

REPRESENTATIVE FOR PETITIONER  
Steven Bricker, Ron King, United Steelworkers Local 14

REPRESENTATIVE FOR RESPONDENT  
F. John Rogers, Thompson & Rogers

---

**BEFORE THE INDIANA BOARD  
OF TAX REVIEW**

UNITED STEELWORKERS, LOCAL 14	)	
	)	
	)	
Petitioner,	)	Petition Nos.: 02-074-08-2-8-00015
	)	02-074-10-2-8-00001
	)	
v.	)	Parcel Nos.: 02-12-09-279-014.000-074
	)	02-12-10-303-006.000-074
ALLEN COUNTY ASSESSOR	)	
	)	Assessment Years: 2008 & 2010
Respondent.	)	
	)	

---

Appeals from Determinations of the Allen County  
Property Tax Assessment Board of Appeals

---

*January 14, 2013*

**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**

### **Introduction**

1. United Steelworkers Local 14 claimed that its union hall and a nearby vacant parcel of land were exempt from taxation. But Steelworkers offered little evidence of how the properties were used other than that union members were trained in subjects that would help them better operate the union and represent its membership. There is no statutory exemption for property merely because it is owned and operated by a union. And simply training union members regarding union-related activities is neither an educational nor charitable purpose within the meaning of Indiana's primary exemption statute. The Board therefore upholds the Allen County Property Tax Assessment Board of Appeals' determination denying Steelworkers an exemption.

### **Procedural History**

2. Steelworkers owns two parcels: (1) parcel 02-12-09-279-014.000-074 ("parcel 279"), which is located at 2702 Taylor Street in Fort Wayne; and (2) parcel 02-12-10-303-006.000-074 ("parcel 303"), which is located at 2125 Taylor Street.
3. The parties agree that Steelworkers applied to exempt each parcel from taxation for both the March 1, 2008 and March 1, 2010 assessment dates and that the Allen County Property Tax Assessment Board of Appeals ("PTABOA") denied those applications. Steelworkers then filed a Form 132 petition for each parcel. In the Form 132 petition for parcel 279 (pet no. 02-074-08-2-8-00015), Steelworkers left the portion specifying the year under appeal blank and attached a Form 120 determination from the PTABOA denying an exemption for the March 1, 2008 assessment date. Elsewhere on the Form 132 petition, Steelworkers indicated that the same parcel was under appeal for the March 1, 2010 assessment date as well. Similarly, on the Form 132 petition for parcel 303 (pet no. 02-074-10-2-8-00001), Steelworkers again left blank the box for specifying the assessment date under appeal. This time, it attached Form 120 determinations from the

PTABOA denying exemptions for both the March 1, 2008 and March 1, 2010 assessment dates.

4. The Board issued notices scheduling hearings on both Form 132 petitions for 9:30 a.m. on October 16, 2012. The notice for the petition covering parcel 279 referenced only the March 1, 2008 assessment date, while the notice for the petition covering parcel 303 referenced only the March 1, 2010 assessment date. At the hearing before the Board's designated administrative law judge, David Pardo ("ALJ"), however, the parties agreed that both assessment dates were properly before the Board for each parcel. They further indicated that they were prepared to address both assessment dates at the hearing.<sup>1</sup>
5. The following people testified under oath at the hearing:
  - Ronald A. King, United Steelworkers
  - Steven M. Bricker, Financial Secretary, United Steelworkers Local 14
6. Steelworkers did not offer any exhibits. The Assessor, however, offered the following exhibits:
  - Respondent's Exhibit 1(a): Hearing notice for pet. no. 02-074-08-2-8-00015,
  - Respondent's Exhibit 1(b) Hearing notice for pet. no. 02-074-10-2-8-00001,
  - Respondent's Exhibit 2: Respondent's Memorandum of Law,
  - Respondent's Exhibit 3(a): Property Record Card for parcel 303,
  - Respondent's Exhibit 3(b): Property Record Card for parcel 279, and
  - Respondent's Exhibit 8: Allen County Property Tax Assessment Board of Appeals Findings and Conclusions.
7. All pleadings and documents filed in Steelworkers' appeals as well as all orders and notices issued by the Board or its ALJ are part of the record, as is the digital recording of the Board's hearing.
8. Neither the ALJ nor the Board inspected the subject parcels.

