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FILED

May 15, 2017

Carla Bender

4th District Appellate Court, IL

2017 IL App (4th) 150907-U

NO. 4-15-0907

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

WEST SIDE CHRISTIAN CHURCH,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
THE DEPARTMENT OF REVENUE OF THE)	No. 13MR729
STATE OF ILLINOIS; and BRIAN HAMER, in His)	
Official Capacity as Director of the Department of)	
Revenue,)	
Defendants)	
(The Department of Revenue of the State of Illinois;)	
and Constance Beard, in Her Official Capacity as)	Honorable
Director of the Illinois Department of Revenue,)	Rudolph M. Braud, Jr.,
Defendants-Appellees).)	Judge Presiding.

JUSTICE HOLDER WHITE delivered the judgment of the court.
Justices Steigmann and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court affirmed, concluding (1) defendants' decision was not void where the administrative law judge who presided over the hearing did not render the recommendation to defendants, (2) defendants' decision to deny plaintiff's religious property tax exemption was not clear error, and (3) plaintiff failed to demonstrate any constitutional violations.

¶ 2 In November 2010, plaintiff, West Side Christian Church, filed for a property tax exemption under the Property Tax Code (Code) (35 ILCS 200/1-1 to 32-20 (West 2010)) after it purchased a property and moved its day care center, the Christian Daycare Center (Center), onto that property. The Sangamon County Board of Review (Board) recommended a partial-year exemption. However, in February 2011, defendants, the Department of Revenue of the State of Illinois (Department) and Brian Hamer, in his official capacity as the director of the Department,

denied plaintiff's application for a property tax exemption. Plaintiff requested a full hearing and, in July 2013, the Department again denied plaintiff's tax exemption. Notably, the administrative law judge (ALJ) who presided over the hearing was not the same ALJ who entered a recommendation for the Department. Plaintiff thereafter filed a complaint for administrative review in the circuit court of Sangamon County and, in October 2015, the court affirmed the Department's decision. By this time, Constance Beard became the director of the Department and is substituted for defendant Hamer by operation of law. 735 ILCS 5/2-1008(d) (West 2014).

¶ 3 Plaintiff appeals, asserting (1) the ALJ's decision was void where the ALJ who presided over the hearing was different from the ALJ who made a recommendation to the Department; (2) the Center was used exclusively for religious purposes and is therefore entitled to a religious tax exemption; and (3) certain aspects of the Code are unconstitutional.

¶ 4 I. BACKGROUND

¶ 5 The Center was incorporated as a not-for-profit organization in 1984, when it began offering day care services. In March 2010, plaintiff purchased the property at issue, 400 Bruns Lane in Springfield, Illinois, and thereafter moved the Center to a building on that property. Plaintiff thereafter began operating the Center on the property in June 2010. In November 2010, plaintiff filed for a religious property tax exemption for the Bruns Lane property. The Board recommended a partial-year exemption be granted for 2010. However, in February 2011, the Department disagreed with the Board's recommendation and determined the property was not subject to any property tax exemptions in 2010.

¶ 6 A. The Department Hearing

¶ 7 In April 2011, plaintiff protested the Department's decision and requested a formal hearing. In September 2012, an evidentiary hearing was held before an ALJ. The ALJ heard the following evidence.

¶ 8 *1. Pastor Jeremiah Auble*

¶ 9 Pastor Jeremiah Auble testified he is a pastor at plaintiff church, the superintendent of Springfield Christian School, and the chairman of the board for the Center. He described his role as that of liaison between plaintiff church and the Center to ensure the children at the Center received religious instruction in accordance with plaintiff church's mission.

