

REPRESENTATIVE FOR PETITIONER:
James K. Gilday, Gilday & Associates

REPRESENTATIVE FOR RESPONDENT:
Christopher A. Buckley, Gordon A. Etzler & Associates

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

6787 Steelworkers Hall, Inc.)	Petitions:	64-016-08-2-8-00001
)		64-016-10-2-8-00002
Petitioner,)		
v.)	Parcel:	64-06-08-200-003.000-016
)		
Porter County Assessor,)	County:	Porter
)		
Respondent)	Assessment Years:	2008 and 2010

Appeal from the Final Determination of
Porter County Property Tax Assessment Board of Appeals

January 16, 2015

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. 6787 Steelworkers Hall, Inc., (the “Union”), is appealing the denial of its application for an exemption for years 2008 and 2010 under Indiana’s general exemption statute, Ind. Code § 6-1.1-10-16. Pursuant to the statute, taxpayers are relieved from the obligation to pay property taxes provided they can show that the property at issue is predominantly owned, occupied, and used for an exempt purpose. In this appeal, the Union has failed to carry its burden, and is not entitled to exemption.

PROCEDURAL HISTORY

2. On May 15, 2008, the Union, using Form 136, applied for 100% exemption for 2008 for its union hall (the “Union Hall”) and 76% exemption for its Duneland Falls Banquet/Meeting Hall (the “Meeting Facility”), claiming the property was exempt under I.C. § 6-1.1-10-16(a). On June 3, 2009, the Porter County Property Tax Assessment Board of Appeals (the “PTABOA”) determined that both buildings were 100% taxable for the March 1, 2008, assessment date. On June 26, 2009, the Union filed a Form 132 Petition for Review of Exemption with the Indiana Board of Tax Review (the “Board”).
3. On May 14, 2010, the Union, using Form 136, applied for 100% exemption for 2010 for the Union Hall and 71% exemption for the Meeting Facility, claiming the property was exempt under I.C. § 6-1.1-10-16(a). On August 5, 2011, the PTABOA determined both buildings were 100% taxable for the March 1, 2010, assessment date. On September 2, 2011, the Union filed a Form 132 Petition for Review of Exemption with the Board.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. On November 18, 2013 and November 19, 2013, administrative law judges Elizabeth Rogers and Ellen Yuhan (the “ALJs”) held a hearing in Valparaiso.
5. The following persons were sworn as witnesses at the hearing:
For the Union:

Peter Trinidad, Sr., Vice-President of Local 6787
Ruth Needleman, Professor Emeritus, Indiana University
Lynn Duggan, Associate Professor, Indiana University
Diane Bates, President of S.O.A.R., Retiree from Bethlehem Steel,
Dr. Terry M. Harmon, Licensed mental health counselor, owner of Awakenings,
Thomas McClure, Co-Chairperson of the Joint Safety Committee, Local 6787,
Karen Orosz, Director of Ivy Tech Corporate College,
Ray Jackson, Union Treasurer and Chairperson of the Civil Rights Committee,
Local 6787
David Bradley, Member of Local 6787,
Ryan V. Kadish, Financial Secretary of Local 6787.

6. The Union submitted the following exhibits:

- Petitioner Exhibit 1 – Notices of Hearing on Petition to Reschedule dated August 27, 2013,
- Petitioner Exhibit 2 – Property record card (“PRC”) for the subject property,
- Petitioner Exhibit 3 – Application for Property Tax Exemption, Form 136 for March 1, 2008,
- Petitioner Exhibit 4 – Application for Property Tax Exemption, Form 136 for March 1, 2010,
- Petitioner Exhibit 5 – One page from Arcelormittal.com dated 10/25/2013,
- Petitioner Exhibit 6 – One page article concerning ArcelorMittal Burns Harbor dated 10/25/2013,
- Petitioner Exhibit 7 – Charter of Affiliation,
- Petitioner Exhibit 8 – Certificate of Incorporation for 6787 Steelworkers Hall, Inc.
- Petitioner Exhibit 9 – One page from secure.in.gov showing 6787 Steelworkers Hall, Inc. is a non-profit domestic corporation,
- Petitioner Exhibit 10 – Floor plan of the Union Hall,
- Petitioner Exhibit 11 – Floor plan of the Banquet Hall,
- Petitioner Exhibit 12 – Bylaws of Local 6787,
- Petitioner Exhibit 13 – Basic Labor Agreement (BLA) between ArcelorMittal and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (Confidential).
- Petitioner Exhibit 14 – Letter to Local 6787 from ArcelorMittal dated 11/21/08 (Confidential),
- Petitioner Exhibit 15 – Letter from ArcelorMittal to Local 6787 dated 11/26/08 (Confidential),
- Petitioner Exhibit 16 – Local 6787 Update,
- Petitioner Exhibit 17 – Information about the Layoff Minimization Plan and the voluntary Temporary Reduction in Force (“TRIF”) (Confidential),
- Petitioner Exhibit 18 – Flyer for volunteers for TRIF,
- Petitioner Exhibit 19 – Memorandum of Understanding between Burns Harbor and Local 6787 (Confidential),
- Petitioner Exhibit 20 – Article about ArcelorMittal closing the Lackawanna steel plant,
- Petitioner Exhibit 21 – Article about ArcelorMittal posting a quarterly loss,
- Petitioner Exhibit 22 – Information about the Institute for Career Development (the “ICD”),
- Petitioner Exhibit 23 – Information about the ICD at Burns Harbor,
- Petitioner Exhibit 24 – Classes offered through the ICD,
- Petitioner Exhibit 25 – Burns Harbor Career Development 2007 Course Catalog,
- Petitioner Exhibit 26 – Burns Harbor Career Development 2009 Course Catalog,
- Petitioner Exhibit 27 – Participants in Basic Skills, Pre-technical, and Personal Development programs, January 1, 2007 through December 31, 2010,

