

REPRESENTATIVE FOR PETITIONERS: Stephen F. Snyder, Esq.

REPRESENTATIVE FOR RESPONDENT: Susan Engelberth, Kosciusko County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Claywood Event Center, Inc.,)	Petition Nos.: 43-020-20-2-8-00518-20
)	43-020-20-2-8-00519-20
Petitioner,)	
)	Parcel Nos.: 43-01-03-079.000-020
)	023-220031-10
v.)	
)	County: Kosciusko
Kosciusko County Assessor,)	
)	
Respondent.)	Assessment Year: 2020
)	
)	

Date SEPTEMBER 27, 2021

FINAL DETERMINATION

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the Parties' arguments, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

I. Introduction

1. Claywood Event Center, Inc. was denied an exemption for real and personal property that it used to operate an event center. We find that Claywood used the property for religious and charitable purposes roughly 86% of the time that the property was in use. We therefore find that Claywood is entitled to an 86% exemption for the real property improvements and personal property. But the statute governing exemption does not allow a property's owner to delegate authority to claim an exemption on its behalf except by an executed power of attorney. Because Claywood did not own the underlying land,

and the land's owner did not appropriately delegate to Claywood the authority to seek an exemption on its behalf, we deny the claimed exemption for the land.

II. Procedural History

2. Claywood applied for an exemption for its real and personal property located at 13924 W. 1100 N, in Nappanee. Its treasurer, Matthew Hochstetler, signed the application. The Kosciusko County Property Tax Board of Appeals issued two Form 120 notices (one for real property and another for personal property) denying Claywood an exemption. Claywood timely filed Form 132 petitions asking us to review those determinations.
3. On June 29, 2021, Erik Jones, our designated administrative law judge ("ALJ"), held a telephonic hearing on the petitions. Neither he nor the Board inspected the property. Stephen F. Snyder appeared for Claywood. Kosciusko County Assessor Susan Engelberth represented herself. Engelberth and Hochstetler were sworn as witnesses and testified.
4. The parties offered the following exhibits:

Petitioner's Exhibit 1	Form 120 (Real Property),
Petitioner's Exhibit 2	Form 120 (Personal Property),
Petitioner's Exhibit 3	Form 136 with attachments,
Petitioner's Exhibit 4	Form 136 Exhibits,
Petitioner's Exhibit 5	2019 Financial Statements,
Petitioner's Exhibit 6	2018 Financial Statements,
Petitioner's Exhibit 7	2017 Financial Statements,
Petitioner's Exhibit 8	Claywood's IRS 501(c)(3) documentation, including Forms 2848 and 1023,
Petitioner's Exhibit 9	Corporate Documents, including certificate of incorporation, articles of incorporation, and explanatory exhibits to Form 1023,
Petitioner's Exhibit 10	Real Estate Lease.
Respondent's Exhibit A	Property Record Card 2020,
Respondent's Exhibit B	Aerial photographs (2) of subject property,
Respondent's Exhibit C	Photographs (9) of subject property, taken by County,
Respondent's Exhibit D	Photograph of Claywood Event Center guidelines, posted to door,

Respondent's Exhibit E	Screenshots and photographs of events (at least 27) scheduled at subject property between 2019 and 2022.
Respondent's Exhibit F	Customer reviews of Claywood screenshots,
Respondent's Exhibit G	Ind. Code § 6-1.1-10-16, with Assessor highlights,
Respondent's Exhibit H	Ind. Code § 6-1.1-1-9, "Owner" defined,
Respondent's Exhibit I	Ind. Code § 6-1.1-11-3, noting that property owner shall file certified Form 136,
Respondent's Exhibit J	Ind. Code § 6-1.1-1-10, "Person" defined,
Respondent's Exhibit K	Ind. Code § 6-1.1-2-4, liability for tax,
Respondent's Exhibit L	Ind. Code § 6-1.1-1-15, "Real Property" defined,
Respondent's Exhibit M	Spring 2020 pay 2021 check payment information and tax installments,
Respondent's Exhibit N	Kosciusko County Board of Zoning minutes, dated May 10, 2016,
Respondent's Exhibit O	Kosciusko County Board of Zoning minutes, dated December 8, 2020,
Respondent's Exhibit P	Three building permits for subject property,
Respondent's Exhibit Q	Email thread between S. Engelberth and L. Taylor, dated June 7, 2021,
Respondent's Exhibit R	Markle United Methodist Church v. Huntington County Property Tax Assessment Board of Appeals, Petitions 35-008-03-2-8-00001, -00002, and -00003,
Respondent's Exhibit S	Petitioner's attachments to Form 1023, pgs. 1-5.