¶ 10 Pastor Auble explained plaintiff church began the Center for the purpose of spreading and teaching religion to children between the ages of two and five. According to Pastor Auble, children not exposed to religious education by the time they enroll in elementary school are at a disadvantage they must struggle to overcome. Attendees could not ask to be exempt from religious education because the religious teaching is more than a Bible lesson, but "permeates everything we do at [the Center], the way we discipline, the way we correct, the way we teach them to love their neighbor as themselves, the way we teach them that all people are created in the image of God." Pastor Auble stated the religious education provided by the Center was more than just teaching from books, but was learned through playing and other activities. Students also complete weekly Bible journals regarding their trust in God. According to Pastor Auble, all of the daily activities revolve around a particular Bible story and putting those lessons into practice.

¶ 11 According to the Center's bylaws, all teachers must be Christian and agree with the Center's statement of faith. Further, all six members on the board of directors must be members of plaintiff church, and the chairman of the board must be an elder of plaintiff church.

¶ 12 Pastor Auble also discussed a school policy manual from the past calendar year (not 2010). The mission statement read:

"[T]he primary purpose of Christian Day Care Center is to provide superior quality care for each child enrolled with a Christ-centered, love-motivated, well-structured program, seeking to encourage social interaction, intellectual stimulation, spiritual direction, physical development and emotional growth, while promoting a positive self esteem. This will not only prepare the child for elementary school, but for life."

¶ 13 Parents were expected to pay tuition on the first day of every month. Late fees were assessed for those who did not make timely payments. Moreover, if a family made more than three delinquent payments, the child's enrollment would be terminated, and the case would be referred to a collection agency. Payments had to be made regardless of holiday or personal schedules, though families could accrue "vacation" time after attending for certain lengths of time. Membership at plaintiff church is not required in order to attend the center.

¶ 14 Attendees were required to pay tuition in a timely manner and make efforts to work with the Center in the event they were experiencing financial hardship. Parents who could not afford payments were expected to seek financial assistance from the State of Illinois. The Center could also offer reduced tuition payments for parents in need. Pastor Auble acknowledged this information was not posted or found in documentation provided to families; rather, families would learn of this policy upon speaking to the Center about financial hardships. Between 1998 and 2011, eight children attended at no cost. In 2010, enrollment fluctuated between 80 and 30 students due the Center moving to the Bruns Lane property.

¶ 15 Pastor Auble testified plaintiff church acquired the Bruns Lane property so the Center could meet the increasing demand for religious education and fulfill plaintiff church's mission of spreading God's word. Documents provided by plaintiff church indicate, in 2010, the Center had a gross revenue of \$403,899, but expenses of more than \$723,000. Along with the Center using its reserves to cover the deficit, plaintiff church contributed approximately \$129,000 to offset the deficit. When asked why plaintiff church continued to invest despite losing money, Pastor Auble answered, "Because we don't care about the money. We care about the ministry."

¶ 16 *2. Pastor Eddie Lowen*

¶ 17 Pastor Eddie Lowen testified the Center applied for a religious tax exemption because the Center is an extension of plaintiff church's ministry. He explained the mission of plaintiff church is to (1) introduce people to Christ, and (2) encourage them to believe, follow, and be obedient to God. Pastor Lowen testified that mission is part of the Center, as it introduces young children to Christ and builds their faith. Plaintiff church never accepted any funds or payments from the Center but, rather, allowed the Center to reinvest in itself.

¶ 18 *3. Dr. Deborah Carter*

¶ 19 Dr. Deborah Carter, a field director for the Association of Christian Schools International, was tendered by plaintiff church as an expert on Christian education. She possesses a doctorate degree in early education. Dr. Carter opined (1) the preschool years were critical for developing the God-concept that is foundational to religious instruction, (2) preschool children learned religious concepts during play and unstructured times, and (3) the Center teaches the God-concept by pairing biblical views with daily activities and practices. Dr. Carter explained that children develop a God-concept by age two, with or without religious instruction,

but children must receive religious education thereafter to nurture this concept. This is accomplished by incorporating religious words and ideas into the classroom and social interaction, and by building a child's trust in God. In other words, Dr. Carter asserted religion is involved in every aspect of the day, not just during Bible study. According to Dr. Carter, the Center engaged in this form of instruction, as it "biblically integrates all knowledge, content and learning throughout the day." Thus, the children are exposed to a "Biblical worldview."