---

<sup>1</sup> Indiana Code § 6-1.1-15-4(b) requires the Board to give parties 30 days advance notice of a hearing. The parties agreed to waive that requirement for assessment dates that were not included in the Board's hearing notices.

## Findings of Fact

9. The parties offered little evidence other than brief testimony from Ronald King and Steven Bricker, Steelworkers' financial secretary. Based on that limited evidence, the Board determines the following facts.
10. Steelworkers is a not-for-profit organization that is exempt from federal income taxation under section 501(c)(5) of the Internal Revenue Code. *See King testimony.* It owns the subject parcels, one of which the parties referred to as the "union hall"<sup>2</sup> and the other of which is vacant land. *See Resp't Exs. 3(a)-(b).* Steelworkers also claimed an exemption for personal property. But there is no evidence in the record showing what, if any, personal property Steelworkers owned, much less showing how that property was used.
11. Although there is no evidence to show the relative amount of time that the union hall was used for any particular activity, Steelworkers did use the hall to teach at least some of its members how to represent other union members. Thus, members were trained how to handle grievances and negotiate contracts and how to run the local's finances. Steelworkers also offered what Mr. King described as "theoretically . . . full blown accounting" training, which included instruction in the following: bookkeeping, payroll taxes, and federal requirements for maintaining Steelworkers' status as a non profit organization. *King testimony.* According to Mr. King, all those activities were for the purpose of providing services to, and improving the working conditions of, Steelworkers' members. *Id.*
12. There is no evidence regarding what, if any, other activities were conducted at the union hall. Mr. King testified that Steelworkers made the union hall available, rent free, to the community, at least where the proposed users met certain safety criteria. But he did not identify any group that actually used the hall. When asked on cross examination to list charitable organizations that used Steelworkers' facilities, Mr. King deferred to Mr.

---

<sup>2</sup> Counsel for the Assessor referred to the building as the "union hall" when questioning Mr. Bricker, and Mr. Bricker referred to the building as the "hall" in his testimony.

Bricker, who testified “Right now we don’t have anybody actually coming and using the hall, but we can make it available for them.” *King testimony; Bricker testimony.*

13. It appears that one or both of the subject parcels previously had been granted an exemption, although Mr. Bricker testified about that history only in summary fashion. *See Bricker testimony.* While Mr. Bricker believed that his inadvertent failure to file paperwork somehow caused Steelworkers to lose its exemption, the Assessor stipulated that Steelworkers had timely filed its applications and appeal petitions. *See Rogers statement.*

### **Conclusions of Law and Analysis**

14. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Indianapolis Osteopathic Hospital, Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004)(citing Ind. Code § 6-1.1-2-1). A taxpayer, however, bears the burden of proving that its property qualifies for exemption. *Id.*
15. On its Form 132 petitions, Steelworkers claimed that the subject parcels were exempt under Ind. Code § 6-1.1-10-25 as a “Local Union 501-C5.” *Form 132 petitions.* But that statute, which exempts property owned by 12 specific organizations, does not mention labor unions. Instead, it provides the following:
- (a) Subject to the limitations contained in subsection (b) of this section, tangible property is exempt from property taxation if it is owned by any of the following organizations:
    - (1) The Young Men's Christian Association.
    - (2) The Salvation Army, Inc.
    - (3) The Knights of Columbus.
    - (4) The Young Men's Hebrew Association.
    - (5) The Young Women's Christian Association.
    - (6) A chapter or post of Disabled American Veterans of World War I or II.
    - (7) A chapter or post of the Veterans of Foreign Wars.
    - (8) A post of the American Legion.
    - (9) A post of the American War Veterans.
    - (10) A camp of United States Spanish War Veterans.

(11) The Boy Scouts of America, one (1) or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(12) The Girl Scouts of the U.S.A., one or more of its incorporated local councils, or a bank or trust company in trust for the benefit of one (1) or more of its local councils.

(b) This exemption does not apply unless the property is exclusively used, and in the case of real property actually occupied, for the purposes and objectives of the organization.

I.C. § 6-1.1-10-25. Thus, Steelworkers is not entitled to an exemption for its property under Ind. Code § 6-1.1-10-25.