- The official record also includes the following: (1) all petitions and other documents filed in these appeals; (2) all notices and orders issued by the Board or our ALJ; and (3) a transcript of the hearing.

III. Contentions

A. Claywood's contentions.

- Claywood is a not-for-profit entity that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Its officers are volunteers and receive no pay. Although Claywood may have paid someone to do some maintenance one summer, it does not have any employees. Claywood was formed in 2016 to meet the needs of the Anabaptist¹ community in Scott Township. This community needed a gathering place

¹ According to Claywood, the term Anabaptist "collectively refers to members of the traditional Amish and Mennonite communities." *Pet'r Ex. 9*.

that was accessible by horse and buggy to serve its religious, educational, and recreational needs. *Hochstetler testimony; Pet'r Exs. 4, 9.*

7. The subject property includes a roughly 23,000 square foot event hall with an open area for gatherings, a commercial kitchen, a foyer, and storage space. It also includes (1) a shed that houses the facility's diesel generator, which in keeping with Amish religious tenets, serves as Claywood's sole power source, and (2) a lean-to that serves as a place for attendees to park horses and buggies. Claywood owns all three structures, which are situated on a 670' x 420' piece of land leased from the Mark Borkholder and Rose Borkholder Family Trust. One of the trustees, Mark Borkholder, is a director and vice president of Claywood. The terms of the lease provide that the Trust has no ownership interest or special access to any of Claywood's structures. *Hochstetler testimony; Pet'r Exs. 4, 9, 10.*

8. To build the event hall and related structures, Claywood sought contributions for materials and labor. Although the Trust originally intended to sell the underlying land to Claywood, zoning restrictions prevented any sale. To work around this barrier, Claywood and the Trust agreed to a 10-year land lease that began in January 2020. The Trust does not charge Claywood any rent, although Claywood is responsible for insuring and maintaining the structures and paying any taxes assessed against the property. According to Claywood, the split in ownership between land and improvements is irrelevant. The Indiana Code provides that if a building is found to be exempt, that exemption extends to the land on which the building is situated. *Hochstetler testimony; Pet'r Ex. 10; Snyder argument (citing I.C. § 6-1.1-10-16(c)(1)).*

9. The events Claywood has hosted at the facility include youth activities, church- and family-related activities, and fundraisers for Amish churches and schools. In 2019, it hosted 90 of these events. As part of the youth activities, Claywood invites local Amish youth for weekly entertainment nights, which largely involve volleyball games. As Claywood explained in a narrative it submitted to the Internal Revenue Service, there is a

longstanding tradition of playing volleyball among traditional Anabaptist youth because it is an athletic activity that involves both genders but that does not violate church standards of physical propriety. Activities like volleyball therefore provide a spiritual alternative to worldly entertainment. Local youths also use Claywood for an annual fundraiser play, and they distribute the proceeds to needy families in the community. *Hochstetler testimony; Pet'r Ex. 4.*

10. As for the other fundraisers, Claywood points to the unique connection between the Amish church and local schools. Generally, Amish children are discouraged from attending public- or state-operated classrooms. Instead, they attend local, church-sponsored schools. These receive no government funding; instead, they hold fundraisers to cover educational and operational costs. This is where Claywood enters the picture. Amish schools—typically one room buildings—are too small to host such large events, and Claywood provides an appropriately sized venue. According to its exemption application, Claywood hosted 14 fundraisers in 2019. *Hochstetler testimony; Snyder argument; Pet'r Ex. 4.*
11. Claywood said little about the church- and family-related events, other than that churches or educational institutions use the center roughly two days per week. In the narration provided to the IRS, Claywood pointed to Anabaptist weddings as an example of the religious activities it planned to hold at the event center. Claywood explained that those weddings are often extensive and require large facilities. *Pet'r Ex. 9.*
12. In its exemption application, Claywood conceded that four groups used the property for non-exempt purposes: Elkhart Model Railroad Club, Metzger Property Services, Northern Indiana Gun Collectors, and Chupp Auctions & Real Estate. Those groups held 12 events at the property during 2019. At hearing, however, Claywood argued that those events served its exempt purposes because the attendees were mostly Amish, and because the facility is more conveniently located than are facilities within Napanee's corporate limits. Its capacity for parking horses and buggies also make it better suited for Amish

needs. In any case, opportunities for non-exempt uses are very limited. *Pet'r Ex. 4, 8-9; Hochstetler testimony; Snyder argument.*