¶ 20 B. The Department's Decision

¶ 21 In July 2013, a different ALJ than the one who participated in the hearing issued a recommendation for disposition. The ALJ made the following findings of fact. The Center operates on weekdays from 7 a.m. to 5:30 p.m., and it accepts children between the ages of two and five. The Center charges a one-time registration fee and, thereafter, weekly tuition for children to attend the Center. Parents who fail to pay tuition on time are subject to financial penalties, including collection fees. In 2010, the Center's enrollment was between 30 and 80 students due to moving to a larger facility. The Center's charitable policy provides fee waivers for low-income students. In 2010, 1 student received a reduced rate and 13 students had waivers of holiday fees.

¶ 22 Members of the Center's Board of Directors must be members of plaintiff church, and all teachers must be Christian. The Center's attendees need not be members of plaintiff church or of a specific religious background, though plaintiff reserves the ability to give priority to members of its church or its church affiliates if necessary. The ALJ also quoted the Center's mission statement in its findings of fact.

¶ 23 Plaintiff provided evidence of a total revenue of \$403,899 for the Center in 2010, of which 99.7% resulted from tuition and fees. The Center's 2010 expenses were \$594,297,

which resulted in a net loss of \$190,358, paid from the Center's reserves. As part of its curriculum, students were required to keep a "Bible journal," in which students drew pictures regarding trust in, faith in, and gratitude for Jesus. The purpose of the journal was for children to reflect on "that wonder, of who God is." Students were also taught about the "Good Samaritan" story, the burning bush, and showing love for Jesus. The children's daily lesson plans included discussions of stories from the Bible.

¶ 24 After outlining the facts it considered, the ALJ made the following conclusions of law. The ALJ determined the primary use of the property was to provide superior-quality child care, which was not traditionally a "religious purpose." The ALJ also noted religious services were not conducted at the Center. Additionally, the ALJ determined the property could not be primarily used for religious purposes where the Center was open to all children, regardless of religious affiliation. Moreover, the Center did not fit into the State's general educational scheme, particularly because preschool is not mandated, meaning there was no corresponding tax burden the Center could lessen.

¶ 25 The ALJ further found the Center did not qualify for a charitable exemption because it did not derive its funds primarily from charitable donations; rather, nearly all of its funding came through tuition and fees. Although Auble testified from 1998 to 2011, the Center had eight students attend at no cost, the ALJ found the record was "unclear" as to whether any of those students attended in 2010. Auble also testified few children required aid, and for those who needed it, State programs often covered the costs. It was unclear to the ALJ how parents seeking to enroll their children would know about the Center's willingness to provide financial waivers or that any fees had been fully waived as the Center did not advertise those charitable options. The ALJ also determined the primary use of the property was not charitable, as the

property was a for-profit, fee-for-service day care center. According to the ALJ, the payment schedule and penalty provisions suggested a businesslike operation rather than a charitable one.

¶ 26 Having considered the evidence, the ALJ recommended the denial of plaintiff's request for a property tax exemption for 2010. In July 2013, Hamer adopted the ALJ's findings.

¶ 27 C. Circuit Court Proceedings

¶ 28 In September 2013, plaintiff filed a complaint for administrative review in the circuit court of Sangamon County. Therein, plaintiff asserted (1) the Department's findings were against the manifest weight of the evidence, (2) the Department erred by denying plaintiff's request for a religious exemption, and (3) the Department's finding violated the first amendment's establishment clause. In October 2015, the circuit court entered an order affirming the Department's decision.

¶ 29 This appeal followed.

¶ 30 II. ANALYSIS

¶ 31 A. Standard of Review

¶ 32 With respect to the merits of this case, the parties initially contest the appropriate standard of review. Plaintiff argues our standard of review is *de novo*. The Department, on the other hand, contends we should review the decision for clear error.

