

FREEDOM FROM RELIGION *foundation*

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SENT VIA U.S. MAIL & FAX

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Mary Reavey
Milwaukee Assessment Commissioner
Peter Weissenfluh, Chief Assessor
City Hall, Room 507
200 E. Wells St.
Milwaukee WI 53202-3515

Mayor Tom Barrett
Office of the Mayor
200 E Wells St.
City Hall Rm 201
Milwaukee WI 53202

Re: Abuse of Tax-Exempt Status by Religious Organizations

Dear Ms. Reavey, Mr. Weissenfluh and Mayor Barrett:

I am writing on behalf of Milwaukee members of the Freedom From Religion Foundation (FFRF) who are concerned about local abuse of tax-exempt status by religious organizations. They are especially concerned about failure to confirm that organizations that claim religious exemptions actually qualify for a tax exemption. FFRF is a national nonprofit organization with nearly 16,000 members, including over 1,200 members in Wisconsin and nearly 100 members in Milwaukee. Our purpose is to protect the constitutional principle of separation of church and state and to advocate on behalf of non-believers.

Our members are deeply dismayed as we understand all of you are over recent revelations by the Milwaukee Journal Sentinel detailing the apparent abuse of tax-exempt status by organizations claiming to be churches in Milwaukee. See Raquel Rutledge, *Lax Regulation of Exemptions Costly*, MILWAUKEE JOURNAL SENTINEL, Mar. 6, 2011, at 1A. The reporter estimates that the average homeowner has to pay 20% more, an additional \$800 each year, to cover exemptions. The Journal-Sentinel identified nearly \$500,000 worth of properties with "suspicious exemptions" from a random examination of "just a few cases from 2010 in Milwaukee." The Journal-Sentinel charges that Milwaukee has not been compiling exemption data and filing mandatory reports with the state Department of Revenue since 2007!

Multiple churches claiming exempt-status sit vacant during their advertised service hours. Those who claim tax exemption maintain their tax exemption by simply writing “religious services” or “no change” on their bi-annual exemption request forms. Those who fail to return the form also manage to retain their tax-exempt status — according to the newspaper, that involved one-fourth of Milwaukee churches! There is no routine inspection process to verify tax-exempt claims as required. The Journal-Sentinel also reports that some churches that are renting out church space and therefore no longer qualify for full property tax exemption, yet are still retaining that exemption, thereby cheating law-abiding, taxpaying neighbors who must pay significantly more when such profit-making churches are off the tax rolls.

The Wisconsin Property Assessment Manual clearly indicates that these organizations should not be granted tax-exempt status. The Manual says, in part:

It is the duty of the assessor to determine whether the property is exempt. In deciding whether a property meets the requirements for exemption, the assessor must look to the actual activities or dominant purpose of the organization. The assessor should be more concerned with what the organization *actually* does than *what it says it does* in its constitution or by-laws.

The assessor should make a physical inspection of the property to verify that the information in the application is correct and that the property is being used for the exempt purpose. The assessor may also wish to periodically re-inspection the property to verify that it continues to be used for exempt purposes.

It is the responsibility of the party seeking exemption to show that it falls within the statutory criteria for exemption. The courts have repeatedly ruled that the assessor should base exemption decisions on a “strict but reasonable” construction of the statutes. This means that an association must clearly show that it meets the criteria for exemption. If there is any doubt, the assessor should deny the exemption.

WIS. DEPT. OF REVENUE, WISCONSIN PROPERTY ASSESSMENT MANUAL 22-3 (2010). In Wisconsin, the legislature has mandated a presumption that property is taxable. WIS. STAT. § 70.109 (2010). Organizations that seek tax-exempt status have the burden to prove that their property qualifies for the tax-exemption. *Id.* If the assessor’s office is not supplied with enough information to determine whether or not an organization should be tax-exempt, the office should presume that the property is taxable. Organizations that submit almost no details to the assessor’s office about the true nature of their activities should not be rewarded with a favorable tax status for their own neglectful behavior.

The continued tax exemption of “religious” property, without any attempt to confirm that the property is actually used for religious purposes, affects the property rights of individuals and small business owners throughout the community. Though no exemption would better serve the principle of separation between church and state, at the very least the city government should ensure that exemptions are only granted to organizations that fall within the statutory requirements. Continuing to grant tax-exempt status to *faux* religious organizations suggests that the government favors institutionalized religion even when no public good is served. We understand that the City may not feel an incentive to enforce tax exemption policies when it doesn’t affect the levy, but such indifference is at the expense of Milwaukee taxpayers, homeowners and families, many of whom are struggling because of the economic downturn.

On behalf of our Milwaukee membership, FFRF asks that your offices enforce a policy to deny property tax-exemption if there is any doubt about the nature of the organization. We ask that you please keep our organization informed in writing of the results of your investigations into the problems uncovered by the Milwaukee Journal Sentinel, and of steps your offices take to remedy these violations of Wisconsin law.

Very truly

A handwritten signature in blue ink that reads "Annie Laurie Gaylor". The signature is written in a cursive, flowing style.

Annie Laurie Gaylor