13. According to Claywood, 95% of the events that it hosts at the facility are church related, leaving just 5% as non-exempt activities. Just 3.76% of Claywood's total income—about \$8,000—comes from non-Amish-related entities. *Hochstetler testimony; Pet'r Exs. 5-7.*
14. In addition to the land and structures, Claywood also believes its personal property should be exempt. The event center contains many chairs and tables, as well as cleaning equipment. The facility's commercial kitchen contains several stoves, freezers, and refrigerators. To offset these costs, non-exempt groups are regularly charged for the cost of food; some exempt events are also charged nominal catering fees, although Claywood does not charge for youth events. *Hochstetler testimony; Pet'r Ex. 4.*

B. Assessor's contentions

15. The Assessor disagrees with Claywood's characterization of the property's use as charitable, religious, or educational. As explained by the court in *St. Mary's Medical Ctr. of Evansville, Inc. v. State Bd. of Tax Comm'rs*, to receive a charitable-purposes exemption under Ind. Code § 6-1.1-10-16, a taxpayer must show that it relieves human want through charitable acts that differ from everyday actions and that it provides "benefit to the general public sufficient to justify the loss in tax revenue." But Claywood's own IRS Form 1023 indicates that its charitable activities are limited to the Anabaptist community. Claywood therefore cannot pass the public-benefit test. *Engelberth argument (citing St. Mary's Medical Ctr. of Evansville, Inc. v. State Bd. of Tax Comm'rs, 534 N.E.2d 277, 279 (Ind. Tax Ct. 1989); Resp't Ex. S.*
16. Claywood likewise failed to show that it used the property for educational purposes. An educational-purposes exemption is available to those taxpayers who provide instruction and training equivalent to what tax-supported institutions provide. Claywood has not shown it offers any instructional courses for students that are related to those found in

public schools. *See Engelberth testimony and argument (citing State Bd. of Tax Comm'rs v. Fort Wayne Sports Club, Inc. 258 N.E.2d 874, 880 (Ind. Ct. App. 1970)); Resp't Ex. S.*

17. Nor, according to the Assessor, has Claywood shown an exempt religious purpose. The documents Claywood submitted to the IRS indicate that the event center serves a religious purpose by hosting Anabaptist weddings and that other unidentified religious activities may be held there. Simply being Amish owned and renting space to local Amish families for wedding ceremonies falls far short of what is necessary to qualify for a religious-purposes exemption. There is no difference between those weddings and weddings for non-Amish families who might rent an event center. *Engelberth testimony and argument; Resp't Exs. D, S; Pet'r Ex. 4.*

18. Indeed, the Assessor argues that Claywood characterizes what constitutes a religious or charitable purpose too broadly. As with the weddings, Claywood has not shown how family gatherings differ from what happens at a typical, non-exempt event center. The same is true for the weekly volleyball games and youth activities. Mere social and recreational use alone does not qualify for a charitable, religious, or educational exemption. In any case, the Assessor argues that Claywood's facility has far more space than is necessary for its claimed focus on youth activities. *Engelberth testimony and argument; Pet'r Ex. 4.*

19. The Assessor also disagrees with Claywood's representation that an exempt activity or event would always take precedence over a non-exempt one. While Claywood denies that scheduling conflicts regularly arise, its own documents show that an already-scheduled, non-exempt event could realistically take precedence over a later-arriving exempt one. And Claywood's officers each spend less than eight hours per week on work related to what it claims are exempt purposes. *Engelberth testimony and argument; Pet'r Ex. 4.*

20. Although Claywood claims to have held 38 youth events in 2019, it failed to track or identify how many attended these events. When pressed, Hochstetler answered that Claywood was unaware keeping such records was necessary. Despite apparently not knowing any attendance figures, Claywood's records nevertheless include precise calculations of fees charged during those events. *Engelberth testimony and argument; Pet'r Ex. 4.*