¶ 33 "When an appeal is taken to the appellate court following entry of judgment by the circuit court on administrative review, it is the decision of the administrative agency, not the judgment of the circuit court, which is under consideration." *Provena Covenant Medical Center v. Department of Revenue*, 236 Ill. 2d 368, 386, 925 N.E.2d 1131, 1142 (2010). In reviewing agency decisions, there are three possible standards of review. Where the issue is purely an issue of law, our review is *de novo*. *Id.* at 387, 925 N.E.2d at 1143. This standard applies to plaintiff's

assertion that the Department's decision is void. *Gilchrist v. Human Rights Comm'n*, 312 Ill. App. 3d 597, 602, 728 N.E.2d 566, 571 (2000). Where the agency's factual findings are in dispute, we determine whether those facts are against the manifest weight of the evidence. *Provena*, 236 Ill. 2d at 387, 925 N.E.2d at 1143. Agency decisions also give rise to a third standard of review—where the issue involves a mixed question of law and fact and we are determining whether the facts satisfy the statutory standards, we review the agency's decision for clear error. *Id.*

¶ 34 In this case, the ALJ considered the facts introduced during the hearing and applied them to the statutory standards set forth under the Code in determining the Center was not eligible for a religious tax exemption. Accordingly, we review the ALJ's decision for clear error. A clear error occurs where the reviewing court is "left with the definite and firm conviction that a mistake has been committed." (Internal quotation marks omitted.) *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 395, 763 N.E.2d 272, 282 (2001).

¶ 35 Now that we have established the appropriate standards of review, we consider the merits of plaintiff's appeal.

¶ 36 B. Voidness Challenge

¶ 37 Plaintiff first asserts the Department's decision is void because the ALJ who recommended a decision was not the same ALJ who presided over the hearing. "A void order is a complete nullity from its inception and has no legal effect." *Gilchrist*, 312 Ill. App. 3d at 601, 728 N.E.2d at 570. Where an agency lacks the statutory authority to enter a decision, its order is void. *Id.* Whether an agency exceeded its statutory authority is subject to *de novo* review. *Id.* at 602, 728 N.E.2d at 571.

¶ 38 In support of its argument, plaintiff relies on *Gilchrist*. In *Gilchrist*, the appellate court held the Human Rights Commission exceeded its statutory authority by accepting the recommendation of an ALJ who did not preside over the hearing. *Id.* at 603, 728 N.E.2d at 571-72. However, in *Gilchrist*, the Human Rights Act contained specific statutory language prohibiting an ALJ other than the presiding ALJ to make a finding unless certain enumerated circumstances applied. *Id.* at 603, 728 N.E.2d at 571; see also 775 ILCS 5/8A-102(I)(4) (West 1996). We find no such provision in the Code in the present case.

¶ 39 Rather, we conclude the supreme court's reasoning in *Starkey v. Civil Service Comm'n*, 97 Ill. 2d 91, 454 N.E.2d 265 (1983), is more appropriate here. In *Starkey*, our supreme court noted:

"[I]n the absence of statutory provisions to the contrary, it is not necessary that testimony in administrative proceedings be taken before the same officers who have the ultimate decision-making authority. [Citations.] *** [A]dministrative proceedings may be conducted by hearing officers who refer the case for final determination to a board which has not 'heard' the evidence in person. The requirements of due process are met if the decision-making board considers the evidence contained in the report of proceedings before the hearing officer and bases its determination thereon." (Internal quotation marks omitted.) *Id.* at 100, 454 N.E.2d at 269.

¶ 40 No provisions in the Code prohibit an ALJ who did not preside over the case from issuing a determination. The record demonstrates the ALJ who issued the recommendation first

reviewed the record from the hearing. Thus, in cases such as this, where no statutory provisions otherwise prohibit it, an ALJ other than the ALJ who presided over the hearing may make a recommendation. Accordingly, we conclude the ALJ's decision was not void.

