

PT 04-1
Tax Type: Property Tax
Issue: Religious Ownership/Use

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

3 ANGELS BROADCASTING NETWORK

v.

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

A.H. Docket #	01-PT-0027
P. I. #	174-116-11
Docket #	00-28-01
Docket #	01-28-07

Barbara S. Rowe
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kent R. Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue; Mr. Nicholas P. Miller, Sidley, Austin, Brown, Wood, L.L.C., Mr. Lee Boothby, Boothby and Yingst, and Mr. D. Michael Riva for 3 Angels Broadcasting Network; Ms. Merry Rhodes and Ms. Joanne H. Petty, Robbins, Schwartz, Nicholas, Lifton and Taylor, Ltd. for Thompsonville Community High School District 112.

Synopsis:

The hearing in this matter was held to determine whether Franklin County Parcel Index No. 174-116-11 qualified for exemption during the 2000 and/or 2001 assessment years.

Danny Shelton, president of Three Angels Broadcasting, (hereinafter referred to as the "Applicant" or "3ABN"); Larry Ewing, director of finance in 2002 of applicant; Alan Lovejoy, CPA and accountant; Walter Thompson, chairman of the board in 2002 of applicant; Bill Bishop, minister in the Seventh-day Adventist Church and member of the pastoral staff of applicant; Kenneth Denslow, president of the Illinois Conference of the Seventh-day Adventist Church; Mollie Steenson, department coordinator of applicant; and Linda Shelton, vice president of

The compensation at issue in Lutheran General, *supra*, consisted solely of \$20 shares of stock that physicians, employed by the non-profit medical foundation, could purchase. *Id.* at 655, 662. If the physician's employment ended, the foundation would re-purchase the doctor's share of stock for \$20. The physicians had the right to vote on administrative matters while they owned the stock. *Id.* at 662. In comparing Lutheran General, where the court held that the compensation at issue did not constitute the type of pecuniary profit prohibited under Methodist Old People's Home, with Hopedale, where the compensation at issue *did* violate that prohibition, it is clear that the substance rather than the form of the compensation is decisive. Lutheran General, *supra*, at 662.

 Applicant's remuneration to the Sheltons in the form of a van, an airplane at their disposal on weekends, the wages listed on the financial statements, and the total control over the operation by Danny Shelton, are similar to the circumstances listed by the court in Hopedale, that were found to violate the type of pecuniary profit prohibited under Methodist Old Peoples Home. The substance of applicant's activities on the subject property also shows that the applicant is profiting from the enterprise.

With respect to guidelines cited above as (1), (4) and (5) of Methodist Old Peoples Home, *supra*, applicant's by-laws are totally devoid of any references to a gift to be given to an indefinite number of persons, or a reduction of a governmental burden. Applicant was unable to establish that any satellite materials or dishes were given away or that there is a set policy that if one is in need of charity, they can obtain it.

Applicant receives donations, both restricted and unrestricted, from the public and generates additional revenue from the sale of airtime and products. The revenue generated from these ventures is approximately fourteen million dollars (\$14,000,000) a year. Applicant serves as a pass-through of dedicated funds donated by individuals, yet how the remaining unrestricted

religious video tapes, audio tapes, and books for Christian organizations world-wide. Those sections of the house qualified for a property tax exemption. The areas of the house used primarily for residential purposes did not qualify for exemption.

In Muhammad's Holy Temple of Islam, an Islamic organization owned a three-story building that was used for training in the Islamic religion. At hearing, Muhammad's Holy Temple established that it was, in fact, a religious Islamic organization and that the training was an essential part of its religious purposes.

The Department, as shown by these cases, grants exemptions for religious organizations that use property for exempt religious purposes and not with a view to profit. As discussed above, applicant is not only not a religious organization, but, more importantly, does not primarily use the property for religious purposes without a view to profit.

For the aforementioned reasons it is recommended that Franklin County Parcel Index No. 174-116-11 remain on the tax rolls for the 2000 and 2001 assessment years and be assessed to the applicant, the owner thereof, except for the two pastor's offices, each measuring 14 feet by 18 feet, on the second floor of the administrative production center building, and a corresponding amount of land. That area, I recommend, be granted a property tax exemption as used for religious purposes without a view to profit.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
January 28, 2004