16. At the Board’s hearing, however, Steelworkers claimed that it was entitled to an exemption because it used the subject parcels for educational and charitable purposes. While Steelworkers did not cite to any statute to support its claims, the legislature has provided an exemption for buildings and the land on which those buildings sit if the buildings are owned, occupied, and predominantly used for educational, literary, scientific, religious, or charitable purposes. *See* I.C. § 6-1.1-10-16(a) and (c); I.C. § 6-1.1-10-36.3.<sup>3</sup>
  
17. The exact meaning of what constitutes a charitable or educational purpose has spawned much litigation. Broadly speaking, courts have linked a taxpayer’s right to exemption to the taxpayer’s property being used to provide a public benefit. *See, e.g., Fort Wayne Sports Club, Inc. v. State Bd. of Tax Comm’rs*, 147 Ind. App. 129, 258 N.E.2d 874, 881(1970) (“In our view, the well-established and obvious purpose for legislative conferral of tax exemptions requires a showing of some public benefit as a condition precedent to the granting of such exemption.”). Thus, to show a charitable purpose, a taxpayer must prove (1) the “relief of human want . . . manifested by obviously charitable acts different from the everyday purposes and activities of man in general,” and (2) a benefit inuring to the public that is sufficient to justify the loss of tax revenue.

---

<sup>3</sup> Ind. Code § 6-1.1-10-16(e) also exempts personal property “if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.” As explained above, however, Steelworkers failed to identify any personal property that it owned much less explain how that property was used.

*Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 909 N.E.2d 1138, 1141 (Ind. Tax Ct. 2009), *reh'g den.* 914 N.E.2d 13 (Ind. Tax Ct. 2009) (*quoting Indianapolis Elks Bldg. Corp. v. State Bd. of Tax Comm'rs*, 145 Ind. App. 522, 251 N.E.2d 673, 683 (1969)).

18. Similarly, to show an educational purpose, a taxpayer must demonstrate a public benefit by showing that its property is used to provide education 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). The closer the taxpayer’s activity is to traditional educational programs offered in public schools, the more obvious the public benefit. But a taxpayer need not offer courses that are directly analogous to courses taught in public schools; rather, the taxpayer’s courses simply must be related to public-school offerings. *Id.* (*citing Trinity Sch. of Natural Health v. Kosciusko County Prop. Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1238 (Ind. Tax Ct. 2003)). And the taxpayer need only relieve the state’s burden of providing public education to “some limited extent.” *Id.* (*quoting Trinity Sch.*, 799 N.E.2d at 1238). Nonetheless, “implicit in the requirement that education be the ‘substantial equivalent’ of instruction offered in Indiana’s tax-supported institutions is the notion that the education benefits the public, not the presenter.” *Id.* Thus, “education that primarily serves the private interests of an organization’s members” does not meet the “public benefit test.” *Id.*
  
19. In *Roller Skating Rink Operators*, the Indiana Supreme Court upheld the State Board of Tax Commissioners’ determination denying an exemption for property owned by a nonprofit trade association whose members were roller skating rink owners and operators. *Id.* at 263. The trade association used the property in connection with operating Roller Skating University (“RSU”). *Id.* RSU, in turn, provided classes to the association’s members. *Id.* The classes covered topics such as hospitality, merchandising, customer service, personnel management, event planning and promotion, contracts and negotiations, risk management and legal issues, budgeting and finance, and advertising. *Id.* Professors in recreational management from two universities helped

develop the curriculum, and participants could receive continuing education credits at the University of Wisconsin. *Id.*

