they progress may play four or five games in the weekend. (Tr. p. 26)

27. Applicant has tournament coordinators and a tournament director that has a working party of up to 300 volunteers to run the tournament. (Tr. pp. 33-34)

28. The basic player fee is \$320 for a full year and \$230² for a high school player. The fees cover the head coaches' fees, team coaches' fees, mileage to and from practices and league games, CIYSL³ registration and referees, and team administration. The fee does not include uniforms; indoor developmental programs; tournament entry fees; coaches' tournament

² The fee amounts were taken from the travel player registration form for 2003-2004. Applicant's president testified that there is a \$350 annual fee for players through the age of 13 and \$320 for older players in High School who can only play ½ season. (Tr. pp. 32-33) It is unclear during what season those amounts were charged.

³ This acronym was not explained.

travel expenses; or any indoor tournaments, practice time or league play. (Dept. Ex. No. 1; Tr. pp. 32-33)

29. Applicant has a fee waiver policy. The blank “SPORTING FC TRAVEL PLAYER REGISTRATION 2003-2004 SEASON” form and the “SPORTING FUTBOL CLUB WINTER INDOOR INSTRUCTIONAL SOCCER LEAGUE Information and Registration Form for 2003-2004” questionnaires had in bold print “Fee waivers are available.” Call and ask for an “Application for Fee Contribution.” (Dept. Ex. No. 1)

30. The blank 2003-2004 “APPLICATION FOR FEE CONTRIBUTION” requests the names of the parents of the child participating in the program and what fees the parents wish to have waived. In support of the waiver, the parent must agree that without the fee waiver the “child would be unable to play soccer at a competitive level that is commensurate with his or her skill and potential.” The family income must be disclosed and either copies of paycheck stubs or W-2 forms are necessary for verification of the income amount. In order to qualify for the contribution/waiver, the parents must agree to volunteer for a minimum of 20 additional hours⁴ a year. The parent must understand that the Club is not in the position to contribute the entire cost associated with playing competitive soccer for every child and accordingly agrees to pay a certain amount for its share of the soccer expenses. (Dept. Ex. No. 1)

31. The scholarships and fee waiver policy is communicated through team managers who identify struggling parents and provide an application form. Parents, if they choose to apply for a scholarship, must submit the form to the Club. The Vice President of Financial Management analyzes the request. Once approved, it is then brought to Applicant’s board for final approval. (Tr. pp. 34-35)

32. Other organizations use the property in question including the Illinois Youth

⁴ Beyond the ten currently required of all parents.

Soccer Association for their Olympic Development program and local school districts for their school teams. Applicant receives rent for that use. (Dept. Ex. No. 1; Tr. pp. 22-25)

33. SFC also runs a winter instructional soccer league at the Midwest Sports Complex⁵ in Mossville, Illinois. The league runs from December through March for \$55 per session. The league is for five to ten year old players. In addition, SFC has its Skills Development Program from December through March, for players aged nine through high school at the Midwest Sports Complex. The cost is \$60 per semester for SFC players and \$75 for non-SFC players. (Dept. Ex. No. 1)

34. Applicant's profit and loss statement for January through December 2003 discloses: income from instructional league fees - \$5,545.00; general income - \$11,557.00⁶; tournament fees - \$125,073.77⁷; traveling team fees - \$127,018.38⁸; contributions and grants - \$6,535.00⁹; developmental fees - \$34,292.50¹⁰; sportswear sales - \$ 3,929.00; interest income - \$1,307.50; and concession income - \$1,966.99 for total income of \$ 317,225.14. (Applicant's Ex. No. 2)¹¹

35. From the same document, Applicant's expenses for the same time period show: instructional league expenditures - \$3,907.50¹²; general overhead expenditures - \$ 67,264.64¹³;

⁵ The complex is not on the property in question.

⁶ This category includes banquet, club administration and field rental income.

⁷ This category includes income from concessions, entries, sponsors, hotel rebates, vendor space rental and vendor sales commissions.

⁸ This category includes the subheadings of sponsors, team fees, misc./fundraising, tournaments and indoor fees.

⁹ Included in this amount are contributions for the Yomi John Memorial field and the Yomi John memorial scholarship.

¹⁰ This category contains fees for club teams, public and other developmental fees. The categories were not explained.

