

PT 96-5
Tax Type: PROPERTY TAX
Isseur: Government Ownership/Use

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

DUPAGE WATER COMMISSION,)		
)		
Applicant)	Docket #	94-16-274
)	Parcel Index #	15-18-108-001
v.)		
)	George H. Nafziger	
THE DEPARTMENT OF REVENUE)	Administrative Law Judge	
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

APPEARANCES: MS. ELIZABETH D. SANTIS APPEARED ON BEHALF OF THE DUPAGE WATER COMMISSION.

SYNOPSIS:

THE HEARING IN THIS MATTER WAS HELD AT 100 WEST RANDOLPH STREET, CHICAGO, ILLINOIS, ON DECEMBER 20, 1995, TO DETERMINE WHETHER OR NOT COOK COUNTY PARCEL NO. 15-18-108-001 QUALIFIES FOR EXEMPTION FROM REAL ESTATE TAX FOR THE 1994 ASSESSMENT YEAR.

MR. ROBERT MARTIN, THE MANAGER OF WATER OPERATIONS FOR THE DUPAGE WATER COMMISSION (HEREINAFTER REFERRED TO AS THE "APPLICANT"), TESTIFIED ON BEHALF OF THE APPLICANT.

THE ISSUES IN THIS MATTER INCLUDE FIRST, WHETHER THE APPLICANT WAS THE OWNER OF THIS PARCEL DURING ALL OF THE 1994 ASSESSMENT YEAR. THE SECOND ISSUE IS WHETHER THE APPLICANT QUALIFIES AS A TAXING DISTRICT. THE

THIRD ISSUE IS WHETHER THE APPLICANT ACQUIRED THIS PARCEL TO HOLD IT FOR FUTURE EXPANSION. THE LAST ISSUE IS WHETHER THIS PARCEL WAS LEASED BY THE APPLICANT DURING THE 1994 ASSESSMENT YEAR. FOLLOWING THE SUBMISSION OF ALL OF THE EVIDENCE AND A REVIEW OF THE RECORD, IT IS DETERMINED THAT THE APPLICANT OWNED THE PARCEL HERE IN ISSUE DURING THE PERIOD JUNE 6, 1994 THROUGH DECEMBER 31, 1994. IT IS ALSO DETERMINED THAT THE APPLICANT QUALIFIES AS A TAXING DISTRICT. IT IS FURTHER DETERMINED THAT SINCE THE APPLICANT ACQUIRED THIS PARCEL, IT HAS HELD IT FOR FUTURE DEVELOPMENT. FINALLY, IT IS DETERMINED THAT THE APPLICANT DID NOT LEASE THIS PARCEL DURING THE PERIOD JUNE 6, 1994 THROUGH DECEMBER 31, 1994.

FINDINGS OF FACT:

1. ON DECEMBER 13, 1994, THE COOK COUNTY BOARD OF APPEALS TRANSMITTED AN APPLICATION FOR PROPERTY TAX EXEMPTION TO BOARD OF APPEALS CONCERNING THIS PARCEL FOR THE 1994 ASSESSMENT YEAR, TO THE ILLINOIS DEPARTMENT OF REVENUE (HEREINAFTER REFERRED TO AS THE "DEPARTMENT"). (DEPT. EX. NO. 1)
2. ON APRIL 13, 1995, THE DEPARTMENT NOTIFIED THE APPLICANT THAT IT WAS DENYING THE EXEMPTION OF THIS PARCEL FOR THE 1994 ASSESSMENT YEAR ON THE GROUNDS THAT THIS PARCEL WAS NOT IN EXEMPT USE DURING THE 1994 ASSESSMENT YEAR. (DEPT. EX. NO. 2)
3. BY A LETTER DATED MAY 2, 1995, THE ATTORNEY FOR THE APPLICANT REQUESTED A FORMAL HEARING IN THIS MATTER. (DEPT. EX. NO. 3)
4. THE HEARING HELD IN THIS MATTER ON DECEMBER 20, 1995, WAS HELD PURSUANT TO THAT REQUEST.
5. THE APPLICANT IS A WATER COMMISSION ORGANIZED PURSUANT TO THE WATER COMMISSION ACT OF 1985. 70 ILCS 3720/1. (DEPT. EX. NO. 16)

6. THE APPLICANT ACQUIRED THE PARCEL HERE IN ISSUE BY A WARRANTY DEED DATED JUNE 6, 1994. (DEPT. EX. NO. 1H)

7. WHEN THE APPLICANT ACQUIRED THIS PARCEL THERE WAS A FIRE DAMAGED HOME LOCATED ON IT. DURING AUGUST 1994, THE APPLICANT DEMOLISHED THE HOUSE AND LEVELED THE LOT. (TR. P. 19)

