

REPRESENTATIVE FOR THE PETITIONER: *Pro Se*

REPRESENTATIVE FOR THE RESPONDENT: Ayn Engle, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

FAMILY LIFE COMMUNITY)	Petition Nos.: 45-004-22-2-8-00338-23
YOUTH CENTER, INC.)	45-004-22-2-8-00441-23
)	
Petitioner,)	Parcel Nos.: 45-08-03-302-005.000-004
)	45-08-03-302-006.000-004
v.)	
)	County: Lake
LAKE COUNTY ASSESSOR,)	
)	
Respondent.)	Assessment Year: 2022
)	

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:

I. INTRODUCTION

1. Family Life Community Youth Center, Inc. (“Family Life”) sought an exemption for what it described as a community center that it used to provide educational and enrichment activities for the adopted children of its founder and principal officer. Because those activities offer a private, rather than public, benefit, we find that they do not serve an exempt purpose. Family Life also offered generalized evidence showing that it provided services and activities to various members of the community at large, some of which might have qualified as exempt. But it did not offer sufficient evidence to show that those uses predominated during the year at issue. We therefore find that the property was 100% taxable.

II. PROCEDURAL HISTORY

2. Family Life owns two contiguous parcels on Massachusetts Street in Gary. In April 2022, it filed a Form 136 application seeking an exemption. It listed the parcel number and legal description for only the larger of the two parcels (45-08-03-302-005.000-004). Family Life indicated that it sought an exemption under Ind. Code § 6-1.1-10-16 based on charitable, educational, and religious purposes.
3. Despite Family Life identifying only one of the two parcels in its application, on March 22, 2023, the Lake County Property Tax Assessment Board of Appeals (“PTABOA”) issued Form 120 determinations for both parcels, finding that the land and improvements were 100% taxable.
4. Family Life responded by filing a Form 132 petition with us. It checked only the box indicating that it was claiming a religious-purpose exemption. And it listed only the smaller parcel (45-08-03-302-006.000-004). We issued a defect notice because, among other things, Family Life did not attach a copy of its Form 136 application or the PTABOA’s Form 120 determination. When Family Life provided its Form 136 application and a PTABOA determination, we issued a second defect notice because the application listed only the larger parcel, while the Form 132 petition and the PTABOA determination listed the smaller parcel. We advised Family Life that it would need to file a separate Form 132 petition for the larger parcel. Family Life then filed a Form 132 petition for that parcel with us, again checking the box only for a religious-purposes exemption.¹
5. On January 10, 2024, our designated administrative law judge, Erik Jones (“ALJ”), held a telephonic hearing on Family Life’s Form 132 petitions. Neither he nor the Board inspected the property. LaJuan Clemons and Laura Mercado testified under oath.

¹ Family Life also provided us with a copy of a Form 136 application seeking a 2022 exemption for the smaller parcel that it had filed with the Assessor on July 5, 2023.

6. Family Life offered the following exhibits:

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|-------------------------|--|
| Petitioner's Exhibit 1 | NIPSCO video, |
| Petitioner's Exhibit 2 | Skilled Carpenter Flyer template video, |
| Petitioner's Exhibit 3 | Photograph of petitioner family, |
| Petitioner's Exhibit 4 | COVIDco photographs (38 images), |
| Petitioner's Exhibit 5 | COVIDco PDF, |
| Petitioner's Exhibit 6 | Support letters from various local officials, |
| Petitioner's Exhibit 7 | Stop Women and Child Abuse template video, |
| Petitioner's Exhibit 8 | 4 th District Community Highlight quarterly newsletter, |
| Petitioner's Exhibit 9 | Repass image, |
| Petitioner's Exhibit 10 | Community Sender information, |
| Petitioner's Exhibit 11 | Merrillville tornado image. |

The Assessor offered the following exhibits:

- | | |
|-------------|---|
| Exhibit R-1 | 2022 property record cards for subject property (both parcels), |
| Exhibit R-2 | Form 136 and attached documents, |
| Exhibit R-4 | Facebook screenshots. |

7. The record also includes the following: (1) all pleadings, briefs, and documents filed in these appeals, (2) all orders, and notices issued by the Board or ALJ; and (3) an audio recording of the hearing.