¹¹ This exhibit was admitted into evidence without objection, foundation or explanation. (Tr. p. 11)

¹² This category includes equipment, facility rent, coaching fees and league t-shirts.

¹³ This category includes insurance, postage and delivery, printing and reproduction, professional, telephone, office supplies, scholarship - \$1,325.00, miscellaneous, facility rent, electric utilities, depreciation, interest, promotions, website, building maintenance, banquet, wages and related expenses.

tournament expenditures - \$71,026.01¹⁴; traveling team expenses - \$139,290.39¹⁵; field operations costs - \$11,800.69¹⁶; developmental expenses - \$16,600.44¹⁷; cost of sportswear sales - \$3,941.45; coaching staff expenses - \$6,100.00; and concession expenses - \$510.47 for expenses totaling \$ 320,441.59. This equals a net income loss of \$3,216.45. (Applicant's Ex. No. 2)

36. The Club's Balance Sheet as of December 31, 2003 states:¹⁸

ASSETS

Current Assets

Checking/Savings

1100 · Checking Account	27,520.00
1200 · Savings	26.22
1202 · Money Market – Club	45,083.16
1203 · Money Mkt – Yomi John Mem Field	3,019.31
1204 · Yomi John Scholarship Fund	<u>698.52</u>

Total Checking/Savings 76,347.81

Other Current Assets

1300 · Sportswear	716.50
1700 · Prepaid Expenses	950.00
1720 · Prepaid Rent	<u>6,387.37</u>

Total Other Current Assets 8,053.87

Total Current Assets 84,401.68

Fixed Assets

1550 · Computer and Software	4,335.80
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¹⁴ This category includes the subheadings: awards, concessions, equipment rental, IYSA application fees, mailings, medical, miscellaneous, program, ref fees and expenses, supplies, ref assignor fee; porta potties, building rental and parking expense.

¹⁵ This category consists of coaches expenses of \$26,847.43, entry fee expenses of \$42,890.00; uniforms of \$8,860.58 and miscellaneous, CIYSL ref and entry fees; facility fee, development charges, club administration of \$2,996.00; team coach fee of \$22,500.00; indoor field rental; ref assignor fee; and Illowa referee fees.

¹⁶ This category includes equipment rental, repairs, maintenance, team reimbursement of (\$650.00), miscellaneous, seeding and fertilizer, fuel, porta potties, field flags and markers, equipment repairs and maintenance, field paint and goals and nets.

¹⁷ This category includes facility rent, coaching clinics/training, dev coaches fee and travel expenses-head coaches.

¹⁸ Taken verbatim from the document. The Balance sheet as of December 31, 2002 was in evidence as well, but is not relevant.

1601 · Equipment	69,932.98
1610 · Land	313,356.56
1612 · Real Property Improvements	6,270.00
1619 · Accumulated Depreciation	<u>-36,874.17</u>
Total Fixed Assets	357,021.17
Other Assets	
1710 · Easement	<u>25,000.00</u>
Total Other Assets	<u>25,000.00</u>
TOTAL ASSETS	\$ <u>466,422.85</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
2101 · Payroll Liabilities	<u>642.29</u>
Total Other Current Liabilities	<u>642.29</u>
Total Current Liabilities	642.29
Long Term Liabilities	
2400 · Loan Payable to South Side Bank ¹⁹	<u>251,527.91</u>
Total Long Term Liabilities	<u>251,527.91</u>
Total Liabilities	252,170.20
Equity	
3000 · Opening Bal Equity	50.00
3100 · Retained Earnings	217,419.10
Net Income	<u>-3,216.45</u>
Total Equity	<u>214,252.65</u>
TOTAL LIABILITIES & EQUITY	\$ <u>466,422.85</u>

(Applicant's Ex. No. 3)

37. Yomi John was one of the founders of the Club. He played on the Nigerian National Soccer Team and died in 2002. He was one of the area's most revered coaches and

¹⁹ The loan was not explained.

loved children and soccer. In his honor, and in cooperation with his widow, two funds were established to honor his dreams. Those are the Yomi John College Scholarship and Yomi John Memorial Field Fund. Yomi John had a dream of having a championship field for the kids to play on. Applicant has set aside funds to develop a field not currently played upon.²⁰ (Tr. pp. 27-28)

