

REPRESENTATIVE FOR PETITIONER:

Marcia J. Olsen, Secretary, Joshu Zen Temple, Inc.

REPRESENTATIVES FOR RESPONDENT:

Marilyn S. Meighen, Meighen & Associates, P.C.

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Joshu Zen Temple, Inc.	)	Petition No.:	29-006-08-2-8-00001
	)		
Petitioner,	)	Parcel No.:	1410240202006000
	)		
v.	)		
	)	County:	Hamilton
Hamilton County Assessor,	)	Township:	Delaware
	)		
Respondent.	)	Assessment Year:	2008
	)		

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

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**July 13, 2010**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issue

1. The issue presented for consideration by the Board is whether the Petitioner's real property is exempt from taxation pursuant to Indiana Code § 6-1.1-10-21(b) because it is used as a parsonage.

### Procedural History

2. Mrs. Marcia J. Olsen, on behalf of Joshu Zen Temple, Inc. (the Temple) filed a Form 136 Application for Property Tax Exemption with the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) on July 26, 2008. The Hamilton County PTABOA issued its determination denying the exemption.<sup>1</sup> On March 24, 2009, Mrs. Olsen filed a Form 132 Petition for Review of Exemption, petitioning the Board to conduct an administrative review of the above petition.<sup>2</sup>

### Hearing Facts and Other Matters of Record

3. Pursuant to Indiana Code § 6-1.1-15-4, Dalene McMillen, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Indiana Code § 6-1.5-3-3 and § 6-1.5-5-2, held a hearing on April 14, 2010, in Noblesville, Indiana.
4. The following persons were sworn as witnesses at the hearing:<sup>3</sup>

#### For the Petitioner:

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<sup>1</sup>Ms. Marilyn Meighen, counsel for the Respondent stated that due to a computer error the Form 120 showed the PTABOA acted upon the assessment for the March 1, 2006, assessment year. *Meighen argument*. Further, while the Form 120 was undated, on March 26, 2009, the Board received an electronic mail message from Kimberly Powell of the Hamilton County assessor's office stating that the PTABOA issued its determination on February 20, 2009.

<sup>2</sup>Mrs. Olsen contends the Board should consider the Temple's application for exemption for the 2007, 2008 and 2009 assessment years. *Olsen testimony*.

<sup>3</sup>Ms. Abigail Risica was sworn as a witness for the Petitioner but she did not present any testimony. Ms. Robin Ward was in attendance for the Respondent but was not sworn in as a witness to give testimony. Marilyn S. Meighen, Meighen & Associates, P.C. appeared as counsel for the Respondent.

Marcia J. Olsen, Secretary, Joshu Zen Temple  
Abigail Risica, Witness

For the Respondent:

Debbie Folkerts, Hamilton County Assessor

5. The Petitioner did not present any exhibits.
6. The Respondent submitted the following exhibits:

Respondent Exhibit A – Memorandum of Law Regarding Untimely Filing of Application for Exemption,

Respondent Exhibit B – Letter from Marcia Olsen to the Indiana Board of Tax Review, dated March 20, 2009, with an updated page 2 of Form 132 petition and Petitioner’s Section III – Continuation of Grounds for Appeal attached,

Respondent Exhibit C – Letters dated July 26, 2008, and October 19, 2008, from Dave Conklin, President of Joshu Zen Temple to Debbie Folkerts, Hamilton County Assessor,

Respondent Exhibit D – Exterior photographs of 14542 Sowers Drive, 14462 Sowers Drive, 14482 Sowers Drive, 14502 Sowers Drive, 14522 Sowers Drive, 14582 Sowers Drive and 8575 East 146<sup>th</sup> Street; and photographs of the neighborhood south from 146<sup>th</sup> Street and north from Willow Drive, Fishers,

Respondent Exhibit E – Zoning map and GIS parcel detail for Parcel No. 14-10-24-02-02-006.000,