8. THE APPLICANT HAS NOT LEASED THIS PARCEL TO ANYONE. (TR. P. 19)

9. THE APPLICANT ACQUIRED THIS PARCEL AS PART OF A PROJECT TO EXPAND ITS FACILITIES IN THIS IMMEDIATE AREA. THE APPLICANT OWNS 14 ACRES NORTH OF CONGRESS STREET. THERE IS A PUMPING STATION AND A 30 MILLION GALLON RESERVOIR ON THAT PROPERTY. (TR. PP. 14 & 15)

10. THE PARCEL HERE IN ISSUE IS LOCATED SOUTH OF CONGRESS STREET. THE APPLICANT IS ACQUIRING PROPERTY IN THIS AREA TO BUILD AN ADDITIONAL 25 MILLION GALLON RESERVOIR. AT THE PRESENT TIME, THE APPLICANT HAS PURCHASED SIX LOTS SOUTH OF CONGRESS STREET. (TR. P. 17)

11. THE APPLICANT IS AUTHORIZED BY STATUTE TO LEVY AN OPERATIONAL PROPERTY TAX, A PROPERTY TAX TO RETIRE BONDS IT HAS ISSUED, AND A RETAILERS' OCCUPATION TAX. (TR. P. 16)

12. AT THE PRESENT TIME, THE APPLICANT IS ONLY LEVYING THE RETAILERS' OCCUPATION TAX ALTHOUGH IT DID LEVY THE OPERATIONAL PROPERTY TAX IN PRIOR YEARS. (TR. P. 16)

CONCLUSIONS OF LAW:

ARTICLE IX SECTION 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.

35 ILCS 200/15-60 EXEMPTS CERTAIN PROPERTY IN PART AS FOLLOWS:

...ALL PROPERTY OWNED BY A TAXING DISTRICT THAT IS BEING HELD FOR FUTURE EXPANSION OR DEVELOPMENT, EXCEPT IF LEASED BY THE TAXING DISTRICT TO LESSEES FOR USE FOR OTHER THAN PUBLIC PURPOSES.

35 ILCS 200/1-150 DEFINES A TAXING DISTRICT AS FOLLOWS:

ANY UNIT OF LOCAL GOVERNMENT, SCHOOL DISTRICT OR COMMUNITY COLLEGE DISTRICT WITH THE POWER TO LEVY TAXES.

I HAVE PREVIOUSLY FOUND THAT THE APPLICANT IS A WATER COMMISSION WHICH IS AUTHORIZED TO LEVY AND COLLECT AN OPERATIONAL PROPERTY TAX, A PROPERTY TAX TO RETIRE BONDS AND A RETAILERS' OCCUPATION TAX. WHILE THE APPLICANT IS CURRENTLY ONLY LEVYING AND COLLECTING THE RETAILERS' OCCUPATION TAX, IT IS AUTHORIZED TO ALSO LEVY AND COLLECT PROPERTY TAXES AND IN THE PAST HAS LEVIED AND COLLECTED THE OPERATIONAL PROPERTY TAX.

IT IS CLEAR FROM THE RECORD IN THIS MATTER THAT THE APPLICANT IS HOLDING THIS PARCEL AND ACQUIRING OTHER PROPERTY IN THE AREA FOR THE PURPOSE OF CONSTRUCTING AN ADDITIONAL 25 MILLION GALLON WATER RESERVOIR.

I THEREFORE CONCLUDE THAT THE APPLICANT OWNED THIS PARCEL DURING THE PERIOD JUNE 6, 1994 THROUGH DECEMBER 31, 1994. I FURTHER CONCLUDE THAT THE APPLICANT IS A TAXING DISTRICT WHICH HELD THIS PARCEL FOR FUTURE EXPANSION AND DID NOT LEASE IT DURING THE PERIOD JUNE 6, 1994 THROUGH DECEMBER 31, 1994.

I THEREFORE RECOMMEND THAT COOK COUNTY PARCEL NO. 15-18-108-001 BE EXEMPT FROM REAL ESTATE TAX FOR 57% OF THE 1994 ASSESSMENT YEAR.

RESPECTFULLY SUBMITTED,

GEORGE H. NAFZIGER

ADMINISTRATIVE LAW JUDGE

FEBRUARY 5, 1996