38. Applicant uses parents of its players to call upon local businesses to advertise at its tournaments. In doing so, Applicant sells naming rights. That amount of \$7,270 is listed as sponsorships under tournament fees on its profit and loss statement. (Tr. pp. 29-30)

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)

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

²⁰ It is unknown if that field is part of the parcel in question.

exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill. 2d 272 (1967)

The property tax exemption at issue applies to "institutions of public charity." Our courts have long refused to apply this 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, *supra* at 156. 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 (2nd Dist. 1995) (*leave to appeal denied*, 164 Ill. 2d 561)

“It is Applicant’s position that Applicant qualifies for the charitable exemption pursuant to the court’s holding in Decatur Sports Foundation v. Department of Revenue,”²¹ 177 Ill. App. 3d 696 (4th Dist. 1988). In that case, the Appellate Court found that Decatur Sports Foundation clearly and conclusively showed that it was a charitable organization using the property for charitable purposes.

Decatur Sports Foundation (hereinafter referred to as the “Foundation”) filed an application for a property tax exemption for the 1985 assessment year for a 40-acre sports field complex it owned. The Marvel-Schebler/Tillotson Division of Borg-Warner Corporation (hereinafter referred to as “Borg-Warner”) originally owned the field complex. In 1974, Borg-Warner leased the sports field to Decatur Boy’s Baseball (hereinafter referred to as “Boy’s Baseball”) for \$1.00. In 1979, the Decatur Softball Booster Club, which supported the local men’s fast pitch softball team known as the Decatur A’s, successfully bid to hold the 1980

²¹ Applicant’s BRIEF IN SUPPORT OF EXEMPTION FROM REAL ESTATE TAXES, p. 4. The Department requested the option to file a brief. (Tr. p. 49) The Department did not file a brief.

American Softball Association's national tournament at the field. However, the field was inadequate for the tournament. On April 16, 1979, Borg-Warner Decatur Sports Foundation was incorporated as a not-for-profit entity to take over the improvements and management of the field. The Borg-Warner Decatur Sports Foundation name was changed to the Foundation in 1980. The Foundation's articles of incorporation state that it is organized exclusively for charitable and educational purposes to provide facilities for education, training and participation for baseball, soccer, softball and other sports, for all youth and adults residing in the City of Decatur and Macon County and to encourage and support this by organizing and promoting tournaments and competition.

In 1979, Boy's Baseball assigned its lease to the Foundation. From 1980 to 1990 the lease for the field was \$1.00 per year. The lease contained two 5-year options to renew. The Foundation raised \$40,000 and borrowed another \$170,000 for construction and improvements to the field. Labor and materials were donated for the improvements. Archer Daniels Midland Company (hereinafter referred to as "ADM") guaranteed the \$170,000 note, which the bank agreed would be without interest. In consideration, the Foundation agreed to use its net proceeds to reduce the debt.

In 1980, ADM assumed sponsorship of the men's fast pitch team and the Decatur "A's" became the Decatur ADM. From March 1981 through 1985, the Foundation and ADM had an agreement in which ADM was given the rights to use the well-lit number one diamond pending scheduling of the Boy's Baseball games, which had top priority. ADM received 100% of ticket commissions and a division of concession proceeds, the amount of which was negotiated yearly. ADM was also to buy and install 2,000 aluminum seats pursuant to the agreement.

The Foundation entered into three other agreements regarding the use of the field. One with Decatur BMX Club, Inc., a bicycle riding club, whose use was subject to the provisions of the prior leases. BMX paid its utilities plus \$1 per year for its “license” to use part of the field. BMX agreed to take care of specified areas of the property. The Foundation also entered into a similar “license” agreement with the Decatur YMCA Soccer Club for an annual fee of \$1.00, which was also dependent upon the use of the property by Boy’s Baseball. Another portion of the field was used by a radio-controlled race car group.

On December 5, 1984, Borg-Warner quitclaimed the property to the Foundation. The Foundation’s financial statement for 1984-85 showed that its primary sources of receipts were from: concessions - \$11,314; billboard and field rentals - \$4,975 and contributions. The contributions in 1985 were \$76,117 from ADM, Borg-Warner and A.E. Staley. ADM donated \$55,000 to repay the remainder of the \$170,000 loan it had guaranteed for construction and improvements to the field.

