

REPRESENTATIVE FOR PETITIONER: Abdulwahab Abashaar, Board Member, Pro Se

REPRESENTATIVE FOR RESPONDENT: Sarah Schreiber, Esq., Haller & Colvin

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Islamic Society of North Indiana, (Abdulwahab Abashaar))	Petition:	02-073-20-2-8-00725-20
)		
)		
Petitioner,)	Parcel:	02-07-13-430-002.000-073
)		
)	County:	Allen
)		
v.)	Assessment Year:	2020
)		
Allen County Assessor, Respondent.)		

April 22, 2021

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and after considering the issues, now finds and concludes as follows:

INTRODUCTION

1. The Islamic Society of North Indiana (“the Society”) applied for an exemption for the 2020 assessment year for an improved property in Fort Wayne, Indiana. We find the subject property to be 100% taxable because the Society did not purchase it until May of 2020 and there is no evidence that it was owned, occupied, or used for exempt purposes for the year preceding the relevant assessment date of January 1, 2020.

PROCEDURAL HISTORY

2. The Society applied for an exemption for the 2020 assessment year for property located at 6413 North Clinton Street in Fort Wayne. The Allen County Property Tax Assessment Board of Appeals (“PTABOA”) found the property to be 100% taxable. The Society appealed to the Board.

3. The Board’s administrative law judge, Jennifer Thuma, (“ALJ”) held a telephonic hearing on January 27, 2021. Board Member Abdulwahab Abashaar, Allen County Assessor Stacey O’Day, and Deputy Assessor John Swihart were sworn as witnesses.

RECORD

4. The record consists of the following¹:
- Petitioner’s Exhibit A: Forms 131, 132, 120,136, (2020)
 - Respondent’s Exhibit A: Form 120 for Subject Parcel (2020)
 - Respondent’s Exhibit B: Form 132 for Subject Parcel (2020)
 - Respondent’s Exhibit C: Form 136 for Subject Parcel (2020)
 - Respondent’s Exhibit D: Property Record Cards (2018, 2019, 2020)
 - Respondent’s Exhibit F: Sales Disclosure for Subject Property
 - Respondent’s Exhibit G: Memorandum of Land Sale Contract
 - Respondent’s Exhibit H: Building Permits for Subject
 - Respondent’s Exhibit J: Field Visits for January 1, 2019 Assessments
5. The record also includes the following: (1) all pleadings, briefs, and documents filed in the current appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

BURDEN OF PROOF

6. Generally, a taxpayer seeking review of an assessing official’s decision has the burden of proof. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Hamilton County Property Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). A taxpayer bears the burden of proving it is entitled to an exemption. *Oaken Bucket*, 938 N.E.2d at 657. Every exemption case stands on its own facts and it is the petitioner’s duty in every appeal to walk the Board through the analysis. *Id.*

¹ The Assessor did not offer Respondent’s Exhibits E or I.

FINDINGS OF FACT

7. The Society purchased the subject property on contract on May 4, 2020 from IBC Fort Wayne Development. It consists of land and a building. In August of 2020, the society began using the building as a school for students who are refugees and from lower income families. The school charges no fees and supports its services through donations. No part of the property is used to generate income or profit. *Pet'r. Ex. A; Abashaar testimony.*
8. The property had previously received an educational exemption under a prior owner, but it was vacant from January 1, 2019 to January 1, 2020. *Swihart testimony; Resp't Ex. J.*

CONCLUSIONS OF LAW

9. While property is generally taxable in Indiana, the legislature exempts certain types of properties from taxation and the taxpayer bears the burden of proving it is entitled to an exemption. *Oaken Bucket* at 654, 657. Property tax exemptions are strictly construed against the taxpayer. *Nat'l Ass'n of Miniature Enthusiasts v. State Bd. of Tax Comm'rs*, 671 N.E. 2d 218, 220-21 (Ind. Tax Ct. 1996).
10. Indiana Code § 6-1.1-10-16(a) provides an exemption for all or part of a building that is owned and exclusively or predominantly used and occupied for educational, literary, scientific, religious, or charitable purposes. *See also* Ind. Code § 6-1.1-10-36.3 (c) and *Sangralea Boys Fund, Inc. v. State Bd. of Tax Comm'rs*, 686 N.E. 2d 954, 959 (Ind. Tax Ct. 1997). These terms are to be defined and understood in their broad constitutional sense. *State Bd. of Tax Comm'rs v. Methodist Home for Aged*, 241 N.E. 2d 84 (Ind. Tax Ct. 1968). The exemption extends to land on which an exempt building is situated. Ind. Code § 6-1.1-10-16(c).
11. To receive an exemption from property tax, the property must be owned, occupied, and used for an exempt purpose more than 50% of the time during the year preceding the assessment date. Ind. Code § 6-1.1-10-36.3(a). A not-for-profit school that is

predominantly used for exempt purposes receives a 100% exemption. Ind Code 6-1.1-10-36.3(c)(2).

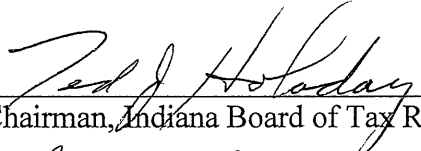
12. The parties agree on the facts in this appeal. On the assessment date of January 1, 2020, and the year preceding that date, the subject property was vacant and owned by IBC Fort Wayne Development. The Society did not purchase the property until May of 2020, and the school did not open until August of that year.

13. The Assessor admitted that the Society's current use of the subject property might qualify it for an exemption for a later assessment year. But she argued that it is ineligible for an exemption for the 2020 assessment year because it was not owned, occupied, and used for exempt purposes on the assessment date or the year preceding the assessment date. We agree. The Society was not the owner for the assessment date at issue, IBC Fort Wayne Development was. Nothing in the evidence indicates that IBC Fort Wayne Development owned or used the property for an exempt purpose during the relevant time period. Nor are we empowered to grant an exemption without such a showing, no matter how laudable the current or subsequent use of the property may be. For that reason, we must find the subject property to be 100% taxable for the year at issue.

CONCLUSION

14. Because the subject property was not owned, occupied, or used for exempt purposes during the year at issue, we find the subject property to be 100% taxable for the 2020 assessment year.

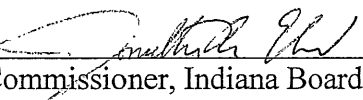
The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.