¶ 41 C. Whether the Department's Decision Constituted Clear Error

¶ 42 Plaintiff asserts the Department improperly denied its property tax exemption.

"Each claim for exemption must be determined from the facts presented, and the party seeking an exemption bears the burden of proving the right to an exemption." *First Presbyterian Church of Dixon v. Zehnder*, 306 Ill. App. 3d 1114, 1116, 715 N.E.2d 1209, 1211 (1999). The evidence supporting an exemption must be clear and conclusive. *Faith Builders Church, Inc. v. Department of Revenue of the State of Illinois*, 378 Ill. App. 3d 1037, 1042, 882 N.E.2d 1256, 1261 (2008). "If there is any doubt as to applicability of an exemption, it must be resolved in favor of requiring that tax be paid." *Provena*, 236 Ill. 2d at 388, 925 N.E.2d at 1144.

¶ 43 The Code provides the following language with respect to property tax exemptions:

"Property used exclusively for:

- (1) religious purposes, or
- (2) school and religious purposes, or
- (3) orphanages

qualifies for exemption as long as it is not used with a view to profit." 35 ILCS 200/15-40(a) (West 2010).

Plaintiff argues the first exemption—religious purposes—applies in the present case. Thus, plaintiff must demonstrate the property is (1) used exclusively for "religious purposes" and (2) not used with a "view to profit." *Id.* Plaintiff must meet both requirements to qualify for an

exemption. *Franciscan Communities, Inc. v. Hamer*, 2012 IL App (2d) 110431, ¶ 20, 975 N.E.2d 733. We now examine whether the Center was used exclusively for religious purposes.

¶ 44

1. *Exclusive-Use Requirement*

¶ 45

"The exclusive-use requirement of the statute is satisfied if the property is *primarily* used for the exempted purpose; incidental use for secular purposes does not destroy the exemption." (Emphasis in original.) *Zehnder*, 306 Ill. App. 3d at 1116, 715 N.E.2d at 1211.

"Whether an entity has been organized and operated exclusively for religious purposes is determined from its charter, bylaws, and actual method and facts relating to its operation."

Provena, 236 Ill. 2d at 408, 925 N.E.2d at 1155.

¶ 46

Plaintiff contends its evidence demonstrates an exclusive religious purpose, as religion is a core tenet of its mission statement and the Center's daily instruction. The Center was founded and run by plaintiff church, the board members are church members, and the teachers must have a religious affiliation. Plaintiff asserts the Center "was started and exists solely to most effectively obey Christ's command to 'make disciples.'" This is evidenced by the Center's restriction of services to children between the ages of two and five, the age when children are the most receptive to religious teachings, according to Dr. Carter. Moreover, plaintiff asserts the evidence demonstrated Christ-centered instruction was part of every lesson, including secular lessons.

¶ 47

However, as the ALJ noted, the primary purpose of the property was to provide "superior quality" day care services. The families utilizing the Center were not required to identify with any particular religion. Although the mission statement explained the curriculum is Christ-centered, it also went on to state the Center provides social interaction, intellectual stimulation, physical development, and emotional growth, which are secular services. The

lessons plans demonstrated a particular period of daily Bible study and weekly Bible journals; however, the Department determined such study encompassed but a fraction of the day, with the remaining hours devoted to secular activity.

¶ 48 Moreover, the arrangement between the Center and parents is more businesslike than religious, as it focuses on a timely payment schedule, regardless of whether a child is in attendance. Parents who make delinquent payments are assessed late fees, turned over to a collection agency, or their children could be withdrawn from the school.

¶ 49 Accordingly, it is reasonable to conclude the Center did not serve a primarily religious purpose.

