

**PT 06-9**

**Tax Type: Property Tax**

**Issue: Religious Ownership/Use**

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

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**UNIVERSALIST UNITARIAN CHURCH  
OF PEORIA,  
Applicant**

**v.**

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

**A.H. Docket #           04-PT-0061  
P. I. #                   14-30-352-019  
Docket #                04-72-41**

**Barbara S. Rowe  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. Richard E. Grawey, Board Member of Universalist Unitarian Church of Peoria<sup>1</sup>

**Synopsis:**

The hearing in this matter was held to determine whether Peoria County Parcel Index No. 14-30-352-019 qualified for exemption during the 2004 assessment year.

Pastor Michael Brown of the Universalist Unitarian Church of Peoria, (hereinafter referred to as the "Applicant") and Mr. Edward Murphy, treasurer and board member of the Applicant were present and testified on behalf of Applicant.

The issues in this matter are whether applicant used the parcel for religious purposes or was in the process of adapting it for those purposes during the 2004 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemption be granted for the entire 2004 assessment year. In support thereof, I make the following findings of

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<sup>1</sup> Mr. Grawey has withdrawn as counsel for the Universalist Unitarian Church of Peoria.

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 Illinois Department of Revenue (hereinafter referred to as the “Department”), that Peoria County Parcel Index No. 14-30-352-019 did not qualify for a property tax exemption for the 2004 assessment year were established by the admission into evidence of Dept. Ex. Nos. 1, 2. (Tr. p. 9)

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

3. The Applicant acquired the subject parcel by several deeds on October 20, 2003. The parcel was undeveloped and vacant. (Dept. Ex. No. 1; Applicant’s Ex. No. 1, tab 11)

4. The application, signed by a congregant who was Applicant’s attorney at the time, is dated June 1, 2004. In Part 3 number 14 of the application, the Department’s instruction is to “[I]dentify each building’s use, square feet of ground area (SFGA), number of stories, and whether or not there is a basement.” Applicant’s response was “Not Yet Determined.” A site development plan dated June 30, 2004 was included with the application. The proposed church is located in the northern portion of the property. (Dept. Ex. No. 1)

5. The subject property is 12.55 acres. It is a large wooded area with a ravine. (Applicant’s Ex. No. 1, tab 4; Tr. p. 26)

6. On May 10, 2003, after a lengthy congregational meeting, the Applicant adopted, as its long-range plan, the construction of a new church complex on the property in question. The land and construction costs would be financed by the sale of its present property to

Methodist Hospital as delineated in an offer submitted to Applicant on April 24, 2003. The congregation authorized Applicant's board to create a Building Committee to present final design plans to the congregation for approval and implement the plan. Applicant received an initial site plan dated May 28, 2003 from its architects. The proposed church is located in the north-west corner of the property. (Applicant's Ex. No. 1, tabs 2, 5; Tr. pp. 24-25)

7. From August through November 2003, Applicant's land stewardship committee inventoried every form of plant life on the subject property.<sup>2</sup> The land stewardship committee began removing some invasive problematic species in the fall of 2003. The baseline survey of the oak trees on the property was completed by March 16, 2004. Four hundred and forty-two oak trees were identified on the property including White, Bur, Red, Shingle and Pin Oaks. Exotic and aggressive plant species were identified for removal. Those include Tartarian Honeysuckle, Autumn Olive, Japanese Honeysuckle, Garlic Mustard, Multiflora Rose, Common Buckthorn, Black Locust, Osage Orange, Curly Dock and Poison Ivy. A stewardship plan was created by the committee for suggested uses of the entire site by the church. (Applicant's Ex. No. 1, tab 8; Tr. pp. 29-30)

8. On July 15, 2003, the Mayor of Peoria executed Ordinance No. 15495 granting Applicant a special use permit in a residential district for the construction of a church and church facilities on the subject property. (Applicant's Ex. No. 1, tab 5; Tr. pp. 26-27)

9. On July 15, 2003, Applicant executed a "Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services" for a 17,500 square-foot building to be located on the subject property. The budget for the project was approximately \$3,026,126 with architectural fees of \$210,000 included. Occupancy is expected in the summer of 2005. (Applicant's Ex. No. 1, tab 6; Tr. pp. 27-28)

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<sup>2</sup> Over 400 species.