In 1985, Boy’s Baseball used the field for about 500-600 games plus tournaments. About 1,000 boys and girls participated. Games were held four to five nights a week using all six diamonds. Over 1,000 boys and girls also participated in Soccer Club games and the field could accommodate four games simultaneously. The BMX program, involving “hundreds of youth” constructed a track for children’s Sunday bicycle races and the “Pony” baseball organization played several tournaments at the field in 1985. Various other groups used the fields when they were available. The Foundation tried to regularly schedule State and regional tournaments.

In 1985, the men’s fast-pitch team played 25-30 games on diamond No. 1, mostly before and after the Boy’s Baseball season, and on weekends. Both groups scheduled their own games and obtained their own umpires. Volunteers assisted with maintenance, mowing and

concessions. The Foundation did not have enough diamonds to fill the need of the Boy's Baseball games and one-third of them were played in Decatur parks. Only eight games per night could be played on the Field's four unlighted and two lighted diamonds. This totaled 750 games during the Boy's Baseball mid-May to mid-August season. Excluding Little League, there were 398 softball teams in Decatur.

After hearing, the Department denied the requested exemption in Decatur Sports Foundation v. Department of Revenue, *supra*, finding that the Foundation was not a charitable organization and the primary use of the property was recreational, not charitable. The circuit court, relying upon Crerar v. Williams, *supra*, and the guidelines set forth in Methodist Old Peoples Home v. Korzen, *supra*, reversed the decision of the Department and concluded that recreational facilities may be entitled to a charitable exemption, and that the Foundation had proved that the property qualified for the exemption. Citing the requirements of physical education in schools and the creation of the President's Council on Physical Fitness, the circuit court judge ruled that "ADM's large contribution during 1985 did not destroy the charitable nature of the Foundation, as the use of the field by ADM's team was incidental. The court stated that while not all recreational facilities may be charitable, some may be charitable in nature and require a case-by-case determination. The judge concluded the Foundation dispensed charity by providing a facility where other organizations could carry out their goals. This was deemed sufficient to qualify the Foundation as a charitable organization." Decatur Sports Foundation v. Department of Revenue, *supra*, at 896-897

On appeal, the appellate court concluded that the Foundation lessens a government burden by providing additional soccer and baseball fields to the over-crowded Decatur park district facilities and privately supplementing public recreational facilities. Of primary

importance, the court concluded in granting the exemption, is the fact that the Foundation does not require membership in order to use the field. Decatur Sports Foundation v. Department of Revenue, *supra*, at 712

Although SFC asserts otherwise, it is very easy to distinguish the facts in Decatur Sports Foundation v. Department of Revenue, *supra*, from those at issue. The Foundation was formed to take over improvements and management of the baseball fields at issue therein. In this case, SFC's purpose is to provide training to dedicated soccer players by paid professional coaches. SFC operates the fields for its 19 traveling teams. The Foundation raised and borrowed \$210,000 for construction and improvements to the baseball fields. There is nothing in Decatur Sports Foundation v. Department of Revenue to indicate that the Foundation sponsored or managed any of the teams that played on the baseball fields. SFC's board, on the other hand, manages the affairs of the traveling teams and is responsible for the development of the club's managers and players.

The major sources of income for the Foundation were from concession receipts, rentals and contributions that the court found were charitable. The major sources of SFC's income, according to its profit and loss statement,²² are from: Instructional League Fees - \$5,545; General Income of \$11,557.00 which consists of banquet income - \$ 3,986.00, club administration - \$2,996.00 and field rental - \$4,575.00; Tournament Fees of \$125,073.77 which consist of concessions - \$24,898.82, entry fees - \$85,350.00, sponsors - \$7,270.00, hotel rebate - \$1,074.00, vendor space rental - \$900.00, vendor sales commission - \$7,580.95; Traveling Team Fees of \$127,018.38 which consist of sponsors - \$11,072.00, team fees - \$86,239.50, misc/fundraising - \$16,188.41, tournament fees - \$9,344.47, indoor fees - \$ 4,174.00; Contributions & Grants of \$6,535.00 consisting of contributions \$2,800.00; Yomi John

