



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Dan W. Jackson
District Attorney
Houston, Texas

Dear Sir:

Opinion No. O-4713
Re: Whether a parsonage when owned by the pastor individually rather than by the religious organization is exempt from taxation.

We are in receipt of your letter of July 15, 1942 in which you request an opinion on the following submitted facts:

"I have been requested by the pastor of the Houston Gospel Tabernacle, which I understand is affiliated with and under the jurisdiction of a national religious organization known as Pentecostal Church, Inc., whose general secretary has an office at 1312 N. 67th St., Houston, Texas, for an opinion as to the exemption from ad valorem taxation of the following property:

"The local pastor proposes to purchase out of his individual funds and take title in his individual name to property which he will acquire and use solely as a parsonage. The property will not be purchased by the church nor will title be taken in the name of the church."

". . . ."

Article VIII, Section 2, of the State Constitution provides that the Legislature by general laws may exempt from taxation "actual places of religious worship, also any property owned by a church . . . for the exclusive use as a dwelling place of the ministry".

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By this authority the Legislature enacted Article 7150, the pertinent part of Section 1, of this exemption statute reads as follows:

"Schools and Churches. -- Public school houses and actual places of religious worship, also any property owned by a church or by a strictly religious society, for the exclusive use as a dwelling place for the ministers of such church or religious society, the books and furniture therein and the grounds attached to such buildings necessary for the proper occupancy, use and enjoyment of the same, and which yields no revenue whatever to such church or religious society; provided that such exemption as to the dwelling place for the ministers shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land. . . ."

It has always been the policy of our Courts not to favor exemptions of this type. All doubts are resolved against the exemptions and the enactments by which they are given will not be enlarged by construction, but, on the contrary, will be strictly construed. *Santa Rosa Infirmary v. City of San Antonio*, (Comm. of App.) 259 S. W. 926; *Benevolent and Protective Order of Elks, Lodge No. 151 vs. City of Houston*, (Civ. App.) 44 S. W. (2d) 930; *Houston Belt and Terminal Ry. Co. vs. Clark* (Civ. App.) 122 S. W. (2d) 356.

In the case of *Trinity Methodist Episcopal Church v. City of San Antonio*, (Civ. App.) 201 S. W. 668, decided before the amendment of Article VIII, Section 2 of the Constitution and the extension of the exemption statute to include the property owned by churches for ministers' residence by Article 7507,

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now Article 7150, and addition of Article 7150b;
Mr. Chief Justice Fly makes the following
statement:

". . . .

"It is well settled by excellent authority that the exemption of church property does not include a rectory or parsonage. St. Mark's church v. Brunswick, 78 Ga. 541, 3 S. E. 561; State vs. Board of Assessors, 52 La. Ann. 223, 26 South. 872; Third Cong. Soc. v. Springfield, 147 Mass. 396, 18 N. E. 68; Hennepin County vs. Grace, 27 Minn. 603, 8 N. W. 761; Presbyterian Church vs. New Orleans, 30 La. Ann. 259, 31 Am. Rep. 224; People vs. First Cong. Church, 232 Ill. 158, 83 N. E. 536; Broadway Church vs. Comm., 112 Ky. 448, 66 S. W. 32. In the last case cited it is said:

"Parsonages are not exempt, although erected on a portion of the church lot which would otherwise be exempt, and occupied by the minister free of rent, if the language of the exemption only includes places actually used for religious worship, with the grounds attached thereto, and appurtenant to the house of worship. * * * The authorities on this point seem to be unanimous."

"This was held under a constitutional provision much broader than that used in the Constitution of Texas, for the Kentucky law exempts not only 'places used for religious worship,' but also 'the grounds attached thereto and used and appurtenant to the house of worship, not exceeding one-half acre in cities or towns and not exceeding two acres in the country.'"

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"The language of the Constitution must fix the exemptions, no matter what the language of the statute may be, and under Section 2 of Article 8 of the Constitution appellant has not shown itself entitled to exemption for its parsonage as being an 'actual place of religious worship' or an 'institution of purely public charity'. The evidence failed to show that the parsonage was used for a place of religious worship, but as a home for the pastor. It may be that it was a necessary appurtenance to the church, but the Constitution does not exempt anything attached or appurtenant to a church on the ground of necessity. Permitting the preacher to use the building may have been very charitable, though it appears that the use of the house paid a part of the salary earned by or promised to him, and certainly it was not in the interest of the public that he should reside in the parsonage."

The above quotation places a restriction on the exemption statute which we feel certain has been modified only by express provisions of the amendment. Article 7150b, providing the exemption of minister's residence, is for "any property owned exclusively and in fee by a church for the exclusive use as a dwelling place for the ministry of such church" and cannot be construed as to include a home owned by a minister. The fact that property might be used for religious or educational purposes would not bring it within the meaning of the exemption statute. It must be owned and used exclusively for the purpose as provided for in the statute. City of Dallas v. Cochran, (Civ. App.) 166 S. W. 32; Little Theatre of Dallas v. City of Dallas, (Civ. App.) 124 S. W. (2d) 863; Red v. Johnson, 53 Texas 285.

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As the express wording of the exemption statute includes only property owned by the church, a parsonage owned by the pastor could not be brought within the strict judicial interpretation of Articles 7150 and 7150b.

Trusting the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Joseph E. Jackson*
Joseph E. Jackson

By *Walter R. Koch*
Walter R. Koch
Assistant

JEJ:MBR

APPROVED AUG 28, 1942

Gerrit C. Mann

ATTORNEY GENERAL OF TEXAS