21. In its application, Claywood conceded that many of events held at the property were not exempt. Among them are train shows, gun shows, and auctions. Because Claywood did not provide any logs or calendars tracking the center's usage, there is no way to know which uses of the event center predominated. That forced the Assessor to research the center's usage online. Between 2018 and 2022, she found at least 27 events that she believes were completely non-exempt. Nine of those events were from 2019. Five of the events from that year were either auctions or gun shows hosted by entities that Claywood's application acknowledged as non-exempt. Another was a train show, again accounted for in Claywood's tally of non-exempt events. The other three events from 2019 unearthed by the Assessor were: (1) a seminar by Don Higgins about wildlife products sponsored in part by Higgins Outdoors, (2) a maple confections demonstration, and (3) a "Craft and Vendor Market." *Engelberth testimony; Resp't Exs. E-F; Pet'r Ex. 4.*

22. Hochstetler claimed that all craft shows hosted by Claywood were related to an Amish school or church. But when asked how craft shows benefit the Amish, Hochstetler testified that they do so indirectly because most of the attendees are Amish. Neither the advertisement for the Craft and Vendor Market, nor the review that the Assessor found online mention the event being a fundraiser. *Engelberth testimony and argument; Resp't Ex. F.*

23. In any case, the Assessor argues that only the legal title holder of a property may apply for an exemption. Claywood does not own the subject land; rather, the event center sits

on part of the 107.97-acre property owned by Trust. The parcel is used for farmland and includes two single-family dwellings, numerous outbuildings, and Claywood's structures. Claywood therefore was not the correct entity to apply for an exemption for the land. *See Engelberth testimony (citing Ind. Code §§ 6-1.1-11-1, -3); Resp't Ex. A-C, S.*

24. The Assessor explained that she could remedy the division of ownership through a "tax split." To do so, she and the taxpayers would need to hold a meeting with the county auditor, who would explain the taxpayers' obligations under the split. But the Borkholders never asked for a split. Although Claywood argues that it was impossible for it to know about this process, the Assessor contends such a request is simply common sense. Regardless, if Claywood is paying the property taxes for the parcel, the Assessor is unsure how it is doing so. *Engelberth argument and testimony.*

25. If Claywood was the proper party to file the application, then both it and the Trust needed to demonstrate their individual exempt purposes. The Assessor contends that the Trust has not, and cannot, do this. Instead, Mark Borkholder merely filed a Request for Exception with the Kosciusko County Board of Zoning Appeals before Claywood started building the event center. After the PTABOA denied Claywood's exemption application, Borkholder submitted a request to change the center's business designation from home-based event center to commercial recreation. None of those actions show an exempt purpose by the Trust. *See; Engelberth testimony and argument (citing Sangrilea Boys Fund v. State Bd. of Tax Comm'rs, 686 N.E.2d 954 (Ind. Tax Ct. 1997); Resp't Exs. N-O.*

IV. Analysis

26. Different entities own the various property components at issue. Claywood owns the real property improvements and personal property, while the Trust owns the underlying land. Before we address the merits of Claywood's claims, we must first deal with the Assessor's contention that the Trust, rather than Claywood, needed to seek an exemption for the land.

A. The Trust waived its claim to an exemption for the land because it nether signed the application nor properly delegated authority to Claywood or Hochstetler to do so.

27. We find that the Trust waived its exemption claim for the land. An exemption is a “privilege” that a property owner may waive by failing to comply with the statutory procedures for obtaining it. I.C. § 6-1.1-11-1. An “owner” of tangible property who seeks an exemption must file a certified application with the county assessor where the property is located. I.C. § 6-1.1-11-3(a). The owner may not delegate the authority to sign the application to anyone except by an executed power of attorney. I.C. § 6-1.1-11-3(a).
28. As shown by the lease agreement, the Trust holds title to the land, which it leases to Claywood at no charge. The Trust—not Claywood—was therefore the owner. *See* I.C. § 6-1.1-1-9(b) (defining “owner” for purposes of Article 6). The Trust needed either to file the exemption application or to delegate someone else to do so through an executed power of attorney. Instead, Hochstetler filed and signed in Claywood’s name a single application to exempt the land, improvements, and personal property. He did not attach to the application an executed power of attorney from the Trust, nor did Claywood offer the required power of attorney as an exhibit.
29. While this may seem like elevating form over substance, it is what the statute requires. The Tax Court recognized as much in *Word of His Grace Fellowship v. State Bd. of Tax Comm’rs*, 711 N.E.2d 875 (Ind. Tax Ct. 1999). In that case, the entity that applied for the exemption was buying the property at issue on land contract. *Word of His Grace*, 711 N.E.2d at 877. The Tax Court recognized that the transaction made the parties’ relationship more akin to mortgagee-mortgagor than to vendor-vendee. But the Court explained that it was bound to follow the legislature’s command, and it concluded that the legal title holder should have filed the application. *Id.* at 878 n.2.² The same is true