Respondent Exhibit F – Property record card and aerial map for Parcel No. 1410240202006000,

Respondent Exhibit G – Property record card and aerial map for Parcel No. 1107290000001001,

Respondent Exhibit H – Property record card and aerial map for Parcel No. 0809030000017000,

Respondent Exhibit I – Property record card and aerial map for Parcel No. 0703100000007000,

Respondent Exhibit J – Property record card and aerial map for Parcel No. 0506010202025000,

Respondent Exhibit K – Property record card and aerial map for Parcel No. 0201320302013000,

Respondent Exhibit L – *Indiana Association of Seventh-Day Adventist v. State Board of Tax Commissioners*, 512 N.E.2d 936 (Ind. Tax Ct. 1987),

Respondent Exhibit M – *ADA County Assessor v. Roman Catholic Diocese of Boise*, 123 Idaho 425, 849 P.2d 98 (1993),

Respondent Exhibit N – *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. ADA County*, 123 Idaho 410, 849 P.2d 83 (1993).

7. The following additional items are officially recognized as part of the record of the proceedings and labeled Board Exhibits:

Board Exhibit A – Form 132 petition with attachments,

Board Exhibit B – Notice of Hearing on Petition,

Board Exhibit C – Order Regarding Conduct of Exemption Hearing,

Board Exhibit D – Hearing sign-in sheet.

8. The property at issue is a 1,144 square foot house with a 520 square foot attached garage on a 120 foot by 150 foot lot, located at 14542 Sowers Drive, Fishers, in Delaware Township, Hamilton County.
9. The ALJ did not conduct an on-site inspection of the property.
10. For 2008, the PTABOA determined the property to be 100% taxable.
11. For 2008, the Petitioner contends that the property should be 100% tax-exempt.

### **Jurisdictional Framework**

12. The 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 Board under any law. Ind. Code § 6-1.5-

4-1(a). All such appeals are conducted under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

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

13. 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
14. 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. Washington Township 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”).
15. 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 case. *Id.; Meridian Towers*, 805 N.E.2d at 479.

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

16. The general rule is that all property is subject to taxation. Ind. Code § 6-1-1-2-1. The General Assembly may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Ind. Const., Art. 10, § 1. This provision is not self-enacting. The General Assembly must enact legislation granting an exemption.

17. All property receives protection, security, and services from the government, such as fire and police protection, and public schools. These governmental 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 a property would have paid to other parcels that are not exempt. *See generally, National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E.2d 218 (Ind. Tax Ct. 1996).
18. Worthwhile activity or noble purpose alone is not enough. 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 Board of Tax Commissioners*, 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. Department of Local Government Finance*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004); *Monarch Steel v. State Board of Tax Commissioners*, 611 N.E.2d 708, 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E.2d 936, 938 (Ind. Tax Ct. 1987).

#### **Petitioner's Contentions**

20. The Petitioner contends its real property should be 100% exempt for the assessment years of March 1, 2007, March 1, 2008 and March 1, 2009, because the property is used as a parsonage.
21. The Petitioner presented the following evidence in regard to this issue:

- A. The Petitioner’s representative testified the Joshu Zen Temple owns the property located at 14542 Sowers Drive in Fishers. *Olsen testimony*. According to Mrs. Olsen, she and the Reverend Sasaki and her husband, Reverend Ron Olsen, established the Temple in Redondo Beach, California in 1970.<sup>4</sup> *Olsen testimony*. Reverend Olsen conducted services at the Temple in California until he had a stroke in 1996. *Olsen testimony*. After her husband became disabled, Mrs. Olsen testified, she conducted services at the Temple from 1996 to 2006. *Olsen testimony*. Mrs. Olsen testified due to Reverend Olsen’s declining health they moved to Fishers, Indiana in April of 2007. *Olsen testimony*.
- B. Mrs. Olsen argues the Board should grant the property an exemption for the 2007, 2008 and 2009 assessment years. *Olsen testimony*. Mrs. Olsen admits that she did not file an Application for Property Tax Exemption with the county assessor until July 26, 2008. *Board Exhibit A; Olsen testimony*. Mrs. Olsen argues, however, the Board should consider her extenuating circumstances, such as moving to Indiana, Reverend Olsen’s disability and her personal health issues and waive the filing requirements and grant the exemption for all three years. *Olsen testimony*.
- C. In response to the Respondent’s questions, Mrs. Olsen admitted that no religious activities were conducted at the property under appeal. *Olsen testimony*. Mrs. Olsen argues, however, the “Indiana Constitution” allows organizations looking for property for future use to be exempt. *Olsen testimony*. Mrs. Olsen testified that when Reverend Olsen no longer needs her services she will be conducting religious services at the property under appeal.<sup>5</sup> *Olsen testimony*. Further, the Temple will be looking for other property to purchase in the future. *Olsen testimony*.

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<sup>4</sup> Mrs. Olsen testified that Reverend Ron Olsen is also referred to as Reverend Kodo. *Olsen testimony*. In addition, Mrs. Olsen testified she also serves as a priest to the Temple. *Olsen testimony*.

<sup>5</sup> Mrs. Olsen stated the only religious activities currently conducted at the property under appeal are her own personal activities. *Olsen testimony*. Mrs. Olsen also argues the current zoning of the property is irrelevant. *Olsen testimony*. According to Mrs. Olsen the property under appeal does not need to be zoned commercial to conduct religious activities at the home. *Olsen testimony*.

D. Finally, Mrs. Olsen testified she and Reverend Olsen have devoted “sweat, blood, tears and money” to the Temple and make no profit from the property.<sup>6</sup> *Olsen testimony*. According to Ms. Olsen, the Tax Court granted a tax exemption to a business for giving a “reduced rent rate” to a non-profit religious organization in *Oaken Bucket Partners, LLC*. *Id.* Surely therefore, she argues, a parsonage which houses two people who have invested their lives and money in their religious organization should also be granted an exemption. *Id.*

### **Respondent’s Contentions**

22. The Respondent contends the Petitioner is not entitled to an exemption because it failed to timely file for an exemption. Alternatively, the Respondent argues, the property does not qualify as a “parsonage” under Indiana Code § 6-1.1-10-21(b).

23. The Respondent presented the following evidence in support of its contention:

A. The Respondent’s counsel contends the Petitioner waived its property tax exemption because the Petitioner failed to timely file an application for exemption. *Respondent Exhibit A; Meighen argument*. The Assessor testified that the first time the Petitioner applied for an exemption was when Mrs. Olsen hand delivered the Petitioner’s Application for Property Tax Exemption to the county assessor’s office on July 29, 2008. *Folkerts testimony*. According to Ms. Folkerts, the PTABOA issued a Notice of Action on Exemption Application – Form 120 (Form 120) which stated “[t]he application must be filed annually on or before May 15 on forms prescribed by the Department of Local Government Finance. Your application was signed on July 26, 2008, and was received on July 29, 2008.” *Board Exhibit A*. Ms. Meighen argues that the law is clear – the owner of a property must apply for the

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<sup>6</sup> Mrs. Olsen contends that she was advised by Kim Powell in the Hamilton County assessor’s office that in order to qualify for the exemption on the property under appeal she needed to file a “statement” saying the property is a parsonage and the property is not being used to make a profit. *Olsen testimony*.



exemption on or before May 15. *See* Indiana Code § 6-1.1-11-3. *Respondent Exhibit A; Meighen argument.*

