

REPRESENTATIVE FOR PETITIONER:

Mark. I. Lillianfeld, Attorney, Stuart & Branigin, LLP

REPRESENTATIVES FOR RESPONDENT:

Sharon Fleming, Director of Non-Profit Division, Lake County Assessor,  
Carol-Ann Seaton, Lake County Property Tax Assessment Board of Appeals

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Purdue Research Foundation	)	Petition Nos.:	45-023-00-2-8-00001
	)		45-023-00-2-8-00002
	)		45-023-00-2-8-00003
	)		45-023-00-2-8-00004
Petitioner,	)		45-023-00-2-8-00005
	)		45-023-00-2-8-00006
	)		45-023-00-2-8-00007
v.	)		45-023-00-2-8-00008
	)		45-023-00-2-8-00009
	)		
Lake County Property	)	Parcel Nos.:	26-36-0173-0001
Tax Assessment Board of	)		26-36-0174-0001
Appeals	)		26-36-0429-0001
	)		26-36-0431-0001
	)		26-37-0045-0001
	)		26-37-0045-0004
Respondent.	)		26-37-0045-0005
	)		26-37-0045-0006
	)		26-37-0049-0001
	)		
	)	County:	Lake
	)	Township:	North
	)	Assessment Year:	2000

Appeal from the Final Determination of the  
Lake County Property Tax Assessment Board of Appeals

**September 28, 2006**

## **FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) has reviewed the facts and evidence presented in this case. The Board now enters its findings of fact and conclusions of law on the following issue:

Whether the Petitioner's land is exempt from taxation under Ind. Code § 6-1.1-10-16 and Ind. Code § 20-12-6-11?

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **Procedural History**

1. Jeffrey H. Wilson, Senior Vice-President and Treasurer of Purdue Research Foundation (PRF), filed an Application for Property Tax Exemption (Form 136) for nine parcels for the 2000 assessment year on May 12, 2000. The Lake County Property Tax Assessment Board of Appeals (PTABOA) issued its determinations denying the request for exemption and finding that all of the parcels are 100% taxable on October 13, 2004.
2. Pursuant to Ind. Code § 6-1.1-11-7, Mark I. Lillianfeld, esq., Stuart & Branigin, filed petitions to the Board for Review of Exemptions (Form 132) on November 12, 2004, seeking an administrative review of the PTABOA determination on behalf of PRF.<sup>1</sup>

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<sup>1</sup> The Petitioner was concerned that the Lake County PTABOA denial of exemption for 2000 also included the applications for 2002 and 2004 because the denials for seven of the parcels said "2000 forward." The Petitioner prepared notices of appeal for years subsequent to 2000, which Lake County rejected. The Respondent indicated that "2000 forward" meant to the next filing date and that the subsequent years could be pending.

### **Hearing Facts and Other Matters of Record**

3. The Board requested the parties submit pre-hearing briefs by June 8, 2006. The Petitioner submitted a pre-hearing brief dated June 5, 2006; the Respondent submitted a Response to Petitioner's Appeal and Claim of Tax Exemption dated June 8, 2006.
4. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on June 21, 2006, in Crown Point, Indiana. Ellen Yuhan, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-3-3 and § 6-1.5-5-2, presided at the hearing.
5. The following persons were sworn as witnesses at the hearing:
  - For the Petitioner: Michael Kull, Assistant Vice-Chancellor, Purdue University Calumet
  - Catherine L. Farley, Secretary to Michael Kull,
  - Krista Hixson, Real Estate Manager, PRF
  - For the Respondent: Sharon Fleming, Director, Non-Profit Division, Lake County,
  - Carol-Ann Seaton, Lake County PTABOA.
6. The Petitioner presented the following evidence:
  - Petitioner Exhibit 1: Application for Property Tax Exemption (2000) (45-023-00-2-8-00001),
  - Petitioner Exhibit 2: Application for Property Tax Exemption (2000) (45-023-00-2-8-00002),
  - Petitioner Exhibit 3: Application for Property Tax Exemption (2000) (45-023-00-2-8-00003),
  - Petitioner Exhibit 4: Application for Property Tax Exemption (2000) (45-023-00-2-8-00004),

