

REPRESENTATIVE FOR PETITIONER:
Jeffrey Baker, Vice President, Lafayette Rentals Inc.

REPRESENTATIVE FOR RESPONDENT:
Eric Grossman, Tippecanoe County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

| | | | |
|-----------------------------|---|------------------|---------------------|
| Lafayette Rentals Inc. |) | Petition No.: | 79-032-13-2-8-00001 |
| |) | | |
| Petitioner, |) | Parcel No.: | 791109252011000032 |
| |) | | |
| v. |) | County: | Tippecanoe |
| |) | | |
| Tippecanoe County Assessor, |) | Township: | Wea |
| |) | | |
| Respondent. |) | Assessment Year: | 2013 |

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

Issued: April 1, 2016

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. A property owner seeking an exemption under Ind. Code § 6-1.1-10-16(a) must have an exempt purpose separate and distinct from that of its lessee. While the subject property was rented to a church, the owner, Lafayette Rentals, Inc, offered no evidence that it owned the property for an exempt purpose. Therefore, we deny its exemption claim.

PROCEDURAL HISTORY

2. Lafayette Rentals applied for charitable-purposes exemption under Ind. Code § 6-1.1-10-16(a) for 24% of its multi-tenant office/retail property. On November 22, 2013, the

Tippecanoe County Property Tax Assessment Board of Appeals (“PTABOA”) denied the exemption claim. Lafayette Rentals responded by filing a Form 132 petition for review with the Board, once again claiming an exemption under Ind. Code § 6-1.1-10-16(a). But this time it alleged a religious purpose.

3. On December 8, 2015, the Board held a hearing through its designated administrative law judge, Dalene McMillen. Neither she nor the Board inspected the property.
4. The following people were sworn as witnesses: Jeffrey Baker, vice president of Lafayette Rentals; Eric Grossman, Tippecanoe County Assessor; Max Campbell, project manager for the Assessor; and Christopher Coakes, appeals coordinator for the Assessor. Only the Assessor testified.¹
5. Lafayette Rentals did not offer any exhibits. The Assessor offered the following exhibits:
 - Respondent Exhibit A: Valuation Description of 3667 Braddock Drive,
 - Respondent Exhibit B: Income Evaluation Report,
 - Respondent Exhibit C: Property record card for the subject property,
 - Respondent Exhibit D: Oaken Bucket Comparison Analysis for Mill Creek Plaza, 3667 Braddock Dr. Lafayette, IN.
6. The following additional items are part of the record:
 - Board Exhibit A: Form 132 petition,
 - Board Exhibit B: Hearing notice,
 - Board Exhibit C: Order Regarding Conduct of Exemption Hearing,
 - Board Exhibit D: Hearing sign-in sheet.
7. The property contains a 26,698-square-foot multi-tenant office/retail building located at 3667 Braddock Drive in Lafayette.²

¹ Mr. Grossman argued on Lafayette Rentals’ behalf, but he did not testify to any facts.

² Lafayette Rentals also appealed the property’s assessment (*Lafayette Rentals, Inc. v. Tippecanoe County Ass’r*, pet. no. 79-004-13-1-5-00009). We issue separate findings and conclusions in that appeal

SUMMARY OF LAFAYETTE RENTALS' CASE

8. Lafayette Rentals did not offer any testimony or other evidence. It instead explained that it filed its Form 132 petition to preserve “any potentiality for appeal” should *Hamilton County PTABOA v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654 (Ind. 2010) be overturned. Because the county government would exempt itself from taxes if it used part of the building, Lafayette Rentals argued it should do the same for a church. *Baker argument*.

SUMMARY OF THE ASSESSOR'S CASE

9. The Assessor agreed that Lafayette Rentals leased part of the building to a church. Although Lafayette Rentals did not actually show how the church used the property, the Assessor acknowledged the church's exempt purpose. Under *Oaken Bucket*, however, a landlord must own a property for exempt purposes, and Lafayette Rentals did not show that it did so. In its exemption application, Lafayette Rentals described its nature and purpose as “to maintain the property.” As far as the Assessor knows, Lafayette Rentals leased the building to a variety of tenants for the purposes of generating income. Thus, it used the building for its own advantage. *Grossman testimony and argument; Resp't Ex. D*.

ANALYSIS

10. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Oaken Bucket*, 938 N.E.2d at 656-57. All or part of a building that is owned, occupied, and predominantly used for educational, literary, scientific, religious, or charitable purposes is exempt from taxation. See I.C. §6-1.1-10-16(a); I.C. §6-1.1-10-36; *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Ass'r*, 909 N.E.2d 1138, 1141 (Ind. Tax Ct.2009). That exemption extends to the land on which the building is situated and to personal property contained therein. I.C. §6-1.1-10-16(c) and (e). A taxpayer, however, bears the burden of proving that it is entitled to the exemption it claims. *Oaken Bucket*, 938 N.E.2d at 657.

11. While a taxpayer must show that its property is owned for exempt purposes, occupied for exempt purposes, and predominately used for exempt purposes, unity of ownership, occupancy, and use by a single entity is not required. *Id.*; *see also, Sangralea Boys Fund v. State Bd. of Tax Comm'rs*, 686 N.E.2d 954 (Ind. Tax Ct. 1997). Where that unity does not exist, the taxpayer must show that each entity possesses its own exempt purpose. *Id.*
12. In *Oaken Bucket*, the Indiana Supreme Court addressed a taxpayer's claim that the part of its building it leased to a church was entitled to religious- or charitable-purposes exemptions under Ind. Code § 6-1.1-10-16(a). The taxpayer claimed that it charged the church below-market rent, which manifested its charitable purposes. *Oaken Bucket*, 938 N.E.2d at 656. The Board rejected that claim, finding that the lease was a standard business arrangement and that the taxpayer failed to show it owned the property for anything other than investment purposes. The Tax Court reversed. *Id.*
13. The Supreme Court agreed with the Board and reversed the Tax Court. The Court explained that exemptions are generally granted when there is an expectation that the public will benefit. *Id.* at 657. But an entity does not show that it owns a property for a public benefit—instead of its own private benefit—simply by renting it to a beneficent organization. *See id.* at 659-60 (quoting *Travelers' Ins. Co. v. Kent*, 151 Ind. 349, 50 N.E. 562, 563-64 (1898) and *State ex. rel. Hammer v. MacGurn*, 187 Mo. 238, 86 S.W. 138, 139 (1905)). Instead, the entity must show it has its own exempt purposes, separate and distinct from those of its lessee. *Id.* at 659. The Court recognized that charging below-market rent to a charitable or religious organization might be some indicia of beneficent motives. But it held that more is required to show an entity possesses its own exempt purposes. *Id.* at 658-59. The taxpayer did not make that showing and consequently failed to meet its burden of proof. *Id.* at 659-60.
14. Lafayette Rentals bases its exemption claim solely on the fact that it rented part of its building to a church. Unlike the taxpayer in *Oaken Bucket*, Lafayette Rentals did not

even try to show that it had an exempt purpose separate from that of its lessee. Thus, as Lafayette Rentals itself acknowledges, we must follow *Oaken Bucket* and deny the exemption.

SUMMARY OF FINAL DETERMINATION

15. Because Lafayette Rentals failed to offer any evidence showing it owned the property for an exempt purpose, we deny its exemption claim.

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>>.