¶ 50 Plaintiff asserts this case is "strikingly similar" to *Zehnder*, 306 Ill. App. 3d at 715 N.E.2d at 1209. In *Zehnder*, a church leased a parcel of property to a nonprofit organization that provided used furniture and other household items at low or no cost to low-income families. *Id.* at 1115, 715 N.E.2d at 1210. Any income raised by the organization was donated to various community organizations. *Id.* at 1115-16, 715 N.E.2d at 1210. The reviewing court determined the parcel of property was subject to a religious exemption, as the activity of the nonprofit organization furthered the church's mission to provide charity for the community. *Id.* at 1116-17, 715 N.E.2d at 1211. The reviewing court also found a charitable relationship between the church and the nonprofit organization, as the church charged the nonprofit organization only one dollar for the use of the property for the purpose of fulfilling the church's charitable mission. *Id.* at 1117, 715 N.E.2d at 1211.

¶ 51 Plaintiff argues this case is like *Zehnder* because the Center fulfills plaintiff's mission of providing religious instruction, fellowship, and evangelism. However, certain characteristics distinguish this case from *Zehnder*, such as the fact that the church in *Zehnder*

leased the facility to a nonprofit organization for one dollar, demonstrating a decided lack of a commercial relationship and more of a religious relationship. By contrast, here, as the Department found, the Center had more of a commercial relationship with those who used the property, including charging tuition on days the children were not in attendance and late fees for delinquent payments. Moreover, the property in *Zehnder* was used exclusively for charitable purposes, as the nonprofit organization leasing the space provided household goods to the needy for low or no cost and thereafter donated almost all of its profits to community organizations. No such arrangement exists here. As Pastor Auble noted, plaintiff church would not receive any proceeds from the Center if the Center made a profit; rather, any profits would be reinvested in the Center. We therefore find plaintiff's reliance on *Zehnder* unpersuasive.

¶ 52 Rather, this case is similar to *Faith Builders*, 378 Ill. App. 3d 1037, 882 N.E.2d 1256. In *Faith Builders*, a church sought a tax exemption for a day care center it opened in a separate building. *Id.* at 1038-39, 882 N.E.2d at 1258. The senior pastor testified all of the children—including infants—were exposed to religious instruction. *Id.* at 1039, 882 N.E.2d at 1259. The Department determined, though the school had "religious overtones," the building was used primarily as a day care and was therefore not exempt from taxation. *Id.* at 1040, 882 N.E.2d at 1259-60. In upholding the Department's finding, this court explained, "In a sense, everything a deeply devout person does has a religious purpose. But if that formulation determined the exemption from property taxes, religious identity would effectively be the sole criterion." *Id.* at 1046, 882 N.E.2d at 1264. We thereafter concluded, "Day care is simply not a 'religious purpose' within the commonly accepted definition of that term." *Id.*

¶ 53 Moreover, this court in *Faith Builders* determined the Department could reasonably find the day care was more characteristic of a commercial day care than a facility

used primarily for religious instruction, as parents were required to pay tuition in a timely manner, regardless of whether the child was in attendance, and failure to pay could result in late fees, referral to a collections agency, or involuntary withdrawal from the school. *Id.* As this court pointed out, such an arrangement is more of a business relationship than a religious one. *Id.*

¶ 54 We find the same reasoning applicable here. Just as in *Faith Builders*, the Center provided religious instruction and "religious overtones" in its daily instruction. However, the primary purpose of the building was to provide day care services, which are not tax exempt under the Code. Moreover, like in *Faith Builders*, the Center provides more of a business relationship than a religious one, given the strict requirements for timely payment regardless of whether a child is in attendance, the imposition of late fees, collection agency referrals, or involuntary withdrawal from the school for delinquent payments.

¶ 55 We therefore conclude the Department's application of its factual findings to the legal standard does not constitute clear error.

¶ 56 *2. View Toward Profit*

¶ 57 Because we have determined the Center was not used exclusively for religious purposes, we need not consider whether the Center was established with a view toward profit.

