

REPRESENTATIVE FOR PETITIONER: Charles Lehman, President and CEO

REPRESENTATIVE FOR RESPONDENT: Beth Henkel, Attorney

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

REST Ministries, LLC,	)	Petition No.: 20-019-22-2-8-00239-23
	)	
Petitioner,	)	Parcel No.: 20-07-35-402-011.000-019
	)	
v.	)	Assessment Year: 2022
	)	
Elkhart County Assessor,	)	County: Elkhart
	)	
Respondent.	)	

**April 18, 2024**

**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:

**INTRODUCTION**

1. REST Ministries, LLC (“REST”) sought a 100% religious exemption for a residential home in Goshen. Alternatively, REST argued that the home should qualify as a parsonage. But REST did not show that the subject property was predominantly used for exempt purposes in the year preceding the assessment date. Nor did it show that the subject property met the requirements to be considered a parsonage. For these reasons we find the subject property to be 100% taxable for the 2022 assessment year.

## PROCEDURAL HISTORY

2. On February 24, 2022, REST applied for a 100% exemption for the 2022 assessment year for a property located at 60721 Whitehorn Lane in Goshen. The Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) found the property to be 100% taxable.
3. REST appealed to the Board. On January 23, 2024, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the subject property.
4. Charles Lehman, REST’s President, and CEO, Becka Lehman, REST’s Vice President and Treasurer, Dr. Reverend Corey Miller, Gary Hochstedler, Brian Walter, Mark Goins, and Elkhart County Assessor Cathy Searcy were sworn and testified under oath.
5. The Petitioner offered the following exhibits:

Petitioner Exhibit 1:	Table of Contents
Petitioner Exhibit 2:	Form 132
Petitioner Exhibit 3:	Form 136
Petitioner Exhibit 4:	Form 103
Petitioner Exhibit 5:	Form 104
Petitioner Exhibit 6:	Property Record Card
Petitioner Exhibit 7:	REST Ministry Bylaws
Petitioner Exhibit 8:	REST Ministry Articles of Incorporation
Petitioner Exhibit 9:	REST Ministry 501©(3)
Petitioner Exhibit 10:	REST Ministry Balance Sheets
Petitioner Exhibit 11:	REST Ministry Cash Flow Summary
Petitioner Exhibit 12:	2015 Form 120 for Morgan County property
Petitioner Exhibit 13:	E-mail from Elkhart County Planning and Development
Petitioner Exhibit 14:	Floor Plan
Petitioner Exhibit 15:	REST Ministry Board of Directors
Petitioner Exhibit 16:	Witness List
Petitioner Exhibit 17:	REST Ministry Mission Statement
Petitioner Exhibit 18:	Form 120
Petitioner Exhibit 19:	Letter from B&B Builders with notes
Petitioner Exhibit 20:	Testimonials about REST Ministries

6. The Respondent offered the following exhibits:

Respondent Exhibit 1:	Property Record Card
Respondent Exhibit 2:	Certificate of Assumed Business Name
Respondent Exhibit 3:	REST Ministry Bylaws
Respondent Exhibit 4:	Inspection Notes and Photographs
Respondent Exhibit 5:	Aerial Photos of Subject Property
Respondent Exhibit 6:	Photographs of Subject Property
Respondent Exhibit 7:	<i>King's Ranch, Inc.</i> (IBTR March 9, 2006)
Respondent Exhibit 8:	E-mail exchange between Chuck Lehman and Deputy Assessor
Respondent Exhibit 9:	E-mail exchange between Elkhart County Assessor and Mae Kratzer
Respondent Exhibit 10:	2020 Form 990
Respondent Exhibit 11:	2021 Form 991
Respondent Exhibit 12:	Photographs of Shepherd's Gate

7. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) the hearing transcript.

#### OBJECTIONS

8. The Assessor objected to the admission of Petitioner's Ex. 13, an e-mail from the Elkhart County Planning and Development department, as hearsay. Our procedural rules allow us to admit hearsay, with the caveat that we cannot base our final determination solely on hearsay that has been properly objected to and that does not fall within a recognized exception to the hearsay rule. 52 IAC 4-6-9(d). Thus, we admit the exhibit, but do not solely base our determination on it.

