



house. Were the house and related property owned, occupied, and predominantly used for religious purposes and therefore exempt from taxation?

### PROCEDURAL HISTORY

2. The Petitioner applied for an exemption for its real and personal property, claiming it used the property for religious purposes. On July 24, 2013, the Kosciusko Property Tax Assessment Board of Appeals (“PTABOA”) issued its determination denying the application. The Petitioner responded by timely filing a Form 132 petition with the Board.
3. On January 15, 2015, the Board’s designated administrative law judge, Joseph Stanford (“ALJ”), held a hearing on the petition. Linda Miller and Rev. John Miller were sworn as witnesses for the Petitioner. John P. Beer, Teena Pence, and Kosciusko County Assessor Susan Engleberth were sworn for the Respondent.
4. The Petitioner offered the following exhibits, all of which were admitted:
  - Petitioner’s Exhibit 1: Form 120 determination, Form 136 application, Certificate of Existence, statements of activities and financial position, Certificate of Incorporation,
  - Petitioner’s Exhibit 2: List of activities occurring at the property in 2012 and 2013,
  - Petitioner’s Exhibit 3: Beacon property record card for 8557 East Wesley Lane, North Webster,
  - Petitioner’s Exhibit 4: Beacon property record card for 8521 East Wade Lane, North Webster,
  - Petitioner’s Exhibit 5: Beacon property record card for 8337 East Wade Lane, North Webster.
5. The Respondent did not offer any exhibits.<sup>1</sup>
6. The following items are also recognized as part of the record of proceedings:
  - Board Exhibit A: Form 132 petition,
  - Board Exhibit B: Hearing notice,
  - Board Exhibit C: Hearing sign-in sheet,
  - Board Exhibit D: Notice of Appearance for Stephen R. Snyder,

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<sup>1</sup> The Respondent provided a copy of the Board’s decision in *King’s Ranch, Inc. v. Franklin County Property Tax Assessment Bd. of Appeals*, pet. nos. 24-012-03-2-8-00001 and 24-012-03-2-8-00002 (IBTR March 29, 2006).

Board Exhibit E: Notice of Appearance for Jack C. Birch.

7. The real property is located at 14 EMS 4RC Lane in Pierceton. The Petitioner did not identify its personal property or describe its location. Neither the Board nor the ALJ inspected any of the Petitioner's property.
8. The PTABOA determined that the Petitioner's land, improvements, and personal property were 100% taxable. The Petitioner claims all of its property was entitled to 100% exemption.

#### **SUMMARY OF PETITIONER'S CASE**

9. The Petitioner qualifies as a religious organization under section 501(c)(3) of the Internal Revenue Code. It has the same status in Arkansas, where it operates a non-denominational church. *L. Miller testimony; Pet'r Ex. 1.*
10. The property is located near the lakefront of Ridinger Lake in Pierceton. It has a small house that resembles a regular lake cottage,<sup>2</sup> a storage shed, and a yard. The house has a small plaque with a passage from scripture, but it otherwise looks like a regular lake cottage. Although the property does not abut the lake, the house's occupants may use the lake and the Petitioner owns a boat. The Petitioner did not describe any of the personal property it claims as exempt. *L. Miller testimony.*
11. Linda and John Miller are officers of the Petitioner, and they live at the property approximately four months per year. Both are ordained ministers. For the entire time they are at the property, they minister to and counsel people, mainly pastors and cancer victims and their families. Many of those people stay at the property as guests. The pastors are often having issues with their faith, and some are thinking of leaving the ministry. Sometimes pastors have been voted out of their churches, and the Petitioner lets them and their families live at the property until they have been assigned to another church. Other times, the stress of ministering or other family problems may have led a

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<sup>2</sup> Mrs. Miller further testified that while there is one small plaque on the house, the property is intentionally made to look like a regular lake cottage rather than a commercial facility.

pastor to question his faith. Pastors experiencing “burnout” also seek the Millers’ ministry as a type of sabbatical, which Ms. Miller described as a time set aside from the usual pastorate to refresh and reflect. *L. Miller testimony.*