20. In rejecting the trade association's claims, the Supreme Court distinguished RSU from other cases where educational exemptions had been allowed for properties that were used to teach courses analogous to those taught in public schools and universities. *Id.* at 1266. In those cases, the courses were offered to the public and the attendees were not largely or exclusively affiliated with the presenter. *Id.* Thus, while many of the marketing and business concepts taught at RSU were the same as those taught in business courses at tax-supported colleges and business schools, the same could be said of the professional development and training provided by virtually every trade association. *Id.*
21. Turning to the facts in these appeals, Steelworkers offered little evidence to show that it used the subject parcels for charitable or educational purposes, much less that it predominantly used the parcels for those purposes. Steelworkers pointed to three facts: (1) that it is a non-profit entity that is exempt from federal income taxation under section 501(c)(5) of the Internal Revenue Code, (2) that it holds the parcels open for use by members of the community, and (3) that it provides training in accounting and other subjects that its members and officers operate the union and effectively represent its membership.
22. First, the mere fact that Steelworkers is a non-profit entity that it is exempt from income tax under the Internal Revenue Code does not automatically mean that Steelworkers owned, operated, and used the subject parcels for charitable purposes within the meaning of Ind. Code § 6-1,1-10-16(a). Instead, the question is whether Steelworkers used the subject parcels to relieve human want through activities different from the everyday purposes and activities of man in general. *See Nat'l Ass'n of Miniature Enthusiasts ("Name") v. State Bd. of Tax Comm'rs*, 671 N.E.2d 218, 221 (Ind. Tax Ct. 1996) (finding that entity that was exempt from federal income taxes under section 501(c)(3) of the Internal Revenue Code did not relieve human want by operating a museum to enhance the public's knowledge of miniatures).



23. Steelworkers apparently believes that union activities by themselves inherently qualify as charitable. The Indiana Tax Court, however, rejected a similar notion in *6787 Steelworkers Hall, Inc. v. John R. Scott, Assessor of Porter County*, 933 N.E.2d 591 (Ind. Tax Ct. 2010). In that case, the Tax Court upheld the Board’s determination that a union’s banquet hall did not qualify for an exemption. Among other things, the Union claimed that, “by definition, the purposes for which unions are formed and operated are charitable.” *6787 Steelworkers Hall, Inc. v. John R. Scott, Assessor of Porter County*, 933 N.E.2d 591, 596 (Ind. Tax Ct. 2010). But as the Tax Court explained, the union did not cite to any authority for the proposition that unions are inherently charitable. *Id.*
24. Thus, Steelworkers needed to do more than simply claim that it conducted union activities at the subject parcels; it instead needed to show the specific activities that it conducted, how those activities differed from the ordinary purposes and activities of man in general and relieved human want, and that any charitable activities predominated over non-charitable activities. Mr. King’s general testimony about Steelworkers training its members how to conduct union activities, such as handling grievances, negotiating contracts, and running the union’s finances, does not meet that hurdle.
25. Similarly, the fact that Steelworkers might have been open to the possibility of community groups using one or both of the parcels does not suffice to show a predominant charitable use. There is no evidence that of any of those groups actually used the subject parcels during the years in question, or ever for that matter. Indeed, when asked to list charitable groups that used the parcels, Mr. Bricker testified “Right now we don’t have anybody actually coming and using the hall, but we can make it available for them.” *Bricker testimony.*
26. Nor did Mr. King’s testimony about the training in accounting and other subjects that Steelworkers offered to its members show that the subject parcels were used predominantly for educational purposes. While Mr. King described some of the training as “theoretically ... full-blown accounting,” and therefore at least arguably related to

public-school offerings, the training was offered exclusively to union members. Thus, like the classes in *Roller Skating Rink Operators' Ass'n*, Steelworkers' training primarily served the private interests of its members and therefore did not meet the public benefits test. Indeed, Steelworkers' claims are even less compelling than the trade association's claims in *Roller Skating Rink Operators*, where the trade association provided significantly more detail comparing the substantive content of its classes to the content taught in tax-supported institutions. In any event, Steelworkers did not offer evidence to show, even roughly, what percentage of time the subject parcels were used to provide training compared to the percentage of time the parcels were used for other purposes. So even if the training qualified as an educational purpose, Steelworkers did not meet the predominant-use test. *See* I.C. § 6-1.1-10-36.3(a) ("For purposes of this section, property is predominantly used or occupied for one (1) or more stated purposes if it is used or occupied for one (1) or more of those purposes during more than fifty percent (50%) of the time that it is used or occupied in the year that ends on the assessment date of the property.")

#### **SUMMARY OF FINAL DETERMINATION**

27. Because Steelworkers failed to show that it owned, occupied, and predominantly used the subject parcels for exempt purposes, the Board upholds the PTABOA determinations denying the parcels an exemption for the March 1, 2008, and March 1, 2010 assessment dates.

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

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

**IMPORTANT NOTICE**

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under 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 Indiana 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/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>.