

PT 97-54
Tax Type: PROPERTY TAX
Issue: Religious Ownership/Use

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

BIG WOODS)		
CONGREGATIONAL CHURCH)	Docket #	95-22-0233
Applicant)		
)	Parcel Index #	04-34-106-053
v.)		
)		
THE DEPARTMENT OF REVENUE)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Appearances: Robert Rybica for DuPage County Board of Review.

Synopsis:

The hearing in this matter was held at 100 W. Randolph Street, Chicago, Illinois on May 9, 1997, to determine whether or not DuPage County Parcel Index No. 04-34-106-053 qualified for exemption during the 1995 assessment year.

Donald Adams, Building Commissioner; David Nasgowitz, Pastor; Sonja Cunningham, Treasurer; John Cunningham, Moderator; and Pat Pierce, Chairman of the Board of Trustees of Big Woods Congregational Church (hereinafter referred to as the "Applicant") were present and testified on behalf of the applicant. Robert G. Rybica, Assistant States Attorney for DuPage County, appeared for the Board of Review.

The issues in this matter include: first, whether the applicant was the owner of the parcel during the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether these parcels were used by the applicant for exempt purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is

determined that the applicant is a religious organization that owned the parcel during 1995. It is also determined that the applicant did use the property in an exempt manner during the 1995 assessment year.

Findings of Fact:

1. The position and jurisdiction of the Illinois Department of Revenue (hereinafter referred to as the "Department") was established by the admission into evidence of Dept. Ex. Nos. 1 and 2.

2. On August 15, 1995, the Department received a religious application for property tax exemption from the DuPage County Board of Review. The application had been filed by the applicant with the Board of Review. The board had recommended that the Department grant a full year exemption. (Dept. Ex. No. 1)

3. On May 2, 1996, the Department denied the requested exemption finding that the property was not in exempt use during the taxable year in question. (Dept. Ex. No. 2)

4. The parcel in question consists of 1.8223 acres that the applicant acquired by a trustee's deed on April 14, 1994. (Dept. Ex. No. 1)

5. At the time of acquisition, the applicant planned to move the existing church building from the location on Eola Road to the new parcel located on Pattermann and Butterfield Road¹. (Dept. Ex. No. 1; Tr. p. 33)

6. The applicant conducts Sunday religious services in its church building on Eola Road near Butterfield Road, in Warrenville, Illinois. The Department of Transportation notified the applicant that widening of Eola Road was necessary. The widening would remove ground that the church presently uses for parking. (Dept. Ex. No. 1)

¹. Parcel Index No. 04-34-106-053; the subject parcel.

7. The applicant discovered that the proposed move would cost at least \$20,000.00 and that an architect was needed to prepare a rendering of the proposed site. (Dept. Ex. No. 1)

8. The parcel at issue is vacant land that the applicant used in 1995 for a church picnic, outdoor Sunday School classes, a rally day, and tent worship services. (Dept. Ex. No. 1; Tr. pp. 26-27, 32)

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.

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. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt, ...

As the applicant stated, they used the property for religious purposes as much as they could. There is no limit, either in the constitution or the statutes, to the amount of ground that one applicant can use for religious purposes, as long as the party claiming the exemption brings themselves within the constitutional and statutory provisions. People ex. rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924)

Catholic Bishop discusses the adaptation and use of a large tract of land for recreational and religious uses by the applicant, a religious school. The Court held that all of the parcel qualified for exemption, except for the tract

of 80 acres that was intended to be used as a golf course, but had not been so used during the taxable period at issue. I find the circumstances and facts in Catholic Bishop are closely aligned with the facts at issue herein. The issue herein is also the use of a vacant parcel of land for religious purposes.

It is unclear what role Mr. Rybica had at the hearing, as the Board of Review had recommended a full year exemption for this applicant.

Based upon the foregoing, I find that the applicant used DuPage County Parcel Index No. 04-34-106-053 for religious purposes during 1995. It is recommended that the parcel qualify for exemption for the 1995 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
October 14, 1997