- B. The Respondent admits that the General Assembly enacted a non-code provision which deemed an application for exemption to be timely filed for the 2001 through 2008 tax years if the application was filed by January 1, 2008, and the subject property or other property owned by the same entity in the same county were exempt from taxation in either the calendar year before the year for which exemption is sought, or the calendar year two years before the year in which the exemption is sought. *See* 2008 Ind. Acts 131, § 66 (eff. 1-1-2001). *Respondent Exhibit A.* According to the Respondent, however, the Petitioner does not qualify for exemption under the non-code provision because neither the subject property nor any other property owned by the Petitioner was exempt from property taxes in Hamilton County and the Petitioner did not file an application by January 1, 2008.<sup>7</sup> *Id.*
- C. The Respondent further argues that the property under appeal is not entitled to an exemption under Indiana Code § 6-1.1-10-21(b). *Folkerts testimony; Meighen argument.* The Respondent's counsel contends the Petitioner testified that for 2007, 2008 and 2009 the property was used only as a residence for Reverend Olsen, the disabled abbot and founder of the Temple, and his wife who is his caregiver. *Meighen argument.* According to Ms. Meighen, a home owned by a religious organization and occupied by a retired clergyman does not meet the definition of a building that is used as a parsonage. *Meighen argument.*
- D. The Respondent's counsel argues that to qualify as a parsonage, the persons residing in the parsonage must attend to the pastoral needs of a congregation on a regular basis. *Meighen argument.* In support of this argument, Ms. Meighen cites *Indiana Association of Seventh-Day Adventists v. State Board of Tax Commissioners*, 512

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<sup>7</sup> Similarly, HEA 1001 (ss 2009) allowed an organization to file or re-file an exemption application by September 1, 2009, for a charitable purpose exemption filed under Indiana Code § 6-1.1-10-16. *Respondent Exhibit A.* The Respondent argues, however, that the Petitioner does not qualify for this non-code provision because it did not claim a charitable purpose exemption under Indiana Code § 6-1.1-10-16. *Id.*

N.E.2d 936 (Ind. Tax Ct. 1987) (A parsonage exemption applies to any church owned house occupied by...one who performs the duties of an ordained minister. The exception of not requiring ordination in these situations is in keeping with the traditional practice of exempting church owned property which is occupied by one who attends to the pastoral needs of a congregation). *Respondent Exhibit L; Meighen argument.* As further support, Ms. Meighen cites to two Idaho Supreme Court cases *ADA County Assessor v. Roman Catholic Diocese of Boise*, 123 Idaho 425, 849 P.2d 98 and *Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. ADA County*, 123 Idaho 410, 849P.2d 83. *Respondent Exhibits M and N; Meighen argument.*

E. Finally, the Respondent argues, the house is located in an area zoned R2 residential surrounded by similar residential homes. *Folkerts testimony.* In support of this contention, the Respondent submitted nine exterior photographs of properties located on Sowers Drive, 146<sup>th</sup> Street and Willow Drive and the zoning classification and map from the Town of Fishers. *Respondent Exhibits D, E and F; Folkerts testimony.* According to the Respondent, the photographs clearly show there are no commercial properties or churches located in the residential subdivision. *Folkerts testimony.* Ms. Folkerts testified the Petitioner would have to request a variance and go through the remonstrance process to change the zoning from residential to commercial to operate a church on the property under appeal. *Folkerts testimony.*

### **Analysis of the Issue**

24. The Petitioner argues that its real estate is exempt because the house is used as a parsonage. *Olsen testimony.* The Respondent, however, contends that the Petitioner failed to timely file an application for property tax exemption and therefore waived its right to an exemption claim. *Meighen argument.* Thus, before determining whether the Petitioner's property meets the requirements of Indiana Code § 6-1.1-10-21(b) for an

exemption, the Board must first determine whether the Petitioner complied with the statutory requirements for timely filing its exemption application.