¶ 58 *3. Charitable-Use Exemption*

¶ 59 Plaintiff also asserts the Department erred by considering whether it qualified for a charitable-use exemption plaintiff did not request. At the Department hearing, plaintiff's attorney specifically stated plaintiff was not waiving any arguments relating to the charitable exemption. The ALJ replied, "The reason both issues are before me is because of the contents of the pretrial order. *** The pretrial order indicates that the issues in this case are whether

[plaintiff] has organized and operated exclusively for charitable or religious purposes and qualifies for a tax exemption. So I believe both issues are before me." Plaintiff made no objection to this statement. Accordingly, we conclude this argument is forfeited. See *Jackson v. City of Chicago*, 2012 IL App (1st) 111044, ¶ 21, 975 N.E.2d 153 (Issues not raised before the administrative agency are deemed forfeited.).

¶ 60 D. Constitutional Issues

¶ 61 Plaintiff next asserts several constitutional issues require us to reverse the Department's determination. The Department argues these issues are forfeited, as plaintiff failed to raise them during the administrative hearing. See *id.* ("Generally, issues or defenses not raised before the administrative agency will not be considered for the first time on administrative review."). However, constitutional issues present an exception to the forfeiture rules. *Arvia v. Madigan*, 209 Ill. 2d 520, 532-33, 809 N.E.2d 88, 97 (2004). Regardless, forfeiture is a limitation on the parties, not the reviewing court. *Jackson*, 2012 IL App (1st) 111044, ¶ 22, 975 N.E.2d 153. We will therefore consider the merits of plaintiff's constitutional claims.

¶ 62 1. *First-Amendment Claims*

¶ 63 Plaintiff asserts section 15-40(a) of the Code (35 ILCS 200/15-40(a) (West 2010)) violates the establishment clause when applied to this case because the Department engaged in an excessive entanglement with religion. In considering an entity's request for a tax exemption, there are two key characterizations to consider—(1) the entity's religious beliefs and (2) its use of the subject property. See *Franciscan Communities*, 2012 IL App (2d) 110431, ¶¶ 16-17, 975 N.E.2d 733. While the Department may not question an entity's sincerely held religious beliefs, it may consider whether the property is in fact being used for religious purposes. *Id.*

¶ 64 Here, the Department did not question the sincerity of plaintiff's religious beliefs but, rather, analyzed whether its use of the Center was for a primarily religious purpose. This is acceptable under *Franciscan Communities*. Moreover, as the supreme court noted in *Provena*, the Department must have some authority to consider the primary use of the property, because if religious institutions alone had the power to determine the religious nature of their activities, those religious institutions would be "the ultimate arbiter of when and under what circumstances church property is exempt from taxation." *Provena*, 236 Ill. 2d at 410, 925 N.E.2d at 1156. The *Provena* court rejected such an approach, and we reject it here.

¶ 65 Plaintiff makes the same arguments in support of its assertion that the Department's decision is an unconstitutional act of prior restraint. Because we find no evidence that the Department questioned the sincerely held religious beliefs of the Center, we find plaintiff has failed to demonstrate a constitutional violation regarding prior restraint.

¶ 66 *2. Due-Process Claim*

¶ 67 Plaintiff also asserts the Department violated its fourteenth-amendment due-process rights because "the entire process for approving a religious tax exemption consists of a standardless, unguided, discretionary system enforced and executed by [the Department], which has the ultimate result of depriving [plaintiff] and others similarly situated of their property interests in the tax exemption." However, in making this argument, plaintiff fails to elaborate on its conclusory argument or cite any authority that leads to such a legal conclusion. We therefore decline to consider this argument as it is forfeited. See *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5, 960 N.E.2d 1226 (the appellate court is not a depository into which the appealing party may dump the burden of argument and research).

¶ 68 III. CONCLUSION

¶ 69 Based on the foregoing, we affirm the circuit court's judgment.

¶ 70 Affirmed.