10. On October 17, 2003, Applicant and Methodist Services Inc. executed a purchase agreement wherein Applicant as seller and Methodist Services, Inc. as buyer agreed to purchase Applicant's Church property on Hamilton Street. Applicant would receive \$2,800,000 in relocation costs and \$700,000 as the purchase price. The \$700,000 was paid at the closing of the purchase agreement. Two options for buyer possession of the property were in the document: (Option A) the seller delivers the possession of the property to buyer on or before August 20, 2004; and (Option B) the seller delivers buyer of the property possession by August 20, 2005. The warranty deed was put into escrow until seller demolishes the church building or buyer directs the warranty deed be delivered. (Applicant's Ex. No. 1, tabs 9, 10; Tr. pp. 30-32)

11. Applicant held a land dedication service on the subject property on November 8, 2003. (Applicant's Ex. No. 1, tab 12; Tr. pp. 32-33)

12. The building committee, with unanimous approval of the board of trustees, moved that the congregation of Applicant approve the floor plan, exterior design and site plan proposals presented by the building committee and architects on January 24, 2004. (Applicant's Ex. No. 1, tab 13)

13. In February, 2004, the building committee was developing design specifications with the architect. In March the building committee had completed the design development and in April through May moved on to construction documents and specifications. Construction documents and specifications were sent out for bid on July 2, 2004. The building committee, architects and seven contractors met in a pre-bid conference on July 20, 2004. The president of the board of trustees signed the construction contract on August 23, 2004. (Applicant's Ex. No. 1, tab 14; Tr. pp. 32, 34-37, 45)

14. Construction began on August 31, 2004. The formal groundbreaking ceremony was held September 18, 2004. Through March 31, 2005, progress was on target with the project timeline. (Applicant's Ex. No. 1, tab 14; Tr. pp. 37-38 )

15. Applicant's organ is being restored and will be placed in the sanctuary of the new church. (Applicant's Ex. No. 1, tab 12; Tr. pp. 33-36)

16. The Department concedes that Applicant is a religious organization. (Tr. p. 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 is the religious exemption found at 35 ILCS 200/15-40.

A portion of the statute states:

- (a) Property used exclusively for:
  - (1) religious purposes, or
  - (2) school and religious purposes, or
  - (3) orphanagesqualifies for exemption as long as it is not used with a view to profit.

Both the Applicant and the Department agree that the issue herein is when in 2004 sufficient adaptation occurred on the subject property for it to qualify for a property tax exemption. 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. 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)

Applicant feels that the subject property should qualify for exemption for the entire 2004 tax year (Tr. pp. 46-50) and the Department argues that only when you get final architectural plans should the exemption be granted. (Tr. pp. 50-52) Both parties agree that the seminal case in this area is Weslin Properties, Inc. v. Illinois Department of Revenue, 157 Ill.App. 3d 580 (2<sup>nd</sup> Dist. 1987).

Weslin Properties, Inc. concerns the construction of a multi-million dollar hospital complex. 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 in 1983.

The parcel and church construction at issue herein, while not as extensive as the hospital complex in Weslin Properties, Inc., is still a multi-million dollar project. In Lutheran Church of the Good Shepherd of Bourbonnais v. Department of Revenue, 316 Ill. App. 3d 828 (3<sup>rd</sup> Dist. 2000), the appellate court found that evidence that a church had elected not to plant crops on two church-owned parcels next the church's tax exempt land, and that the parcels had been mowed or tilled in preparation for planting grass seed and as a part of the process of change from agricultural land to use as additional church yard or recreation area, established use of the land for religious purposes, thereby qualifying the property for real estate tax exemption.

In 2003, Applicant and Methodist agreed that Methodist would purchase Applicant's existing church and Applicant would purchase the property at issue. In addition, the architects developed a site plan and the Peoria City Council approved a zoning change for the property. During 2003, the land stewardship committee inventoried all trees and plant species on the site, removed invasive species and began to clear debris. These were necessary steps because the property was heavily wooded. In fact, the architect changed the angle of the building, due to the inventories, to preserve more trees. (Tr. pp. 40-41)

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).

I conclude that Applicant has shown that there was sufficient adaptation of the subject property, based upon ownership, the plant inventories and removal, the zoning change, the monthly progress reports required to be submitted to Methodist Medical Center, and the site plan

modification, based upon the plant inventories, to qualify for exemption for the entire 2004 assessment year.

It is therefore recommended that Peoria County Parcel Index No. 14-30-352-019 qualifies for exemption for the entire 2004 assessment year.

Barbara S. Rowe  
Administrative Law Judge  
February 15, 2006