III. OBJECTIONS

8. The parties made several objections that the ALJ took under advisement and that we now address.

A. Assessor's Objections

9. The Assessor objected to all of Family Life's exhibits on grounds that Family Life did not provide her with an exhibit list or copies of the exhibits within the deadlines imposed by our procedural rules. Instead, Clemons e-mailed them to the Board at 7:54 p.m. and to the Assessor at 9:07 p.m. on the eve of the hearing. According to the Assessor, this prevented her, her witness, and her counsel from reviewing the exhibits until the morning of the hearing. *Engle argument*. Clemons, who as Family Life's principal officer

prosecuted the appeal, admitted that he did not “know law” and accepted fault for any failure to follow our rules. But he said that the Assessor’s counsel contacted him the day before the hearing and provided outdated photographs of the subject property. He claimed that he therefore submitted new images to provide an accurate, current view of the property. *Clemons argument.*

10. We sustain the Assessor’s objection. “To promote settlement and prevent unfair surprise,” our procedural rules require parties to exchange witness and exhibit lists at least 15 business days before a scheduled hearing and copies of documentary evidence at least 5 business days before the hearing. 52 IAC 4-8-1(a)-(b). We may exclude evidence based on a party’s failure to comply with those deadlines. 52 IAC 5-8-1(f). The Assessor credibly explained how she was prejudiced by Family Life’s failure to comply with the exchange deadlines, making exclusion of the exhibits an appropriate remedy.
11. We are unpersuaded by Family Life’s attempts to excuse its failure to comply with the exchange deadlines. Although Clemons pled ignorance of the deadlines, parties are responsible for knowing our procedural rules. And our hearing notice advised the parties of the exchange deadlines and the consequences for failing to comply with them. *See Notice of Hearing.*
12. We are similarly unpersuaded by Family Life’s claim that it offered the exhibits as a response to receiving outdated photographs from the Assessor. The Assessor offered only one exhibit that contained any photographs: an April 2019 online review posted by someone who had held a baby shower at the property. And Family Life did not specify which of its exhibits it was offering to rebut the purportedly inaccurate photographs. Several of Family Life’s exhibits do not even contain photographs or other images of the property. And many of the exhibits that do contain images are focused on people or things other than the property’s physical appearance. In any case, Family Life offered the exhibits in its case-in-chief in conjunction with Clemons’ testimony about what he believed were exempt activities at the property. We therefore find that Family Life both

knew of the exhibits and reasonably should have anticipated the need to offer them before the exchange deadline. *See Evansville Courier v. Vanderburgh Co. Ass'r*, 78 N.E.3d 746, 752 (Ind. Tax Ct. 2017) (holding that we erred in admitting an un-exchanged exhibit that was known, anticipated, and available to be exchanged by the deadline specified in our procedural rules).

B. Family Life's Objections

13. Family Life objected to Exhibit R-1—property record cards for the two parcels composing the subject property—on relevance grounds because they deal with the Assessor reassessing the property rather than with whether Family Life is a non-profit organization. The Assessor responded that the exhibit shows that the property contains two distinct parcels, which relates to her argument that Family Life failed to timely apply for an exemption for the smaller of the two parcels.
14. We overrule the objection. Evidence is relevant if it tends to make a fact of consequence “more or less probable than it would be without the evidence.” Ind. Evidence Rule 401. “This often includes facts that merely fill in helpful background information . . . even though they may only be tangentially related to the issues presented.” *Hill v. Gephart*, 62 N.E.3d 408, 410 (Ind. Ct. App. 2016). The property record cards bear directly on an issue raised by the Assessor—Family Life’s failure to identify one of two separate tax parcels on its original exemption application, even though we ultimately do not reach that issue. They also offer helpful background information about the property.
15. Family Life next objected to Exhibit R-4—Facebook screenshots with reviews of activities occurring at the subject property—on grounds that the images were all before 2020, and therefore were not relevant to the tax year on appeal. The Assessor responded that the images demonstrate that Family Life charges entry or use fees for events at the subject property.