²² Some of the categories are self-explanatory-some are not.

memorial field - \$2,615.00, Yomi John memorial scholarship - \$1,120.00; Developmental Fees of \$34,292.50 consisting of Developmental fees—club teams - \$31,890.00, developmental fees—public - \$2,062.50 and developmental fees—other - \$340.00; Sportswear Sales of \$3,929.00; Interest income of \$1,307.50 and Concession Income of \$1,966.99 for Total Income in the amount of \$317,225.14. (Applicant’s Ex. No. 2) These are not charitable contributions but rather are fees charged by SFC for services rendered and for soccer training it provides to those who qualify athletically and who pay for the training.

Regarding Applicant’s financial information in light of the guidelines of Methodist Old Peoples Home v. Korzen, *supra*, Applicant’s contributions and grants, according to its profit and loss statement from January through December 2003, totaled \$6,535 out of total income of \$317,225.14. That equals 2% of its income for that period. Applicant’s miscellaneous expenses totaled \$5,355.97 and were expenses that were totally unexplained in the eight categories shown on the document. The majority of Applicant’s income comes from tournament, traveling and team fees. Fees charged to members and income from sales are not charitable contributions.

I conclude that the facts at issue are much closer to those in Turnverein “Lincoln” v. Board of Appeals, 358 Ill. 135 (1934). In Turnverein²³ “Lincoln” v. Board of Appeals, the organization was formed for the purpose of “Realization of the principles of humanity and of decisive progress, to be accomplished by fostering all exercises addicted to strengthen physically and mentally.” *Id.* at 138 Turnverein Lincoln was managed by a board of directors, as is SFC. The court said that: “It appears that therefore in many respects the turnverein does not differ essentially from clubs or associations devoted principally to athletics and physical culture.” *Id.* at 142 SFB’s bylaws establish that it is devoted principally to athletics and physical culture.

²³ A Turnverein is defined as “a company or association of gymnasts and athletes”; “an association for the practice of gymnastics according to the system of the Turners,” Turnverein ‘Lincoln’ v. Board of Appeals of Cook County, *supra*, at 142.

In addition, the court in Turnverein “Lincoln” v. Board of Appeals, *supra* found that the income of Turnverein Lincoln came from annual dues of its members, fees charged for the use of its athletic facilities, a percentage of profits from for-profit entities and gifts of its members. Similarly, the majority of the income of SFC is from tournament and traveling fees totaling \$252,092.15. That is 79% of Applicant’s total income of \$317,225.14.

The Methodist Old Peoples Home v. Korzen guidelines advise that benefits of a charitable organization should be derived for an indefinite number of persons, that the organization should dispense charity to all that need and apply for it and the organization should not place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits dispensed. The evidence of record in this matter shows that the scholarship and fee waiver policies are communicated through team managers who identify struggling parents and provide an application to those parents. The specific applications granted in 2003 were not in evidence. Parents, if they choose to apply for a scholarship, must submit the form to Applicant and the Vice President of Financial Management then analyzes the request.

Once the financial officer approves an application, it is then brought to Applicant’s board for final approval. (Dept. Ex. No. 1; Tr. pp. 34-35) The financial officer notifies the scholarship applicant in writing of the Club’s determination and, if the Club has made an award, any conditions that go along with the award. Within 30 days of receiving the determination, a scholarship applicant may appeal the decision to the board of directors, who hear the appeal in executive session at the next regularly scheduled board meeting. The Club respects the confidential nature of the information contained in the application and destroys the application once the determination process is complete. (Dept. Ex. No. 1)

In order to qualify for the contribution/waiver, the parents must to agree to volunteer for

an additional 20 hours of regular maintenance work during the outdoor season. Applicant charges \$20 per hour for those who choose to “buy out” from the maintenance requirement or those who do not fulfill their obligation. There was no information or evidence presented that Applicant waives or reduces fees for its tournaments, uniforms, traveling and other financial obligations a team player would have. Applicant asserted that approx. 4-6 participants a year receive a fee waiver. (Tr. p. 36) (testimony of Ed Smith, Applicant’s president) Applicant submitted a document that asserts that there are 6 children on Club teams that receive a full or partial scholarship for fees. (Dept. Ex. No. 1)