Petitioner Exhibit 5: Application for Property Tax Exemption (2000) (45-023-00-2-8-00005),  
Petitioner Exhibit 6: Application for Property Tax Exemption (2000) (45-023-00-2-8-00006),  
Petitioner Exhibit 7: Application for Property Tax Exemption (2000) (45-023-00-2-8-00007),  
Petitioner Exhibit 8: Application for Property Tax Exemption (2000) (45-023-00-2-8-00008),  
Petitioner Exhibit 9: Application for Property Tax Exemption (2000) (45-023-00-2-8-00009),  
Petitioner Exhibit 10: Notice of Denial of Exemption Application (45-023-00-2-8-00001),  
Petitioner Exhibit 11: Notice of Denial of Exemption Application (45-023-00-2-8-00002),  
Petitioner Exhibit 12: Notice of Denial of Exemption Application (45-023-00-2-8-00003),  
Petitioner Exhibit 13: Notice of Denial of Exemption Application (45-023-00-2-8-00004),  
Petitioner Exhibit 14: Notice of Denial of Exemption Application (45-023-00-2-8-00005),  
Petitioner Exhibit 15: Notice of Denial of Exemption Application (45-023-00-2-8-00006),  
Petitioner Exhibit 16: Notice of Denial of Exemption Application (45-023-00-2-8-00007),  
Petitioner Exhibit 17: Notice of Denial of Exemption Application (45-023-00-2-8-00008),  
Petitioner Exhibit 18: Notice of Denial of Exemption Application (45-023-00-2-8-00009),  
Petitioner Exhibit 19: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00001),  
Petitioner Exhibit 20: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00002),  
Petitioner Exhibit 21: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00003),  
Petitioner Exhibit 22: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00004),  
Petitioner Exhibit 23: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00005),  
Petitioner Exhibit 24: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00006),  
Petitioner Exhibit 25: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00007),  
Petitioner Exhibit 26: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00008),  
Petitioner Exhibit 27: Petition for Review of Exemption, Form 132, (45-023-00-2-8-00009),

- Petitioner Exhibit 28: Plat drawing of PRF parcels on Purdue University Calumet campus leased to Purdue University, Aerial map of Purdue University Calumet campus (current); Aerial photograph of Purdue University Calumet campus circa 1991; Aerial photograph of Purdue University Calumet campus circa 2002,
- Petitioner Exhibit 29: Affidavit of Michael J. Kull, Assistant Vice President for Administrative Services, Purdue University Calumet,
- Petitioner Exhibit 30: Nichols, Tinkham and Bailey article excerpt “A Year Among the Wildflowers of Purdue Calumet,”
- Petitioner Exhibit 31: J.F. New & Associates Report, “Wetlands Delineation Report, Purdue University Calumet Campus, Lake County, Indiana October 30, 2001,”
- Petitioner Exhibit 32: Affidavit of Krista E. Hixson, Real Estate Manager, Purdue Research Foundation,
- Petitioner Exhibit 33: Agreement between Purdue Research Foundation and FBI Buildings for construction of Purdue University Calumet Conference Center,
- Petitioner Exhibit 34: Articles of Incorporation of Purdue Research Foundation in effect on March 1, 2000,
- Petitioner Exhibit 35: Internal Revenue Service letter to Purdue Research Foundation dated October 14, 1944,
- Petitioner Exhibit 36: Internal Revenue Service letter to Purdue Research Foundation dated March 7, 1973,
- Petitioner Exhibit 37: Copy of Section 170(b)(1)(A)(iv) of the Internal Revenue Code of 1986,
- Petitioner Exhibit 38: Warranty Deed from Ross-Ade Foundation to Purdue Research Foundation for the above-identified parcels,
- Petitioner Exhibit 39: Affidavit of Anthony S. Benton, Counsel to the Board of Trustees of The Trustees of Purdue University,
- Petitioner Exhibit 40: Lease agreement between Purdue Research Foundation and Purdue University dated February 1, 2000, for the lease of above-identified parcels by Purdue University,
- Petitioner Exhibit 41: Indiana Board of Tax Review, Final Determination-Rehearing, Petition No. 45-030-00-2-8-00001, P&A LLC, Petitioner v. Lake County Property Tax Board of Appeals, Respondent,
- Petitioner Exhibit 42: Indiana Board of Tax Review, Findings of Fact and Conclusions of Law, Petition No. 92-492-136, Indiana University Foundation, Petitioner v. Marion County Board of Review, Respondent,

