



JOHN IBSEN SHEPHERD  
ATTORNEY GENERAL

THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN 11, TEXAS

May 14, 1956

Hon. Burke Holman  
County Attorney  
Courthouse  
Houston 2, Texas

Dear Mr. Holman:

*Memorandum  
McClellan v City of Houston  
454 S.W.2d 393 (241970) Sup Ct*

*393 S.W.2d 354  
overruled by  
Southpark Baptist Church  
Houston, Tex  
CCA Houston  
app. for W. of E. refused  
11-25-65*

Opinion No. S-197 *393 S.W.2d 354*  
Re: Exemption from State and county  
ad valorem taxes of residence of  
Assistant Rector. *error ref.*

You have requested that we advise you as to whether "a church can have the separate residence of an assistant minister exempt from State and county taxation at the same time the separate residence of the minister of the church is so exempt where the aggregate size of both residences is less than one acre".

Section 2 of Article VIII of the Texas Constitution authorizes the Legislature to exempt certain classes and types of property from taxation. The pertinent provisions of this section read as follows:

" . . . the Legislature may, by general laws, exempt from taxation . . . any property owned by a church or by a strictly religious society for the exclusive use as a dwelling place for the ministry of such church or religious society, and which yields no revenue whatever to such church or religious society; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event more than one acre of land;

The following provisions of Article 7150, Vernon's Civil Statutes, were enacted in pursuance to the above quoted authorization:

"The following property shall be exempt from taxation, to wit:

" . . . 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 . . ."

An additional provision for exemption is contained in Article 7150b, V. C. S., which reads as follows:

"There is hereby exempted from taxation 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 which property yields no revenue whatever to such church; provided that such exemption shall not extend to more property than is reasonably necessary for a dwelling place and in no event to more than one acre of land."

The constitutional provision authorizes the exemption of any property owned by a church for the exclusive use as a dwelling place for the ministry of the church. In our opinion, the Legislature was authorized to exempt the property in question because it satisfies the constitutional requirements of ownership, use and occupancy in that the Assistant Rector is serving in the ministry of the church, said ministry including collectively all of the clergy of the church.

The portion of Article 7150 before quoted expressly states the legislative intent to exempt property used as a dwelling place for the ministers of a church, thus recognizing that a particular church might have more than one minister. Article 7150b likewise exempts, in the same language used in the constitutional provision, any property used exclusively as a dwelling place for the ministry of a church.

You are, therefore, advised that in our opinion the property described in your request is exempt from State and county taxation by the plain and unambiguous provisions of the statutes previously discussed.

#### SUMMARY

The separate residence of an Assistant Rector is exempt from State and county ad valorem taxes even

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though the residence of the Rector is also exempt, as long as they together occupy not more than one acre of land. Art. VIII, Sec. 2, Tex. Const.; Arts. 7150, 7150b, V. C. S.

Yours very truly,

APPROVED:

W. V. Geppert  
Taxation Division

J. Arthur Sandlin  
Reviewer

J. C. Davis, Jr.  
Reviewer

L. W. Gray  
Special Reviewer

Davis Grant  
First Assistant

John Ben Shepperd  
Attorney General

JOHN BEN SHEPPERD  
Attorney General of Texas

By *Marietta McGregor Payne*  
Marietta McGregor Payne  
Assistant Attorney General