12. Ms. Miller does most of the ministering and counseling for cancer patients. She is a stage-four cancer survivor herself. She has published writings and compact discs chronicling how her relationship with God enabled her to get through her illness. She bases her ministry on that experience. Although the Petitioner does not advertise Mrs. Miller’s ministry, she has discussed her story on television and radio broadcasts. People therefore seek her out. *L. Miller testimony.*
13. The Petitioner offered a list of activities at the property during 2012 and 2013. The list names numerous guests, some of whom it describes as pastors and their families or cancer survivors. It also identifies several guests simply as families from various locations, such as Arizona. Ms. Miller acknowledged that non-pastors who are questioning their faith are also welcome, although she was not asked whether anyone on the list fit that category. In any case, none of the guests were routine houseguests or there simply to enjoy the lake. *L. Miller testimony; Pet’r Ex. 2.*
14. Regardless of the guest, the Millers provide an opportunity for discussion, counseling, prayer, scripture reading, and reflection, although guests are not required to participate in those activities. There is no set programming; the ministry varies based on each guest’s needs. Nonetheless, while the Petitioner’s overriding intent is to restore and maintain guests’ faith in God, a person cannot simply sit and reflect all day. Therefore, the Millers provide an opportunity for relaxation and recreation. Guests can go fishing, swimming, ride in the boat, or simply sit on the deck and put their feet up. But neither the Millers nor anyone else uses the property for vacation. *L. Miller, Rev. J. Miller testimony.*
15. Although the Millers live at the house, they are there to counsel and minister to the guests and others, to cook meals, and to clean and prepare the house for new guests. They chose Kosciusko County because Mr. Miller had worked there years ago, they had gotten their marriage license there, and they knew some of the ministers in the area. They originally

operated out of a 30-foot recreational vehicle. But that did not work as well; they could not ask cancer patients to stay in a recreational vehicle. *L Miller testimony; Rev. J. Miller testimony.*

16. According to the Petitioner, its property does not differ from dozens of other church-owned lakefront properties that are maintained as retreats for church members, pastors, and youth activities. The Petitioner uses the property for religious purposes and has a very narrow religious focus. It is therefore is entitled to a 100% exemption. *Snyder argument.*

#### **SUMMARY OF RESPONDENT'S CASE**

17. The Respondent does not dispute that the Millers minister to people or that the Petitioner is a church. But those facts alone do not qualify the Petitioner's property for an exemption; the property must be predominantly used for religious purposes. In the Respondent's view, it is not. *Birch argument.*
18. The Millers have described the house as a retreat. It looks no different than any other lake cottage in the immediate area. While there are religious undertones, the house is mainly a place where clergy members and cancer patients can relax, refresh, and get away from stress. According to the Respondent, the Board has previously rejected claims that those types of activities are exempt uses. *Beer testimony; Birch argument (citing King's Ranch, Inc. v. Franklin County Property Tax Assessment Board of Appeals, Ind. Bd. of Tax Rev., pet. nos. 24-012-03-2-8-00001 and 24-012-03-2-8-00002 (March 29, 2006)).*

#### **ANALYSIS**

19. A taxpayer bears the burden of proving it is entitled to an exemption. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d at 1009, 1014 (Ind. Tax Ct. 2004). Here, the Petitioner seeks an exemption under Ind. Code § 6-1.1-10-16, claiming that its real and personal property are owned, occupied, and used for religious purposes.

20. The Indiana Constitution allows the legislature to exempt certain categories of property from taxation. *See* IND. CONST. art. X § 1; *Cedar Lake Conference Ass'n v. Lake County Prop. Tax Assessment Bd. of Appeals*, 887 N.E.2d 205, 207 (Ind. Tax Ct. 2008). In response, the legislature enacted Ind. Code § 6-1.1-10-16, which, among other things, exempts all or part of a building that is owned and predominantly occupied and used for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); *see also*, I.C. § 6-1.1-10-36.3(c). That exemption extends to the land on which the building is situated as well as to personal property owned and used in such a manner it would be exempt if it were a building. I.C. § 6-1.1-10-16(c)(1) and (e).
21. Exemption statutes are strictly construed against the taxpayer. *See New Castle Lodge #147, Loyal Order of Moose, Inc. v. State Board of Tax Comm'rs*, 733 N.E.2d 36, 38 (Ind. Tax Ct. 2000), *aff'd*, 765 N.E.2d 1257 (Ind. 2002). But they are not to be construed so narrowly as to defeat or frustrate the legislative purpose. *Id.* Evaluating whether a property is owned, occupied, and predominantly used for exempt purposes is a “fact sensitive inquiry; there are no bright-line tests.” *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 914 N.E. 2d 13, 14 (Ind. Tax Ct. 2009) (*quoting Oaken Bucket Partners, LLC v. Hamilton County Property Tax Assessment Bd. of Appeals*, 909 N.E.2d 1129, 1134 (Ind. Tax Ct. 2009) *rev'd on other grounds* 938 N.E.2d 654 (Ind. 2010)). Each case therefore stands on its own facts and on how the parties present those facts. *Id.*
22. The parties do not dispute that the Petitioner is a church or that the Millers are ordained ministers of the Petitioner who use the house to provide a religious ministry. The Millers minister primarily to cancer victims and pastors who are experiencing difficulties with their families or churches. There is no evidence the Petitioner profits from the house or that it even charges guests at all. What the parties do dispute is whether the house is predominantly used for the Millers' ministry. The Petitioner argues that it is. The Respondent, by contrast, argues it is predominantly used for recreation.