- Petitioner Exhibit 43: Copy of Act 1965, Chapter 227 (Approved March 10, 1965),
- Petitioner Exhibit 44: Petition 45-023-00-2-8-00001, Parcel 26-36-0173-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 45: Petition 45-023-00-2-8-00002, Parcel 26-36-0174-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 46: Petition 45-023-00-2-8-00003, Parcel 26-36-0429-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 47: Petition 45-023-00-2-8-00004, Parcel 26-36-0431-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 48: Petition 45-023-00-2-8-00005, Parcel 26-37-0045-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 49: Petition 45-023-00-2-8-00006, Parcel 26-37-0045-0004, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 50: Petition 45-023-00-2-8-00007, Parcel 26-37-0045-0005, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 51: Petition 45-023-00-2-8-00008, Parcel 26-37-0045-0006, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 52: Petition 45-023-00-2-8-00009, Parcel 26-37-0049-0001, Property Tax Exemption Applications for 1983, 1984, 1988, 1992, and 1996, Ross Ade Foundation, Owner,
- Petitioner Exhibit 53: Property Tax Duplicates, Lake County for 1995 payable 1996, Ross Ade Foundation Owner- Parcels 26-36-0173-0001, 26-36-0174-0001, 26-36-0429-0001, 26-36-0431-001, 26-37-0045-0004, 26-37-0045-0004, 26-37-0045-0005, 26-37-0045-0006, and 26-37-0049-0001,
- Petitioner Exhibit 54: Property Tax Duplicates, Lake County for 1997 payable 1998, Ross Ade Foundation Owner- Parcels

26-36-0173-0001, 26-36-0174-0001, 26-36-0429-0001, 26-36-0431-001, 26-37-0045-0004, 26-37-0045-0004, 26-37-0045-0005, 26-37-0045-0006, and 26-37-0049-0001,<sup>2</sup>

6. The Respondent did not submit any exhibits at the administrative hearing, but Ms. Fleming indicated the basis of the Respondent's argument was included in the Respondent's Response to the Petitioner's Appeal and Claim of Exemption, which was submitted as the Respondent's pre-hearing brief.
  
7. The following additional items are officially recognized as part of the record of proceedings:
  - Board Exhibit A: Form 132 Petition,
  - Board Exhibit B: Notice of Hearing,
  - Board Exhibit C: Order Regarding Conduct of Exemption Hearing,
  - Board Exhibit D: Order for Pre-hearing Briefs,
  - Board Exhibit E: Hearing sign-in sheet.
  
8. The subject parcels are nine parcels with an aggregate acreage of approximately 92 acres. In 2000, a Conference Center was erected on Parcel 26-26-0431-0001. The other parcels are vacant land. The parcels form the southern boundary of Purdue University Calumet Campus and are physically located between 173<sup>rd</sup> Street on the north, 177<sup>th</sup> Street on the south, Woodmar Avenue on the west and

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<sup>2</sup> The Respondent objected to the introduction of Petitioner Exhibits 44-54 on the grounds that they were not included in the Petitioner's original summary of witnesses and exhibits. The Respondent also objected because the exhibits were not submitted to the PTABOA. While "a party participating in the hearing may introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals" (52 IAC 2-7-1), the Petitioner was required to submit its exhibits prior to the hearing by the Board's procedural rules. Here, the Petitioner contends that the exhibits were submitted to show that the parcels were exempt in the past when Ross-Ade was the owner of record. This fact was not disputed by the Respondent. Furthermore, a past exemption is not relevant to the Petitioner's entitlement to the exemption at issue as each assessment and each tax year stand alone. *Fleet Supply, Inc v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116,1124 (Ind. Tax Ct. 1991)). Therefore, Exhibits 44-54 have no relevance to this administrative procedure and are not considered for the purpose of this determination.

the C. I. & S. railroad tracks on the east in the City of Hammond, North Township, Lake County.

