



(916) 443-5047

January 25, 1980

Mr. E. C. Williams
San Diego County Assessor
1600 Pacific Highway
San Diego, CA 92101

Dear Chuck:

This is in response to your January 9, 1980, letter in which you ask if the church cafeteria is entitled to the church exemption.

The cafeteria property may be considered exclusively used for the exempt church purpose so long as the nonconforming use is concluded to be incidental and reasonably necessary for the exempt use. In this case, it appears the property is a church building used to house church goers assembled from at least ten other churches. Apparently the facilities provide accommodations for worship not afforded in any of the single churches. It is, therefore, reasonably necessary to provide a large facility to accommodate the large crowd than would assemble at the respective churches. And since it appears the meetings last for two days, then it is reasonably necessary to provide eating accommodations. The fact that charges are made for the food does not violate the limits of the exempt use. Charging for food is permissible so long as the property is exclusively used for the exempt purpose and any income generated was not the result of intentional profit making, nor was the use commercial in nature. (Christ the Good Shepherd Lutheran Church v. Mathiesen, 81 Cal. App. 3d 355.)

We suggest you examine the need for 7.36 acres for the religious use. If it appears there is land in excess of reasonable need, then the exemption for the land should be limited. You could consider the size of the site as compared to the smallest parcel of practical use considering zoning requirements, parking requirements, buffer zones, etc. You may find that any vacant and unused portion could not be shown, as a practical matter, to be usable separate from the church use, and in that event, could be considered as "exclusively used" within the meaning of the exemption.

Very truly yours,

Robert R. Keeling
Tax Counsel