16. We overrule the objection. As explained below, to qualify for exemption under Ind. Code § 6-1.1-10-16(a), a property must be predominantly used for one or more of the stated exempt purposes more than 50% of the time that it was in use during the year leading up to the assessment date, which in this case was January 1, 2022. I.C. § 6-1.1-10-36.3(a), (c). By themselves, activities occurring before 2021 do not figure into the calculation of predominant use. But evidence of the property’s historical use provides helpful background information. In any case, Family Life itself opened the door for such evidence through Clemons’ general testimony about activities at the property with little attempt to tie many of those activities to 2021 specifically.

IV. FINDINGS OF FACT

17. Family Life is a domestic nonprofit corporation organized under the Indiana Nonprofit Corporation Act of 1991. Clemons, a licensed minister, is its principal officer. Family Life’s bylaws state that it was organized “exclusively for charitable, religious, educational and scientific purposes[.]” And its stated mission is to

encourage the educational, emotional, and physical development of foster youth and the families that serve them in the community. We want [to] provide resources to foster families statewide that allow both youth and parents to flourish into well-adjusted contributing members of society.

Clemons testimony; Ex. R-2.

18. The subject property covers approximately 0.6 acres across two parcels. The larger parcel includes one building and a parking lot. The smaller parcel is a side lot with a smaller building. Family Life acquired the property in either 2016 or 2017. Although Family Life previously used both floors of the building for events, roof damage has left only the ground floor usable. It is unclear when the damage occurred, but Family Life currently uses the second floor only for storage. *Clemons testimony; Ex. R-1 at 1-4.*

19. Clemons testified generally about how Family Life uses the subject property. Most of his testimony was in the present tense and did not focus specifically on 2021. He characterized the property as a community center and explained that the community

center is his church. As part of his religious calling, he adopted seven children. He started the community center for those children because “it takes a village.” As Clemons explained:

Everything is really based around our children getting a shot, so the community center is a base for me to offer this center for the community to come in and use their gifts. If they’re a teacher, a plumber, electrician, coach that they can help my children blossom, and then we can invite the community in as well. So that’s the goal, was the goal, and is the goal for the center: that my children have a chance.

Clemons also explained that Family Life exists for the community at large as well as for Clemons’ children. For example, it “adopted” a senior living facility. *Clemons testimony.*

20. The center hosts a variety of activities. Clemons’ children are home-schooled through the Indiana Home Schooling Academy and are at the subject property every day. Family Life also invites members of the community to the property, such as plumbers or electricians, to “share their gifts” with Clemons’ children and the community. It has also partnered with Home Depot, which offers an online “trade class.” And it has gathered people to “get out information, especially with when COVID happened.” *Clemons testimony.*

21. Family Life similarly partners with local food banks, farmers, and vendors to operate a produce co-op. It also operates a 24-hour meal program that provides hot meals to a wide range of local groups, including the homeless, seniors, city workers, and police officers. It hosts funeral services and related events. And it allows people to use the facility for events such as birthday parties and baby showers. It is unclear, however, whether any of those events occurred in 2021. Clemons testified that after the COVID-19 pandemic hit, the community center closed down. But he also largely testified about activities at the property, including events such as birthday parties and baby showers, in the present tense, implying that the center reopened for those events at some point. *Clemons testimony.*

22. Family Life’s motto is “pay what you can.” People who want to host gatherings or meetings pay what they can afford. The same is true for hot meals. There is a suggested donation of \$6.00, but if people cannot afford that, they can get the meals for free. In completing Family Life’s exemption application, however, Clemons indicated that Family Life did not sell food, charge fees for use of the property, or use the property to generate income. At the hearing, he explained that any contributions were simply donations and he thought that such information was required only if Family Life made a profit. *Clemons testimony; Ex. R-2.*

V. CONCLUSIONS OF LAW AND ANALYSIS

A. Family Life failed to show that it owned, and predominantly occupied and used, the subject property for exempt purposes.

23. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cnty. Prop. Tax Assessment Bd. of App. v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). A taxpayer bears the burden of proving it is entitled to an exemption. *State Bd. of Tax Comm’rs v. New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002). Every exemption appeal “stand[s] on its own facts,” and it is the taxpayer’s duty to walk us through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cnty. Ass’r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009). Because exemptions relieve properties from bearing their share of the cost of government services, they are strictly construed against taxpayers and in favor of the State. *Indiana Osteopathic Hosp., Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). Worthwhile activities or noble purposes alone do not suffice. Rather, a taxpayer must show that the property is being used to provide a benefit that justifies the loss of tax revenue. *See, e.g., Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1265 (Ind. 2006).
24. Family Life claims an exemption under Indiana Code § 6-1.1-10-16(a), which provides an exemption for all or part of a building that is owned, and is exclusively or

predominantly occupied and used, for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c); *Jamestown Homes*, 914 N.E.2d at 15. That exemption extends to a tract of land on which an exempt building is situated, as well as to parking lots and other structures that serve the exempt building. I.C. § 6-1.1-10-16(c)(1)-(2).

25. Under the predominant-use test, a taxpayer must use or occupy a property for exempt purposes during more than 50% of the time that it is used or occupied in the year that ends on the assessment date. I.C. § 6-1.1-10-36.3 (a), (c). Where a property is not used exclusively for exempt purposes, a taxpayer must offer evidence comparing the relative distribution of time between exempt and non-exempt uses. *See Hamilton Cnty. Ass'r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10-36.3.”).
26. Family Life claims that it owned, occupied, and used the subject property for religious, educational, and charitable purposes. The Assessor counters that, while Family Life may use the property for noble endeavors, it failed to provide supporting evidence of exempt activities either with its exemption application or at hearing.
27. We find that Family Life failed to prove that it is entitled to an exemption. The touchstone for determining whether a property is exempt is whether it is owned, occupied, and used to provide a public benefit. *See State Bd. of Tax Comm'rs v. Ft. Wayne Sport Club, Inc.*, 147 Ind. App. 129, 258 N.E.2d. 874, 881 (1970) (interpreting Ind. Code § 6-1.1-10-16(a)'s predecessor and explaining that “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”). Family Life's by-laws generally indicate that the corporation was organized for charitable, religious, educational, and scientific purposes. And its stated mission—to encourage the

educational, emotional, and physical development of foster youth and the families that serve them in the community—might qualify as an exempt purpose in the abstract.

28. But Clemons testified that, at its core, Family Life was formed and operates as a means for leveraging the community at large to provide his children with enriching activities and opportunities. And Family Life used the property partly for that purpose, including home-schooling Clemons' children. We find that providing one's own children, or in this case, the children of an organization's founder and principal officer, with educational and enrichment opportunities is not a public benefit within contemplation of the exemption statute, and that it does not qualify as a religious, charitable, or educational purpose.
29. And Family Life used the subject property for that private, non-exempt purpose. Indeed, Clemons' children were at the property every day. We recognize that was not the only purpose for which Family Life used the subject property. Clemons offered very generalized descriptions of other uses. Some, such as offering 24-hour meal service for only what recipients can afford to pay, or hosting funeral services and related events provide a public benefit and likely qualify as charitable or religious. But Family Life offered such little evidence about other activities at the property that we cannot say whether they were exempt uses. And we do not know how often, or even if, any of the identified uses occurred during 2021—the relevant period under the predominant-use test.
30. Family Life therefore failed to prove that the subject property was owned, and predominantly occupied and used, for exempt purposes. Because that issue is dispositive, we need not address the Assessor's argument that Family Life waived its claim for exemption as to the smaller parcel by failing to timely apply.

VI. CONCLUSION

31. Family Life failed to meet its burden of showing that the subject property was owned, and predominantly used or occupied, for exempt purposes during the year leading up to the 2022 assessment date. We therefore find that the property was 100% taxable.

DATE: April 5, 2024

Jonathan R. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Schultz
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 of 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>.