9. The Administrative Law Judge did not conduct an on-site inspection of the property.
10. The Lake County PTABOA determined the parcels to be 100% taxable. The Petitioner contends that parcels should be 100% tax-exempt.

### **Jurisdiction**

11. The Indiana Board is charged with conducting an impartial review of all appeals concerning the assessed valuation of tangible property, property tax deductions, and property tax exemptions that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15.

### **Administrative Review and Petitioner's Burden**

12. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
13. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the



taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).

14. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.

### **Basis of Exemption and Burden**

15. The general rule is that all property is subject to taxation. Ind. Code § 6-1-1-2-1. The General Assembly may exempt any property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Article 10, § 1 of the Constitution of Indiana. This provision, however, is not self-enacting. The General Assembly must enact legislation granting the exemption.
16. Use of property by a nonprofit entity does not establish any inherent right to exemptions. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how property is used, but on how money is spent. *See Raintree Friends Housing, Inc. v. Indiana Department of Revenue*, 667 N.E. 2d 810, 813 (Ind. Tax Ct. 1996) (non-profit status does not automatically entitle a taxpayer to tax exemption).
17. All property receives protection, security, and services from the government, e.g., fire and police protection and public schools. These government services carry with them a corresponding obligation of pecuniary support in the form of taxation. When property is exempt from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *See generally*,

*Nat'l Assoc. of Miniature Enthusiasts v. State Bd. of Tax Comm'rs*, 671 N.E. 2d 218 (Ind. Tax Ct.1996).

18. Worthwhile activities or noble purpose alone is not enough for tax exemption. An exemption is justified because it helps accomplish some public purpose.

*Miniature Enthusiasts*, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Comm'rs*, 550 N.E. 2d 850, 854 (Ind. Tax Ct.1990)).

19. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statutory authority for the exemption. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004); *Monarch Steel, v. State Bd. of Tax Comm'rs*, 611 N.E. 2d at 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Bd. of Tax Comm'rs*, 512 N.E. 2d 936, 938 (Ind. Tax Ct.1987).

### **Petitioner's Contentions**

20. The Petitioner contends that the property at issue is exempt under Ind. Code § 6-1.1-10-16 and Ind. Code § 20-12-6-11 because the parcels form an integral part of Purdue University's Hammond campus; the parcels are used exclusively by Purdue University for its educational purposes; and the parcels were leased by PRF to Purdue University. *Lillianfeld argument*. The Petitioner claims that PRF's ownership of the property for the benefit of Purdue University carries out its charitable purposes, and because no parcel exceeds fifty acres, each parcel qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16(c). *Id.* The Petitioner further contends that, with the exception of the one improved parcel, the parcels are wetlands used by Purdue University for educational research. *Id.*

21. According to the Petitioner, in January 2000, Ross-Ade Foundation transferred the subject parcels to PRF by warranty deed. *Petitioner Exhibit 38*. The Petitioner submitted evidence establishing that PRF is a corporation “organized to promote educational purposes in connection with or at the request of Purdue University, and the various activities of or pertaining to said institution....” *Petitioner Exhibit 34*. The Petitioner also substantiated that PRF is a charitable organization exempt from federal income tax under Section 501 (c)(3) of the Internal Revenue Code of 1986 and Section 170(b)(1)(A)(iv) of the Internal Revenue Code of 1986 which pertains to an organization organized and operated exclusively to receive, hold, invest, and administer property for the benefit of a state college or university. *Petitioner Exhibit 37*.
  