² In *Word of His Grace*, the State Board of Tax Commissioners raised the failure of the owner to file the exemption application as a post hoc rationale on judicial review. The Court pointed to the “well settled” general rule prohibiting the Board from supporting its final determination by with post-hoc rationalizations that it had not previously ruled on, a rule that the Court explained emanated from the limited scope of judicial review. *Word of His*

here. Although, for practical purposes, the Trust and Claywood might have treated Claywood as the owner of the land underlying the event center, the Trust was the owner for purposes of the exemption statute. By failing to either apply for the exemption itself or to properly delegate that authority to Claywood, the Trust waived any claim for exempting the land.

B. Claywood has demonstrated that it owns and predominantly uses the improvements and business personal property for charitable and religious purposes.

30. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cnty. 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. *State Bd. of Tax Comm'rs v. New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002). Every exemption appeal “stand[s] on its own facts,” and it is the taxpayer’s duty to walk the Board through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cnty. Ass’r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009). Because exemptions relieve properties from bearing their share of the cost of government services, they are strictly construed against taxpayers and in favor of the State. *Indianapolis Osteopathic Hospital, Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). Worthwhile activities or noble purposes alone do not suffice. Rather, a taxpayer must show that the property is being used to provide a benefit that justifies the loss of tax revenue. *See e.g., Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1265 (Ind. 2006).
31. Claywood claims an exemption under Indiana Code § 6-1.1-10-16. Subsection (a) of that statute 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. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c); *Jamestown Homes*, 914 N.E.2d at 15. The exemption extends to a tract of land on which an exempt building

Grace, 711 N.E.2d at 878. Based on that rule, it found that the Board had waived its argument that the contract buyer was not the proper party to have applied for the exemption. *Id.* at 879.

is situated, as well as to parking lots and other structures that serve the exempt building. I.C. § 6-1.1-10-16 (c)(1)-(2). It also applies to personal property that is owned and used in a manner that would make it exempt if it were a building. I.C. § 6-1.1-10-16(e).

32. Under the predominant use test, property must be used for exempt purposes during more than 50% of the time that it is used in the year that ends on the assessment date. I.C. § 6-1.1-10-36.3. A property is 100% exempt if it is exclusively used for exempt purposes or if it is predominantly used for exempt purposes by a church, religious society, or nonprofit school. I.C. § 6-1.1-10-36.3(c)(2). Otherwise, a property qualifies only for an exemption that “bears the same proportion to the total assessment” as the amount of time the property’s exempt use bears to its total use. I.C. § 6-1.1-10-36.3(c)(3). Where a property is not used exclusively for exempt purposes, a taxpayer must offer evidence comparing the relative distribution of time between exempt and non-exempt uses. *See Hamilton Cnty. Ass’r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10-36.3.”).

1. Claywood owns the improvements and personal property for exempt purposes.

33. Claywood was established to serve the Anabaptist community, with a focus on providing Anabaptist youth with a safe alternative to secular entertainment. Claywood’s directors are all members of the Amish community. It built the event center to further those purposes. We therefore find that Claywood owned the improvements and personal property for exempt purposes.

