

PT 05-17
Tax Type: Property Tax
Issue: Charitable Ownership/Use

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

THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	Docket No. 04-PT-0018
v.)	Tax Year 2003
)	Dept. Docket #'s:
ST. MARY'S HOSPITAL OF DECATUR)	03-58-36 through 03-58-39
)	03-58-41 through 03-58-56
Applicant)	03-58-71 through 03-58-84

RECOMMENDATION FOR DISPOSITION

Appearances: George Logan, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Jon D. Robinson of Bolen, Robinson & Ellis for St. Mary's Hospital of Decatur.

Synopsis:

This case concerns whether 34 parcels of property that are located in Macon County and owned by St. Mary's Hospital of Decatur ("applicant" or "hospital") should be exempt from property taxes for the year 2003. The applicant alleges that the property qualifies for an exemption on the basis that it is owned by a charitable organization and used exclusively for charitable purposes. The Department of Revenue ("Department") denied the applications for exemption, and the applicant timely protested the Department's decision. The parties stipulated that the applicant is a charitable

organization. The only issue presented at the hearing is whether the property is actually used exclusively for charitable purposes. The Department denied the exemption on the basis that the applicant has not sufficiently adapted the property for charitable use. For the following reasons, it is recommended that the parcels be exempt.

FINDINGS OF FACT:

1. The parties have stipulated that the applicant is a charitable organization within the meaning of section 15-65(a) of the Property Tax Code. (Tr. p. 38)

2. The 34 parcels at issue in this matter were purchased between the time period of December 1983 through September of 2002. (Applicant's Ex. #1; Tr. pp. 9-10)

3. The 34 parcels are located on the west side of the applicant's hospital. Before the applicant purchased the parcels, personal residences were located on them. (Applicant's Ex. #1; Tr. pp. 8-9)

4. The main entrance for the applicant's patients and visitors is located on the west side of the building. (Applicant's Ex. #1, 2)

5. During 2003, the applicant expanded the parking lot that is on the west side of the hospital and is used by the patients and visitors. The expansion included putting asphalt on 7 of the 34 parcels at issue in this case. (Applicant's Ex. #1; Tr. pp. 11, 24-27)

6. For all of the parcels, the applicant has had to demolish the buildings that were previously on them. The lots have been cleared and cleaned up, and grass has been planted on the 27 parcels that are not part of the parking lot. (Applicant's Ex. #3; Tr. pp. 17-18)

7. The applicant had three reasons for purchasing the lots: (1) to have additional property in order for the applicant to develop and grow; (2) to insure that the property

adjacent to the hospital reflects the image that the hospital wants to portray to the community; and (3) to clean up the area and provide a safe and appealing campus. (Tr. pp. 10-11, 16)

8. Prior to 2003, the applicant had several meetings concerning the development of the 34 parcels. The meetings included the architectural firm of Berners, Shober & Associates. The applicant also hired a consultant from Kurt Salmon & Associates to help develop the plan. In 2003, the applicant completed its long-term plan for the property. (Applicant's Ex. #2; Tr. pp. 12-15)

9. The long-term plan includes eliminating the two boulevards on which the patients and visitors currently reach the parking lot on the west side of the hospital. The applicant intends to have one boulevard that will cover some of the 34 parcels at issue. The reasons for having a single boulevard are that (1) it will provide a clear and accessible route to the hospital; (2) it will be less congested and a safer route; and (3) it will allow the applicant to maximize and better develop the properties to the north and south of the boulevard. (Applicant's Ex. #1, 2; Tr. pp. 14-15, 35)

10. At various locations between the 34 parcels, there are 3 parcels that the applicant does not own. These parcels are privately owned and have personal residences on them. The applicant intends to purchase the 3 parcels in order to complete its long-term plan. (Applicant's Ex. #1; Tr. pp. 15, 19)

11. The applicant continues to maintain all of the lots. (Tr. p. 20)

CONCLUSIONS OF LAW:

The provision of the Property Tax Code (35 ILCS 200/1-1 *et seq.*) that allows exemptions for charitable purposes provides in relevant part 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. * * *. (35 ILCS 200/15-65(a)).

Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill.2d 139, 156-57 (1968). If the primary use of the property is charitable, then the property is “exclusively used” for charitable purposes. Cook County Masonic Temple Association v. Department of Revenue, 104 Ill.App.3d 658, 661 (1st Dist. 1982). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill.App.3d 794, 796 (3rd Dist. 1987).

It is well-established that property tax exemption provisions are strictly construed in favor of taxation. Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill.2d 263, 271 (1996). The party claiming the exemption has the burden of proving by clear and convincing evidence that it is entitled to the exemption, and all doubts are resolved in favor of taxation. Id.; City of Chicago v. Department of Revenue, 147 Ill.2d 484, 491 (1992); Evangelical Hospitals Corporation v. Department of Revenue, 223 Ill.App.3d 225, 231 (2nd Dist. 1992).

Because the parties have stipulated that the applicant is a charitable organization and there is no dispute that the applicant owns the property, the only issue is whether the property is used for a charitable purpose. The use of the property in this case is similar to the use in Norwegian American Hospital, Inc. v. Department of Revenue, 210 Ill.App.3d 318 (1st Dist. 1991). In that case, the hospital sought an appeal of the Department’s

administrative decision denying exempt status to 49 parcels of property. Upon review, the circuit court reversed the Department's decision for 24 parcels and affirmed it with respect to the remaining 25 parcels. The parcels were spread out in a ¼ mile area, and the hospital was located at the center of the area. The hospital had a plan that included a corporate identity program, which was intended to give a visual image to the hospital and included the placement of signs. The hospital also intended to create a park-like or campus atmosphere around the hospital, which included razing dilapidated buildings, seeding the property with grass, and landscaping with flowers, trees, walkways, benches, and picnic areas.

The 24 parcels that the circuit court concluded were exempt were actually being used for the following purposes: four were part of a contiguous parking lot; one had a hospital directional sign located on it; and the remaining parcels were used either as sites for hospital structures or programs, or to increase visual access to the hospital and provide picnic and recreation areas to the hospital employees and patients. The circuit court found that the remaining 25 parcels were nonexempt because they were vacant, noncontiguous, scattered amongst private residences, and too far from the hospital to reasonably contribute to the hospital's visibility from neighboring thoroughfares.

The Department did not seek an appeal of the circuit court's decision in Norwegian concerning the 24 parcels. As to the 25 parcels, however, the hospital sought an appeal, and the appellate court reversed the circuit court's decision. In finding that their use was exempt, the appellate court stated that the property does not need to be absolutely indispensable to carrying out the purposes of the charitable institution. Norwegian at 323. "If the party seeking the exemption can establish that the property is

used primarily for purposes reasonably necessary for the accomplishment and fulfillment of the institution's objectives and administration, an exemption will be sustained." *Id.*

The court in Norwegian found that the development of the 25 parcels was part of the comprehensive plan to improve the surrounding property. The court noted all of the things that had been done as part of the plan: management met with the real estate committee to formulate the plan; architects were consulted; conceptual plans were developed; a corporate identity and sign program was created; parcels of land were purchased; and clearing and landscaping of the properties was implemented. The court added that the fact that the parcels were rendered vacant through the razing of abandoned structures supported the hospital's argument that the properties had been adapted to charitable use.

In the present case, the hospital's efforts to improve the property are similar to those done by the hospital in the Norwegian case, and they were done primarily for purposes reasonably necessary to accomplish and fulfill the hospital's objectives and administration. Although the applicant has not completed its long-term plan of having one boulevard on which to approach the hospital, the work that it has completed so far has been sufficient to adapt the property to charitable use. The hospital's goals have included insuring that the property next to the hospital reflects a positive image of the hospital to the community. The hospital also wants to clean up the area in order to provide a safe and appealing campus to its patients and visitors. Seven of the 34 parcels at issue are already being used as part of the contiguous parking lot on the west side of the hospital. The applicant has razed the buildings on the parcels, cleared away all of the debris from the lots, and seeded them with grass. The improved lots not only enhance the

image of the hospital and the safety of its patients and visitors, but they also increase the visual access to the hospital and add to its potential viability. The changes have been reasonably necessary to the continued survival and efficient administration of the hospital.

Recommendation:

For the foregoing reasons, it is recommended that the 34 parcels be exempt from property taxes.

Linda Olivero
Administrative Law Judge

Enter: March 11, 2005