

Findings of Fact and Conclusions of Law

Issue

1. The issue presented for consideration by the Board was:

Whether the real and personal property owned by Twyckenham Hills Community Club qualifies for 100% property tax exemption pursuant to Indiana Code §6-1.1-10-16 under the classification of educational purpose.

Procedural History

2. Pursuant to Ind. Code § 6-1.1-15-3, Michele Talos, Business Manager filed a Form 132, Petition for Review of Exemption, on behalf of Twyckenham Hills Community Club, Inc. (Twyckenham), petitioning the Board to conduct an administrative review of the above petition. The Form 132 was filed on January 7, 2004. The St. Joseph County Property Tax Assessment Board of Appeals (PTABOA) issued the Form 120 on December 8, 2003, determining that the real and personal property is 100% taxable.

Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was conducted on May 12, 2004, in South Bend, Indiana before Dalene McMillen, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-3-3.
4. The following persons were present at the hearing:

For the Petitioner:

Michele A. Talos, Business Manager
Janice Frucci, Twyckenham Board Member

For the Respondent:

Ross A. Portolese, PTABOA Member
Kevin Klaybor, PTABOA President

Dennis J. Dillman, PTABOA Member
Terry Wozniak, Deputy County Attorney
Rosemary R. Mandrici, Portage Township Assessor

5. The following persons were sworn in as witnesses and presented testimony:
 - For the Petitioner:
 - Michele Talos
 - Janice Frucci
 - For the Respondent:
 - Ross Portolese
 - Kevin Klaybor
 - Rosemary Mandrici
6. There were no exhibits presented at the hearing by the Petitioner or the Respondent.
7. The following items are officially recognized as part of the record of proceedings:
 - Board Exhibit A – Form 132 petition and related attachments
 - Board Exhibit B – Notice of Hearing on Petition dated March 11, 2004.
8. The subject property is a community club located at 3112 Hilltop Drive, South Bend.
9. The Administrative Law Judge did not conduct an onsite inspection of the property.

Jurisdictional Framework

10. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

Administrative Review and the Petitioner's Burden

11. A Petitioner seeking review of a determination of the county PTABOA has the burden to establish a prima facie case proving, by a preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
12. 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. Wash. Twp. 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”).
13. 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 evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

Analysis

Issue: Whether the real and personal property owned by Twyckenham Hills Community Club qualifies for 100% property tax exemption pursuant to Indiana Code § 6-1.1-10-16 under the classification of educational purpose.

14. The Petitioner contends that the property should be exempt because of the various ways it is used to educate children and adults.
15. The Respondent contends the Petitioner did not provide sufficient information or documentation at the PTABOA's hearing to meet their burden of proof. Further, the

Respondent claims the property is used for recreation, not education, therefore does not qualify for exemption under Ind. Code § 6-1.1-10-16.

16. The Petitioner presented the following evidence and testimony:
 - a. The subject property was exempt from property taxes in 2000. *Board Ex. A & Talos testimony.*
 - b. The property is used for swimming lessons and meetings of the Center Township 4-H Club, Riley Swim Team and others. *Board Ex. A; Frucci testimony.*
 - c. The property also contains a park and play area used by the neighbors and members. The club relieves the city of the burden of providing a recreational facility in this area of the city. *Frucci testimony; Board Exhibit A.*
 - d. The property was also used to train and certify a person entering the army. *Talos testimony.*
 - e. The property is used to educate persons in family values, working together and the value of membership. *Talos testimony.*
 - f. Twyckenham makes money off the pool by selling memberships for the season or a \$2.00 guest pass per day; however if a person cannot afford to pay they would not be turned away. *Frucci & Talos testimony.*
 - g. The Petitioner testified Twyckenham is exempt from federal income taxes. *Talos testimony.*

17. The Respondent presented the following testimony:
 - a. The PTABOA requested documentation to prove Twyckenham's not-for-profit status and their 501(c)(3) status. *Portolese testimony.*
 - b. The PTABOA reviewed the application and denied the application because of deficiencies in the documentation. *Mandrici testimony.*
 - c. The PTABOA could not determine that Twyckenham was entitled to exempt status with the information supplied. Twyckenham is more recreational than educational. *Portolese testimony.*

18. The Petitioner offered testimony that the club is a site of education and recreation, but did not establish that the property is used for educational purposes more than 50% of the time. The Petitioner has failed to show that the property meets the predominant use test. Indiana Code requires that the property be used more than 50% of the time for the exempt purpose in order to qualify for exemption. Ind. Code § 6-1.1-10-16(a) (“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.”); Ind. Code § 6-1.1-10-36.3 (“Property is predominately used or occupied for one of the stated purposes if it is used or occupied for one or more of those purposes during more than 50% of the time that it is used or occupied in the year that ends on the assessment date of the property.”).
19. The Petitioner contends that the club has relieved the city of South Bend of the burden of providing a recreational and swimming facility in this area of the city and provides a better quality of life to South Bend residents by providing a superior recreation and social outlet. *Board Exhibit A*.
20. While providing recreational and social outlets may be a laudable endeavor, it is not a qualification for educational exemption. The educational purposes exemption will be denied when “educational training . . . [is] merely incidental to [] recreational and hobby activities.” *Trinity School of Natural Health, Inc. v. Kosciusko County Property Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234 (Ind. Tax Ct. 2003); *National Ass’n of Miniature Enthusiasts v. State Bd. of Tax Comm’rs*, 671 N.E.2d 218, 222 (Ind. Tax Ct. 1996)
21. To qualify for an educational purpose exemption, the claimant must show that the property is used in such a manner that “provides at least some substantial part of the educational training which would otherwise be furnished by our tax supported schools.” *National Ass’n of Miniature Enthusiasts*, 671 N.E.2d at 220, 221 (quoting *St. Mary’s Medical Center of Evansville, Inc. v. State Bd. of Tax Comm’rs*, 534 N.E.2d 277, 279 (Ind. Tax Ct. 1989)). The evidence does not show that the education provided by the Petitioner is education that would otherwise be furnished by tax-supported schools.

22. In this case, the testimony reflects that the property owned by Twyckenham is primarily used for recreational purposes. *Frucci testimony; Talos testimony; Portolese testimony.* Therefore, the subject property cannot qualify for exemption from property taxation.
23. Accordingly, for all reasons set forth above, Twyckenham has not met their burden showing they qualify for an educational exemption according to Ind. Code § 6-1.1-10-16. Twyckenham's land, improvements and personal property are determined to be 100% taxable.

Summary of Final Determination

24. It is determined the property owned by Twyckenham does not qualify for property tax exemption. Therefore the decision of the PTABOA that the real and personal property is 100% taxable is hereby sustained.

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

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. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.