2. Claywood used the buildings and personal property predominantly for religious or charitable purposes.

34. But ownership is only part of the equation. Claywood also needed to show that it predominantly used the improvements and personal property for exempt purposes.

a. *Most of the property's uses were directly tied to Claywood's religious mission and served religious or charitable purposes.*

35. On its Form 132 petitions, Claywood sought exemptions for charitable, educational, and religious purposes. But it offered only cursory support for its claim of educational use. To receive an educational-purpose exemption, a taxpayer must show that it provides a public benefit through educational instruction that is the “substantial equivalent” to instruction offered in Indiana’s tax-supported institutions. *Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n.*, 853 N.E.2d 1262, 1266 (Ind. 2006). Claywood offered no evidence that it used the event center to offer any specific instruction, much less instruction that was related to what tax-supported institutions offer.
36. Claywood, however, did show that it used the buildings to host events that qualify as charitable or religious. We have little trouble finding that the fundraisers it hosted for Amish churches and schools qualify as religious and charitable uses. Indeed, Claywood did not charge those groups either for the facility or for food at those events.
37. In keeping with its mission of providing Amish youth with a safe alternative to secular entertainment, Claywood also hosted youth events, consisting primarily of volleyball games between January and March. Those events were directly tied to Claywood’s religious mission. As Claywood explained in the narration it submitted to the IRS, traditional Anabaptist youth have a longstanding tradition of playing volleyball because it is an athletic activity that involves both genders but that does not violate church standards of physical propriety. Activities like volleyball therefore provide a spiritual alternative to worldly entertainment.
38. Claywood offered less information about the church- and family-related events that it hosted. In the IRS narration, Claywood used hosting large Anabaptist weddings as an example of the religious activities it planned to hold at its event center. Claywood explained that those weddings are often extensive and require large facilities. Indeed, the need for a large, conveniently accessible facility with capacity to handle Amish attendees

arriving in horses and buggies is a continuous theme in Claywood's mission to serve the unique needs of the traditional Anabaptist community. In hosting church- and family-related events, Claywood used the event center much like a church might use its parish hall.

39. Both the youth activities and the church- and family-related events had a social and recreational component. But the youth and family activities at Claywood's event center are not merely social or recreational. They are geared toward the religious needs of the traditional Anabaptist community. They therefore serve religious purposes within the meaning of the general exemption statute.

b. Claywood offered sufficient, if sparse, evidence showing that religious and charitable uses predominated over non-exempt uses and the relative breakdown between the two.

40. Of course, Claywood also allowed several other groups, including two auction houses, a gun club, and a model railroad club, to use the facility. In its exemption application, Claywood conceded that those uses were not exempt, although it contended at hearing that the events still furthered its exempt purposes. We find that Claywood failed to show how hosting gun shows, auctions, or events for model train enthusiasts was religious or charitable within the meaning of the exemption statute.

41. We must therefore compare the relative amount of time the facility was used for exempt and non-exempt purposes. In 2019, Claywood held 90 exempt activities: 38 family- and church-related activities, 14 benefits and fundraisers, and 38 youth activities. Against that, we have 15 non-exempt events. That number includes the 12 non-exempt events that Claywood conceded in its application plus three additional events that the Assessor identified and for which there is no readily discernible connection to Claywood's religious or charitable mission. We include the craft show in those additional non-exempt events. We do not find Hochstetler's claim that the craft show was church related credible. He acknowledged that the show benefitted the Amish community only indirectly, and the advertisement for the event does not mention fundraising.

42. Thus, the event center was used for exempt purposes 86%³ of the time it was in use. Although some of the exempt uses appear to have been by churches or schools, Claywood did not show that those uses comprised more than 50% of event center's total use. Thus, Claywood is entitled to an 86% exemption rather than the 100% exemption afforded to property predominantly used for exempt purposes by a church, religious society, or nonprofit school. Because the lean-to, generator shed, and personal property merely supported the activities occurring at the event center, we ascribe the same percentage of exempt use to that property as well.
43. Although we find for Claywood, this case was much closer than it might otherwise have been. Claywood offered largely generic descriptions of how it used the facility and failed to offer even general records of the events hosted. Taxpayers should not simply assume that because they were formed for charitable or religious purposes, everything they use their property for will automatically qualify as an exempt use. Instead, they should offer details explaining how activities at the property further the claimed exempt purposes. Likewise, while the predominant-use statute does not require any specific format for tracking the relative time devoted to exempt and non-exempt uses, Claywood and similar entities would be well advised to keep schedules or logs tracking the various activities at their facilities.

Conclusion

44. We find that Claywood proved, if only barely, that the real property improvements and personal property are entitled to an 86% exemption. Because the owner of the land on which the improvements are situated neither applied for an exemption nor properly delegated the authority to do so, we find that it waived its entitlement to an exemption for the land.

³ There were 105 total events, 90 of which we find qualified as exempt. $90 \div 105 = .857$.


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>.