22. PRF contends that Purdue University, a corporation under Ind. Code § 20-12, acquired the subject parcels within the meaning of Ind. Code § 20-12-6-2(a) which states that corporations are authorized to acquire by lease for such period of time not exceeding forty years such real property, improved or unimproved, as deemed necessary by the state university for purposes of carrying on educational research, public service programs, the statutory responsibilities of the educational institutions or for the management or operation of the educational institutions, on such terms and conditions as the governing boards of the state universities may approve. *Lillianfeld argument*. According to the Petitioner, in February 2000, PRF leased the subject parcels to Purdue University for a term of one year with the option to renew the lease from year to year. *Petitioner Exhibit 40*.
  
23. PRF further contends that much of the subject parcels are wetlands used by Purdue University Calumet for educational research. *Lillianfeld argument; Kull testimony*. According to the Petitioner, a wetlands delineation report was conducted in 2001. *Petitioner Exhibit 31; Kull testimony*. The Petitioner testified that Purdue’s faculty has used that report to audit the flora and the fauna and have publications associated with that audit of the flora and the fauna. *Kull testimony; Petitioner Exhibit 30*.

24. The Petitioner contends that all property acquired by a state university under the authority of Chapter 6 of Ind. Code § 20-12 or used for purposes provided in Chapter 6 of Ind. Code § 20-12 is exempt from taxation in Indiana pursuant to Ind. Code § 20-12-6-11. *Lillianfeld argument*. The Petitioner claims both of these standards were met. *Id.* According to the Petitioner, Purdue University acquired the property by lease from PRF and used the property as an integral part of the campus and for research of soil and vegetation. *Id.*; *Kull testimony*; *Petitioner Exhibit 40*. The Petitioner cites to the Indiana Board of Tax Review, Final Determination-Rehearing, Petition No. 45-030-00-2-8-00001, P&A LLC, *Petitioner v. Lake County Property Tax Board of Appeals, Respondent*, and Indiana Board of Tax Review, Findings of Fact and Conclusions of Law, Petition No. 92-492-136, *Indiana University Foundation, Petitioner v. Marion County Board of Review, Respondent*, in support of the applicability of Ind. Code § 20-12-6-11 to the exemption at issue here. *Lillianfeld argument*; *Petitioner Exhibit 41 and 42*.

### **Respondent's Contentions**

25. The Respondent contends that the Petitioner's claim for exemption was made under Ind. Code § 6-1.1-10-16 for educational purposes and not under Ind. Code § 20-12-6-11. *Fleming testimony*; *Seaton testimony*. According to the Respondent, the petitions were denied because the Petitioner failed to demonstrate progress toward erecting a building as required by Ind. Code § 6-1.1-10-16. *Respondent's Response to Petitioner's Appeal*; *Board Exhibit A*.
26. The Respondent further contends that the Petitioner did not provide requested information on leases and usage and did not attend the PTABOA hearing on this matter. *Fleming testimony*; *Seaton testimony*. According to the Respondent, it conducted site inspections on the subject properties and did not see any ongoing

activity related to the actual workings of the University or that was necessary to promote Purdue's educational function. *Id.*

27. Finally, the Respondent argues that no government entity, such as the Indiana Department of Environmental Management (IDEM) or the Army Corps of Engineers has declared the land to be wetlands. *Seaton testimony.*

### **Discussion and Analysis**

28. The Petitioner contends that the subject parcels are entitled to a 100% exemption. According to the Petitioner, the land is an integral part of Purdue University's Hammond campus and is used exclusively for its educational purposes. PRF alleges that this meets the standards for exemption under Ind. Code § 6-1.1-10-16 and Ind. Code § 20-12-6-11.
29. Ind. Code § 6-1.1-10-16 provides, in part, that "A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if: (1) a building that is exempt under subsection (a) or (b) is situated on it; (2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it; or (3) the tract: (A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics; (B) does not exceed five hundred (500) acres; and (C) is not used by the nonprofit entity to make a profit." *Ind. Code § 6-1.1-10-16(c).* Here, the evidence shows that, at the time of the assessment, there were no buildings present or planned on parcels 26-36-0173-0001; 26-36-0174-0001; 26-36-0429-0001; 26-37-045-00001; 26-37-045-00004; 26-37-0045-0005; 26-37-0045-0006; and 26-37-0049-0001 (together the "Wetlands Parcels"). Nor is there any evidence that any of the Wetlands Parcels has a parking lot or structure serving a building situated thereon. Further, the Petitioner failed to show that Purdue is a "nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics."