9. The Assessor objected to Petitioner's Ex. 19, a letter from B&B builders with notes, on the grounds that it was not relevant. The threshold for relevance is very low, and we find this exhibit meets that standard. Thus, we overrule the objection and admit the exhibit.

10. The Assessor objected to Petitioner's Ex. 20, testimonials from various people about REST, on the grounds of hearsay and relevance. We find the exhibit meets the low standard for relevancy. As discussed above, hearsay is admissible provided we do not

solely base our determination on it. Thus, we overrule the objection and admit the exhibit, but do not solely base our determination on it.

11. The Petitioner objected to Respondent's Ex. 2, the Certificate of Assumed Business Name, and Respondent's Ex 6, photographs of the subject property, on the grounds that they were not relevant. Both of these exhibits meet the low standard for relevancy. Thus, we overrule the objections and admit the exhibits.
12. The Petitioner objected to Respondent's Ex. 4, the inspection notes and photographs, as hearsay. We overrule the objection and admit the exhibit, but do not base our determination solely on it.
13. The Petitioner objected to Respondent's Ex. 9, an e-mail exchange, because it was not exchanged five business days before the original hearing date of December 5, 2023. But that hearing was continued, and the Petitioner does not allege the exhibit was not exchanged five business days before the actual hearing date of January 23, 2024, as required by 52 IAC 4-8-1. Thus, we overrule the objection and admit the exhibit.

#### FINDINGS OF FACT

14. REST was founded in 2006 as an Indiana nonprofit corporation for the purpose of conducting a spiritual retreat ministry. For approximately eight years, Charles and Becka Lehman, the founders of REST, have operated the "Sheperd's Gate Inn" in Morgan County. It is a 9,000 sq. ft. facility on a forty-acre campus that includes a prayer chapel. At the Inn, they have hosted guests for spiritual retreats, counseling, training, and other related activities. REST's Board requires the Lehmans to live on the property full-time as part of their work. The Lehmans themselves are two of the five Board members. *Tr. 8-9, 18-25, 46-70, 77-85, 95-97, 107-08; 123-30; Pet'r. Ex. 7 and 8; and Resp't Ex. 2.*
15. At some point, REST's Board decided to move its ministry to Elkhart County. REST chose Elkhart County due to the close proximity to the Lehman's elderly parents and their ties to the community. REST purchased the subject property in September of 2021

from private individuals. It consists of a 2,584 sq. ft. residential home on .54 acres in Goshen. REST intends to use the subject property for their ministry after it is renovated. REST did not host any guests at the subject property in 2021. At some point after the purchase, the Lehmans have used the property for spiritual retreats. In 2022, the subject property was used for guests for approximately 12 days. Renovations on the subject property began toward the end of 2023. Once the renovations are complete, REST plans to sell the property in Morgan County and exclusively use the subject property for its ministry. At that time, the Lehmans will move into the subject property and use it as their residence. *Tr. 24-31, 38-40, 46, 51, 54-61, 98-111, 173; Resp't Ex. 1.*

#### ANALYSIS

16. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cty. 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 Cty. Ass 'r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009).
17. All or part of a building is exempt from taxation if it is owned, and exclusively or predominantly used or occupied for education, literary, scientific, religious, or charitable purposes. Indiana Code § 6-1.1-10-16(c)(1)-(2). A property need not be owned, occupied, and used by the same entity to be exempt, but where the owner and the occupant or user are different entities, each must possess its own exempt purpose. *Oaken Bucket*, 938 N.E.2d at 659. Because exemptions relieve properties from bearing their fair share of the cost of government services, they are strictly construed against the taxpayer. *Id.* at 657.
18. In addition, to receive an exemption, the property must be owned, occupied, and used for an exempt purpose more than 50% of the time during the year preceding the assessment

date. I.C. § 6-1.1-10-36.3. When a property is used for both exempt and non-exempt purposes, a taxpayer claiming an exemption must compare the relative time of exempt and nonexempt use. *See Hamilton Cnty. Ass'r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017). A property is 100% tax exempt if it is exclusively used or occupied for exempt purposes or if it is predominantly used for exempt purposes by a church, religious society, or nonprofit school. I.C. § 6-1.1-10-36.3(c)(1)-(2).