25. Indiana Code § 6-1.1-11-3 states that “an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms described by the department of local government finance.” An application for exemption, however, is not required if the property is used for religious purposes where an application for exemption “was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-16.” Ind. Code § 6-1.1-11-4.
26. Here, the Petitioner asked the Board to consider the appeal for the assessment years of March 1, 2007, March 1, 2008, and March 1, 2009. *Board Exhibit A; Olsen testimony.* The undisputed evidence shows the Petitioner purchased the property under appeal on August 6, 2007, and filed an application for exemption on the property for the first time on July 26, 2008. *Board Exhibit A; Respondent Exhibit F.* Thus, the Petitioner did not own the property on the March 1, 2007, assessment date and failed to timely file an application for exemption on or before May 15, 2008, for the March 1, 2008, tax year. If a property owner fails to comply with the statutory procedures for obtaining an exemption, “the exemption is waived [and] the property is subject to taxation.”<sup>8</sup> Ind. Code § 6-1.1-11-1.
27. The Petitioner also requested that the Board consider its appeal for the assessment year of March 1, 2009. While the Form 120 erroneously purports to address the “March 1, 2006, assessment year,” the body of that determination denies the application on the basis that it was untimely filed for “tax year 2008 pay 2009.” Thus, while it could be argued the determination may have been for the 2006 or the 2008 tax year, there is no evidence that

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<sup>8</sup> Mrs. Olsen claims that the Board should disregard the Petitioner’s untimely filing and grant an exemption because of the hardships she faced in relocating and caring for her ailing husband. While these circumstances are unfortunate, they do not overcome the statutory requirements for filing an application.

the PTABOA addressed any request for exemption for the 2009 tax year.<sup>9</sup> A taxpayer may obtain a review by the Board of the county board's action if the taxpayer receives a notice of an exemption determination by the county board. *See* Indiana Code § 6-1.1-15-3. Because the Petitioner has not shown that the PTABOA acted upon its application or that it received a notice of an exemption determination from the PTABOA for the March 1, 2009, assessment year, the Board has no authority to review the Petitioner's exemption request for 2009.

28. Even if the Petitioner had timely filed its application for exemption, the Petitioner would still not prevail on its request for an exemption. The Petitioner seeks an exemption under Indiana Code § 6-1.1-10-21(b) because, it claims, the property is used as a parsonage. Indiana Code § 6-1.1-10-21 states that a "building that is used for religious worship"; the "pews and furniture contained within a building that is used for religious worship"; and the "tract of land upon which a building that is used for worship is situated" is exempt from property taxation if it is owned by or held in trust for the use of, a church or religious society. Ind. Code § 6-1.1-10-21(a). In addition, "a building that is used as a parsonage" and the "tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated" is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society. Ind. Code § 6-1.1-10-21(b). To obtain an exemption for a parsonage, a church or religious society must provide the county assessor with an affidavit signed under oath by the church's or religious society's head rabbi, priest, preacher, minister or pastor at the time it applies for the exemption. The affidavit must state the parsonage is being used to house the church's priest, preacher, ministers or pastors and that none of the parsonage is used to make a profit. Ind. Code § 6-1.1-10-21(c).
29. While the Petitioner claimed an exemption as a parsonage on its application, there is no evidence that the Petitioner filed the affidavit required by Indiana Code § 6-1.1-10-21(c).

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<sup>9</sup> This is exacerbated by the Petitioner's application for exemption which is dated July 26, 2008, but does not request any specific year for which it seeks an exemption. *See Board Exhibit A*. Because the Petitioner did not apply for an exemption for the 2007, 2008 and 2009 tax years, the Board cannot infer that the PTABOA's ruling addressed the 2007, 2008 and 2009 tax years.

