

**Illinois Department of Revenue Denies Tax Exemption to Religiously-Affiliated Retirement Community**--In a case with important implications for school districts seeking to protect their tax base, the Illinois Department of Revenue (“Department”) has denied a requested property tax exemption for the Victory Lakes retirement community in Lindenhurst, which was purchased by a Catholic-affiliated not-for-profit corporation in 2006.

In *Franciscan Communities, Inc.*, No. 07-PT-0096 (Nov. 5, 2009), a corporation controlled by the Franciscan Sisters of Chicago, a Catholic order, applied for exemption for the Victory Lakes continuing care retirement community for the 2007 year, claiming that the property was used for charitable and religious purposes.

The local school districts, represented by HLERK’s **Steve Richart** and **Vanessa Clohessy**, intervened to oppose the exemption, arguing that it was a luxury community affordable only to very wealthy seniors. After a thirteen-day administrative trial, the Department denied the exemption, except with respect to a small chapel located in the nursing home.

With respect to charitable use claims, the Department looked at six so-called “Korzen” factors (so named after a 1968 Illinois Supreme Court case of the same name), and found that the primary use of the property was to “provide a certain enhanced lifestyle to those seniors who could afford to pay for it.” Therefore the property did not qualify for the charitable use tax exemption.

The Department also held that the owner had failed to prove that Victory Lakes qualified for a religious exemption for the 2007 year. Instead, the Department found that Victory Lakes’ primary use was to provide residences to seniors in 2007 in exchange for fees, observing, “The Applicant is asking for a religious exemption for 320 residences on the subject property when the people residing in the residences may be indifferent, or even hostile, toward religion. This puts the Applicant in the very unique position of asking for a religious exemption for 320 residences in which, according to the Applicant, there may be no religious activity because the residents may be non-religious.” Except for a small chapel on the property, the Department concluded that Victory Lakes resembled a business with religious overtones, not a property used exclusively for religious purposes.

The Department’s decision is subject to the owner’s appeal in the circuit court or request for rehearing. *In the meantime, the Department’s decision re-affirms existing case law which holds that religious and charitable exemptions are narrow and difficult to prove for retirement care communities. If you have questions concerning tax exemption issues in your school district, please contact Steve Richart or Vanessa Clohessy.*