23. Property is predominantly used or occupied for exempt purposes if it is used or occupied for those purposes “during more than fifty percent (50%) of the time that it is used or occupied” during the year ending on the assessment date. I.C. § 6-1.1-10-36.3(a). Property predominantly used or occupied by a church for exempt purposes is totally exempt from taxation regardless of whether it is also used or occupied for non-exempt purposes. I.C. § 6-1.1-10-36.3(c)(2).
24. The Respondent points to the house’s outward appearance as a regular vacation cottage and the fact that guests may relax and participate in recreational activities like swimming, fishing, or boating. The Respondent further emphasizes the lack of any set program and that guests are not required to receive ministering or counseling. And it seizes on the Petitioner’s reference to the house as a retreat as well as Ms. Miller’s use of the word “sabbatical” to describe some of the usage.
25. The fact that guests may relax or engage in recreation does not alter the house’s central function—to promote spiritual renewal. Instead, those recreational activities are incidental to the ministering and counseling that guests receive. The Millers’ choice to eschew any set program in favor of focusing on each guest’s specific needs similarly does nothing to detract from the core use. The Respondent did not offer any evidence to show that guests typically avoided being ministered to and counseled. To the contrary, guests sought the Millers out precisely because of their ministry. And the Respondent’s focus on Ms. Miller’s use of the term “sabbatical” is mere semantics. As she explained, she used the term to refer to time set aside to refresh and reflect. That is in keeping with the core function of the Millers’ ministry at the house—renewing spirituality.
26. According to the Respondent, the Board previously rejected a similar exemption claim in *King’s Ranch, Inc. v. Franklin County Property Tax Assessment Bd. of Appeals*, pet. nos. 24-012-03-2-8-00001 and 24-012-03-2-8-00002 (IBTR March 29, 2006). In that case, the taxpayer, which was not a church, sought to exempt a 147-acre property containing three cabins and a barn. The taxpayer’s purpose was to allow ministers, many of whom were stressed and were considering leaving the profession, to get away and “recharge their batteries.” *King’s Ranch*, at 8. Guests engaged in religious activities, such as

prayer, at the property, but they also used the property for recreational purposes, such as fishing, hiking, swimming, shopping, and golf. A DVD advertising the property concluded by saying there was only one demand for guests and family—to “relax and enjoy.” *Id.*

27. The Board rejected the taxpayer’s exemption claim, noting, among other things, that the taxpayer was not a church and that the cabins appeared to be used mostly for rest and relaxation. *Id.* at 11-12. While the Board acknowledged various religious activities also occurred at the property, the taxpayer did not break down the time spent between recreational and religious activities. Under those circumstances, the Board found that the taxpayer had failed to show the property was predominantly used for religious purposes. *Id.*
28. Unlike the taxpayer in *King’s Ranch*, the Petitioner is a church. And its central mission at the house is spiritual renewal—not rest and relaxation. While it allows burnt-out pastors to relax away from the stress of their ministries, the Petitioner, through the Millers, focuses on addressing the pastors’ underlying crises in faith. Similarly, Ms. Miller focuses on spiritual renewal for the cancer victims who stay at the house as part of their healing process. The religious activities are not discrete events. Instead, spiritual renewal permeates everything that happens at the house; recreation and relaxation are merely incidental. As the Millers explained, people cannot reflect 24 hours a day. Under those circumstances, it makes little sense to require the Petitioner to quantify the time guests spent on various activities.
29. Based on those facts, the Board finds that the Petitioner’s real property is entitled to a 100% exemption. The Petitioner, however, offered nothing to identify what personal property it was assessed and taxed for, much less that such property was predominantly used for religious purposes. The Board therefore upholds the PTABOA’s decision to the extent it denies the Petitioner an exemption for its personal property. *See Johnson County Property Tax Assessment Bd. of Appeals v. KC Propco, LLC*, \_\_\_ N.E.3d \_\_\_ 215 Ind. Tax Lexis 18, \*8 (Ind. Tax Ct. 2015) (noting Board had granted an exemption



for taxpayer's real property but denied its claim to exempt personal property where taxpayer offered no information or evidence about its personal property).

#### SUMMARY OF FINAL DETERMINATION

30. The Petitioner proved its real property was owned occupied and predominantly used for religious purposes. It is therefore entitled to a 100% exemption for that property. But the Petitioner did not identify what, if any, personal property it sought to exempt, much less prove such property was predominantly used for religious purposes. The Board therefore denies the Petitioner's request to exempt its personal property.

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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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

#### - 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>>.