30. Ind. Code § 6-1.1-10-16(d) further states that “A tract of land is exempt from property taxation if: (1) it is purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); and (2) not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose.” To the extent that the Petitioner contends that it commissioned a wetlands delineation report “to determine what else could be built on the property,” this is insufficient to meet the requirements of § 6-1.1-10-16(d). “Mere ownership alone is insufficient to support an exemption and that the intent to use the property for an exempt purpose must be more than a mere dream.” *Trinity Episcopal Church v. State Bd. of Tax Comm'rs*, 694 N.E.2d 816, 818 (Ind. Tax Ct. 1998) (internal quotation marks omitted) (citing *Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Comm'rs*, 550 N.E.2d 850, 854 (Ind. Tax Ct. 1990)).
31. The Petitioner also contends that the Wetlands Parcels are used for “educational purposes” including research. The Petitioner claims that it is entitled to an exemption for these parcels pursuant to Ind. Code § 20-12-6-1 and 2.<sup>3</sup> Ind. Code § 20-12-6-1 provides authority to “acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, equip, furnish, and operate: (1) any buildings, structures, improvements, or facilities; (2) any utilities, other services, and appurtenances related to an item described in subdivision (1) (including, but not limited to, facilities for the production and transmission of heat, light, water and power, sewage disposal facilities, streets and walks, and parking facilities); and (3) the land required for items described in subdivision (1) or (2).” Similarly, Ind. Code § 20-12-6-2 provides authority to acquire land for such uses. The Petitioner’s cited provisions, however, only exempt land required for “buildings, structures, improvements, or facilities” or

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<sup>3</sup> Ind. Code §20-12-6-11 exempts “[a]ll property acquired under authority of this chapter or used for the purposes provided in this chapter and the income therefrom ... from taxation in the state of Indiana.”

“utilities, ... services [or] appurtenances” to such “buildings, structures, improvements, or facilities.” Nowhere in these statutes is an exemption granted for holding vast tracts of vacant land. Here, the Petitioner has not shown that wetlands are “buildings, structures, improvements, or facilities” or “utilities, ... services [or] appurtenances” to such “buildings, structures, improvements, or facilities.” Again, “[m]ere ownership alone is insufficient to support an exemption.” *Trinity Episcopal Church*, 694 N.E.2d 816 at 818. Thus, the Petitioner has failed to raise a prima facie case that the Wetlands Parcels are exempt.

32. Finally, the Petitioner presented testimony and documentation to show that, on the assessment date, Purdue University had plans to build the Challenger Conference Center on Parcel Number 26-36-0431-0001. According to the Petitioner, it executed a contract with FBi Buildings, Inc., for the construction of the conference center on July 22, 1999. Further, the Petitioner testified that the conference center has been constructed on the property. Ind. Code § 6-1.1-10-16(d) states that “A tract of land is exempt from property taxation if: (1) it is purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); and (2) not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose.” The Petitioner has, therefore, established a prima facie case that Parcel Number 26-36-0431-0001 is entitled to a 100% exemption.
33. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). Here, the Respondent argues that the Petitioner is not entitled to an exemption because the Petitioner has owned the subject property “for several years” and the Petitioner has not complied

with the provisions of Ind. Code § 6-1.1-10-16. The Respondent's allegations, however, are contrary to the evidence. The Petitioner produced documentation that the property was deeded to it by Ross-Ade Foundation in January of 2000. Further, since acquiring the property, the evidence shows that a conference center was planned and constructed on the parcel. Therefore, the Respondent failed to rebut the Petitioner's prima facie case.

### **Summary of Final Determination**

34. The Board finds for the Petitioner on Parcel Number 26-36-0431-0001 and determines that the parcel is 100% tax exempt. The Petitioner failed to raise a prima facie case that the remaining parcels are entitled to an exemption.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

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Commission, Indiana Board of Tax Review



## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five days of the date of this notice.