Applicant failed to provide any criteria or guidelines that the financial officer uses to determine if a child qualifies for the scholarship. No forms showing the requests or amounts of waiver or criteria used by the Applicant were in evidence. The basic player fee is either \$320 or \$230. Six players, the number the Applicant asserts received fee waivers in 2003, times \$20,²⁴ times 20 hours equals \$2,400.00. Only \$1,325 was listed for scholarships on Applicant’s profit and loss statement, under the general overhead expense category. Not only is this a negligible amount when divided by the total expenses of \$320,441.59, it is not a true waiver or reduction of fees. Rather, in fact, it is sweat equity of the parents in lieu of money.

Although Applicant asserts it issues no certificates of membership and does not require a formal application for membership, it still has the parents of the players on its 19 traveling teams fill out the Sporting FC Travel Player Registration form. Applicant’s president testified, regarding membership obligations, that “for members of our cub we have two fees.” (Tr. p. 32) In additional testimony, Applicant’s president admitted that “we have stipulated as part of the membership of our organization that each parent is obligated to give us ten hours of normal volunteer time through - - throughout the course of the year and then two hours per player at

²⁴ The “buy out” option allows a parent to pay \$200 for the 10-hour commitment. This equals \$20 per hour.

each one of our tournaments.” (Tr. pp. 20, 33) As Applicant’s president’s testimony in this matter referred to members and membership in SBC, and admitted to obligations and fees associated with those terms, I conclude that Applicant’s team players and their parents are members of the Applicant. Applicant’s membership and requirements are just one more factor to find that the facts herein are closer to those in Turnverein “Lincoln” v. Board of Appeals, *supra*, and less like those in Decatur Sports Foundation v. Department of Revenue, *supra*. In fact, in Turnverein “Lincoln” v. Board of Appeals, the court concluded that “The use of an organization’s property for athletic and social purposes by members who pay dues and by nonmembers upon the payment of fees does not constitute a dedication of the property to charitable purposes.” *Id.* at 145

As Applicant has membership fees and membership tryouts, it cannot be said that Applicant’s benefits are derived for an indefinite number of persons, that the organization dispenses charity to all that need and apply for it or that Applicant does not place obstacles of any character in the way of those who need and would avail themselves of any charitable benefits dispensed, as suggested by the charitable guidelines offered in Methodist Old Peoples Home v. Korzen, *supra*. Applicant admits that its program is for those serious about playing soccer and that its program provides training to dedicated soccer players. Therefore, Applicant’s benefits are not available to all as restrictions are placed on those not talented in the sport. There were no such athletic qualifications or restrictions in Decatur Sports Foundation v. Department of Revenue, *supra*.

Applicant holds advertised tryouts during the first part of the year. It was asserted that virtually anyone who wants to stay with a team might, but Applicant can only roster 14 or 18 members for each team. Although it was asserted that if someone is not talented enough to play

with the group, that soccer player may practice with the team at no charge in order to gain training and test their commitments and development (Tr. pp. 39-40), there was nothing in evidence to support that assertion. In fact, the evidence of record establishes that Applicant is organized to further training of committed talented soccer players that can afford to play the sport. Applicant admits that its program is for those serious about playing soccer and its program provides training for dedicated soccer players. Therefore, not only are the facilities at issue are not available to all who might wish to use them, but anyone not physically talented in soccer would be unable to avail themselves of any charitable benefits that Applicant might provide. Charity is not dispensed to all that need and apply for it and obstacles are placed in the way of those not talented in soccer.

Applicant sells naming rights. Those amounts are listed as sponsorships under tournament fees on its profit and loss statement in the amount of \$7,270. The naming rights allow for identity recognition for financial contributions. I conclude that this money is for advertising rather than sponsorships as asserted.

Based upon the forgoing, I find that SFC has not met the majority of the guidelines of Methodist Old Peoples Home v. Korzen, *supra*, and does not qualify for a property tax exemption as a charitable organization using the property for charitable purposes. It is therefore recommended that the portion of Peoria County Parcel Index Number 152-09-23-301-002 belonging to SFC, remain on the tax rolls for the 2003-tax year and be assessed to the Applicant, the owner thereof.

Barbara S. Rowe
Administrative Law Judge
Date: July 21, 2006