19. We first note that REST is seeking an exemption for the 2022 assessment year based on a planned future use. REST acknowledges no guests used the property in the year preceding the assessment date.<sup>1</sup> *Trinity Episcopal Church v. State Bd. of Tax Comm'rs*, 694 N.E.2d 816 (Ind. Tax Ct. 1998) provides a property that is “acquired for future use in furtherance of exempt purposes may qualify for a property tax exemption.” But “the intent to use the property for an exempt purpose must be more than a ‘mere dream’” *Id.* at 818. REST claims that it intends to use the subject property in the same manner as it has used the property in Martinsville. But it is clear that the use of the subject property will be substantially different. In the Martinsville facility, a significantly smaller portion of the property is devoted to the Lehman’s residence. In contrast, most of the subject property will be used to house the Lehmans. Although REST claims the Lehmans will use portions of the property such as the office, living area, and yard for the ministry, it is also clear that at least some of the use will be primarily personal or residential. Under these circumstances, where much of the evidence centers around hypothetical future uses, we cannot say that REST has shown that subject property will be used for predominantly religious purposes as opposed to residential. As we must strictly construe the scope of the exemption statute, we find that REST has not met its burden to show a religious use.
20. But even were we to assume that REST’s anticipated future use was entirely religious, we must still find that they failed to qualify for an exemption for the 2022 assessment year. REST did not purchase the subject property until September of 2021. As discussed

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<sup>1</sup> The spiritual retreats that did occur involved the Lehmans alone, though it is unclear from the record whether they were in 2021.

above, REST needed to show the subject property was predominantly used for exempt purposes in the year preceding the assessment date. I.C. § 6-1.1-10-36.3 states:

[P]roperty 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.

This statute requires us to examine the use of the subject property over the entire year preceding the assessment date. It does not limit this examination to only the time that the party seeking the exemption owned the property, and we cannot add words to the statute.<sup>2</sup> Thus, REST needed to provide evidence not only of its own use, but also of any other use of the property for the rest of 2021. Without evidence of the use of the property for the entire year, we cannot find that the property was predominantly used for exempt purposes. While it is possible that the subject property was not used at all from January to September, thus making REST's use of the property the only use, we cannot make that assumption. As discussed above, exemption statutes are strictly construed against the taxpayer. REST needed to provide evidence comparing the relative time the property was used for exempt and non-exempt purposes. *Duke* at 572. It then needed to show that the predominant use was for exempt purposes. Because REST failed to do that, we cannot find that the subject property qualified for a religious exemption for the 2022 assessment year.

21. Finally, we note that REST also claimed that the subject property should qualify as a parsonage under I.C. § 6-1.1-10-21. To receive this exemption, a church or religious society must submit an affidavit stating the parsonage is being used to house one "of the church's or religious society's rabbis, priests, preachers, ministers, or pastors" and it is not being used to make a profit. I.C. § 6-1.1-10-21(c). There is no indication in the record that REST submitted the required affidavit. Nor could it have, as the subject property

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<sup>2</sup> The legislature could have stated that a property is exempt if used "fifty percent of the time it is used or occupied by the party seeking the exemption," but they did not. It is also reasonable to defer tax exempt status until it is used most of the year for an exempt purpose.

was not being used to house anyone as of the assessment date.<sup>3</sup> For these reasons, REST has failed to show that the subject property qualifies as a parsonage.

### CONCLUSION

22. REST failed to show that the subject property was predominantly used for exempt purposes as required by I.C. § 6-1.1-10-36.3. Nor did it show that the subject property qualifies as a parsonage. For these reasons we find the subject property to be 100% taxable for the 2022 assessment year.

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>.

<sup>3</sup> Pet'r Ex. 20 at 5 admits that REST Ministries does not qualify as a church or religious society.