Mrs. Olsen testified that the Petitioner sent a letter stating that the property is “used solely as a parsonage to house the elderly and disabled abbot and founder who is a priest” and that the “property is not being used to make a profit” and the Respondent read the December 3, 2008, letter into the record. *Olsen testimony*. Neither the Petitioner, nor the Respondent, however, offered the letter as evidence. Regardless, Indiana Code § 6-1.1-10-21(c) is clear that the church or religious society “must provide the county assessor with an affidavit at the time the church or religious society applies for the exemptions.” This, the Petitioner admittedly failed to do. Even if the December 3, 2008, letter could be considered as having been “signed under oath,” the letter was not filed until approximately six months after the Petitioner applied for the exemption. Thus, the Petitioner failed to meet the requirements to obtain such an exemption. If a petitioner fails to comply with the statutory procedures for obtaining an exemption, the exemption is waived. *See, e.g., Gulf Stream Coach v. State Bd. of Tax Comm’rs*, 519 N.E.2d 238, 242 (Ind. Tax Ct. 1988).

30. Moreover, “A parsonage exemption applies to any church owned house occupied by one who is either an ordained minister of that church or one who performs the duties of an ordained minister.” *Ind. Assoc. of Seventh-Day Adventists v. State Bd. of Tax Comm’rs.*, 512 N.E.2d 936, 939 (Ind. Tax Ct. 1987) (citing *Saint Matthew Lutheran Church v. Delhi Township, Ingham County*, 257 N.E.2d 183 (Mich. 1977)). Thus, “a resident must at least perform the acts of an ordained minister in order to receive the parsonage exemption.” *Id.* The Tax Court refers to this exemption as “keeping with the traditional practice of exempting church owned property which is occupied by one *who attends to the pastoral needs of a congregation.*” *Id.* (*emphasis added*). Here, there is no evidence that either the Petitioner’s representative or her husband are performing the religious acts related to their positions in the Temple. Further, they are not attending to the needs of a congregation, worshipers or students of Zen on a regular basis. Presently the property is merely the residence of a retired abbot and his care-giver. This is insufficient to show the property met the statutory requirements to qualify as a parsonage.

31. The Indiana Tax Court in *Indiana Association of Seventh-Day Adventists*, however, held that buildings that are not exempt under Indiana Code § 6-1.1-10-21(b) are not precluded from exemption under another section of the statutes such as Indiana Code § 6-1.1-10-16. *Ind. Assoc. of Seventh-Day Adventists v. State Bd. of Tax Comm'rs.*, 512 N.E.2d 936, 940 (Ind. Tax Ct. 1987) (Tax Court remanded for a Board determination of a property's eligibility for exemption under Indiana Code § 6-1.1-10-16 because substantial evidence was presented at the trial that the property was only used for religious or charitable purposes).
32. Indiana Code § 6-1.1-10-16(a) states that "All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes." The Petitioner's representative, however, specifically testified that no religious activities were taking place at the house during 2007, 2008 and 2009. Mrs. Olsen argues that in the future, she will begin to conduct services at the property or at another property the Petitioner obtains, but the fact that religious activities may be conducted at the property in the future is insufficient to support an exemption. Mere ownership by a church is insufficient to exempt the property from taxation, there must be an intent to use the property for an exempt purpose and that "intent... must be more than a mere dream." *Trinity Episcopal Church v. State Board of Tax Commissioners*, 694 N.E.2d 816, 818 (Ind. Tax Ct. 1998) (internal citations omitted). *See also, Foursquare Tabernacle Church of God in Christ v. State Board of Tax Review*, 550 N.E.2d 850, (Ind. Tax Ct. 1990) ("Generally, exemptions are granted when there is an expectation of a benefit which will inure to the public by reason of the exemption. ... It would not serve any purpose to grant an exemption for property merely owned by a church, with no reasonable expectation of the property ever being used for its intended purpose. The public does not derive any benefit from property which is not being used or taxed").
33. Where a Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy*

*Diversified Indus. v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Summary of the Final Determination**

34. The Petitioner failed to establish a prima facie case. The Board finds in favor of the Respondent and holds the Petitioner's real property is 100% taxable.

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

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, 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 as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**

**The Tax Court Rules are available on the Internet at**

**<http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Code is available on the**

**Internet at <http://www.in.gov/legislative/bills/2007/SE0287.1.html>.**