

PT 11-15

Tax Type: Property Tax

Issue: Parking Lot Exemption

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

**COPLEY MEMORIAL HOSPITAL,
APPLICANT**

v.

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

10-PT-0029 (09-45-90)

Real Estate Tax Exemption

For 2009 Tax Year

P.I.N. 15-36-400-040 (part of)

Kane County Parcel

Kenneth J. Galvin

Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Daniel A. Reed, Alshuler, Simantz & Hem, LLC, on behalf of Copley Memorial Hospital; Ms. Paula Hunter, Special Assistant Attorney General, on behalf of The Department of Revenue of the State of Illinois.

SYNOPSIS:

This proceeding raises the issue of whether a parking garage located on Kane County Parcel Index Number 15-36-400-040 (hereinafter the “subject property”) qualifies for exemption from 2009 real estate taxes under 35 ILCS 200/15-125, which exempts parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by the Property Tax Code and owned by a non-profit hospital which meets the qualifications for exemption.

The controversy arises as follows: On September 14, 2009, Copley Memorial Hospital (hereinafter “Copley” or “Applicant”) filed a Real Estate Exemption Complaint

for the subject property with the Board of Review of Kane County (hereinafter the “Board”). The Board reviewed the Applicant’s complaint and subsequently recommended to the Illinois Department of Revenue (hereinafter the “Department”) that the exemption be granted. Dept. Ex. No. 1.

On January 7, 2010, the Department partially accepted the Board’s recommendation finding that 44% of the parking garage and a proportionate amount of land is exempt, but that “56% of the parking garage and a proportionate amount of land is taxable (property not in exempt use).” Dept. Ex. No. 1. On March 1, 2010, the Applicant filed a timely request for a hearing as to the denial of the exemption for the 56% of the parking garage. At a formal hearing on April 18, 2011, the Department and the Applicant presented a “Stipulation of Facts,” with Stacey Ries providing oral testimony. Following submission of all evidence and a careful review of the record, it is recommended that the Department’s decision be reversed and that 56% of the parking lot and a proportionate amount of land be exempt from property taxes for the 2009 assessment year.

STIPULATION OF FACTS:¹

1. The Kane County Assessor’s office originally assigned Parcel No. 15-36-400-041 to the parking garage that is the subject of this appeal (hereinafter, the “parking garage”), but in 2009, removed the parking garage from Parcel No. 15-36-400-041 and added it to an existing parcel, Parcel No. 15-36-400-040. (Letter from Davis R.

¹ The Stipulation of Facts is a verbatim recitation of the Stipulation presented by the parties at the hearing on April 18, 2011.

Offutt, Aurora Township Assessor, dated February 26, 2010, attached to Stipulation of Facts.)²

2. Parcel No. 15-36-400-040 includes two buildings in addition to the parking garage, namely: the hospital building in which Applicant primarily operates its non-profit hospital, and a professional office building which is partially used for Applicant's administrative offices and partially leased to third parties.
3. At all relevant times, Applicant has been a non-profit hospital located on Parcel No. 15-36-400-040.
4. At all relevant times, the portion of Parcel No. 15-36-400-040 on which Applicant operates its non-profit hospital has been completely exempt, pursuant to 35 ILCS 200/15-65.
5. At all relevant times, the professional office building, being partially used for the hospital's non-profit business and partially leased, has been partially exempt pursuant to 35 ILCS 200/15-65.
6. The leases, for tenants of the professional office building, have never included any provision that would give those tenants the right to use the parking garage. (Affidavit of Stacey Ries, Deputy General Counsel and Corporate Integrity Officer for Copley Memorial Hospital, Inc., attached to Stipulation of Facts.)³

² It should be noted that the original "Non-homestead Property Tax Exemption Certificate" dated January 7, 2010, which is at issue here, denied exemption for 56% of P.I.N. 15-36-400-041. For consistency, I have used P.I.N. 15-36-400-040 throughout this Recommendation.

³ The Stipulation of Facts states that The Department of Revenue hereby accepts the matters set forth in the Affidavit of Stacey Ries as true and correct.

7. At all relevant times, the parking garage has been a parking area, as that term is used in 35 ILCS 200/15-125.
8. At all relevant times, the only people authorized to use the parking garage were employees of Copley Memorial Hospital, Inc.; physicians, nurses, and midwives on staff at Copley Memorial Hospital, Inc.; and less than ten people who were Physician's Assistants or Nurse Practitioners who were neither employed by nor on staff with Copley Memorial Hospital, Inc. (Affidavit of Stacey Ries, Deputy General Counsel and Corporate Integrity Officer for Copley Memorial Hospital, Inc., attached to Stipulation of Facts).
9. At all relevant times, use of the parking garage has been free-of-charge to those who have used it. (Affidavit of Stacey Ries, Deputy General Counsel and Corporate Integrity Officer for Copley Memorial Hospital, Inc., attached to Stipulation of Facts).
10. No part of the parking garage has ever been leased or used for profit. (Affidavit of Stacey Ries, Deputy General Counsel and Corporate Integrity Officer for Copley Memorial Hospital, Inc., attached to Stipulation of Facts).
11. The issue of the Applicant's qualification for exemption is not before the Department and any action by the Department in this matter would have no relevance should that issue arise in the future.

CONCLUSIONS OF LAW:

An examination of the record establishes that the Applicant has demonstrated, by the presentation of testimony, exhibits and argument, evidence sufficient to warrant

exempting 56% of Kane County P.I.N. 15-36-400-040 from property taxes for the 2009 assessment year. In support thereof, I make the following conclusions.

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation 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.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limits imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property from taxation and may place restrictions on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1st Dist. 1983).

In accordance with its constitutional authority, the General Assembly enacted section 15-125 of the Property Tax Code, which exempts parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by the Property Tax Code and owned by a non-profit hospital which meets the qualifications for exemption. 35 ILCS 200/15-125.

Copley Memorial Hospital owns the subject parking garage. Dept. Ex. No. 1; Affidavit of Stacy Ries. At all relevant times, Applicant has been a non-profit hospital

and the portion of P.I.N. 15-36-400-040 on which Applicant operates its non-profit hospital has been completely exempt, pursuant to 35 ILCS 200/15-65. Stip. Nos. 3 and 4. I conclude that the parking lot at issue is owned by a non-profit hospital which meets the qualifications for exemption. The only remaining issue is whether the parking garage was in exempt use during 2009.

At all relevant times, the only people authorized to use the parking garage were employees of Copley Memorial Hospital, Inc.; physicians, nurses, and midwives on staff at Copley Memorial Hospital, Inc.; and less than ten people who were Physician's Assistants or Nurse Practitioners who were neither employed by nor on staff with Copley Memorial Hospital, Inc. Stip. No. 8. At all relevant times, use of the parking garage has been free-of-charge to those who have used it. Stip. No. 9. No part of the parking garage has ever been leased or used for profit. Stip. No. 10. Accordingly, I conclude that the parking garage is used as a part of a use for which an exemption is provided by the Property Tax Code and not leased or used for profit.

WHEREFORE, with the Applicant having established, through the Stipulation of Facts and the testimony, that the qualifications for exemption under 35 ILCS 200/15-125 have been met, I recommend that the Department's determination of January 7, 2010 be reversed and that 56% of Kane County P.I.N. 15-36-400-040 and a proportionate amount of land be exempt from property taxes for 100% of the 2009 assessment year.

ENTER:

June 14, 2011

Kenneth J. Galvin
Administrative Law Judge