Petitioner Exhibit 28 – Participants in the Tuition Assistance Program January 1, 2007 through December 31, 2010. ,

Petitioner Exhibit 29 – Senate Bill S.1619 proposed on October 30, 2013,

Petitioner Exhibit 30 – Copy of *The Organizer*, September 1, 2013,

Petitioner Exhibit 31 – Article about a dispute resolution between ArcelorMittal and USW,

Petitioner Exhibit 32 – Union Health & Safety, Ruth Needleman (Confidential),

Petitioner Exhibit 33 – Civil Engagement & Community Support, Local Union & Member Activism &Volunteers,

Petitioner Exhibit 34 – Resume of Ruth Needleman,

Petitioner Exhibit 35 – OSHA Injury & Illness Statistics at ArcelorMittal (Confidential),

Petitioner Exhibit 36 – Economic effects of USW Local 6787 in Burns Harbor prepared by Lynn Duggan,

Petitioner Exhibit 37 – Curriculum Vitae of Lynn Duggan,

Petitioner Exhibit 38 – Burns Harbor Employee Assistance Program (EAP) (Confidential),

Petitioner Exhibit 39 – Information about the Steelworkers Organization of Active Retirees,

Petitioner Exhibit 40 – Meeting Facility Usage Summary 2007-2010,

Petitioner Exhibit 41 – Meeting Facility Usage Summary 2008 and 2010 Assessment Year Summary,

Petitioner Exhibit 42 – 2006-2009 Meeting Facility Summary of Income and Expenses (Confidential),

Petitioner Exhibit 43 – List of employees and training classes attended,

Petitioner Exhibit 44 – Letter from the United Way to Paul Gipson, President of Local 6787,

Petitioner Exhibit 45 – Letter from the American Heart Association to Paul Gipson, President of Local 6787,

Petitioner Exhibit 46 – 2007-2010 Donations,

Petitioner Exhibit 47 – Active Duty Donations,

Petitioner Exhibit 48 – ArcelorMittal Former ISG Active Wage 2013 COBRA Rates (Confidential),

Petitioner Exhibit 49 – List of property tax assessments from 2007-2011.

7. The Respondent (the “Assessor”) did not present any exhibits.

8. The following additional items are officially recognized as part of the record of proceedings and labeled as Board Exhibits:

Board Exhibit A – Form 132 Petitions with attachments,
 Board Exhibit B – Notice of Hearing, Reschedule- dated August 27, 2013,
 Board Exhibit C – Hearing sign-in sheet.

9. The Union submitted an unsolicited pre-hearing brief on November 14, 2013. The Assessor did not object to the Union's brief.
10. The Board requested that post-hearing briefs be submitted by January 21, 2014. The Union timely submitted its proposed findings of fact and conclusions of law.¹ The Assessor obtained an extension of time and submitted its proposed findings on January 31, 2014. The Union did not object to the extension. The parties waived the deadlines set forth in Ind. Code § 6-1.1-15-4(g).
11. The subject property consists of the Union Hall and the Meeting Facility, and the land upon which those structures are situated, located at 1100 North Max Mochal Highway in Chesterton.
12. Neither the Board nor the ALJs inspected the property.

SUMMARY OF THE PETITIONER'S EVIDENCE AND CONTENTIONS

13. The Union is an Indiana labor union that operates in Porter County. It is affiliated with the United Steel Workers of America and is the exclusive bargaining agent for the employees at the ArcelorMittal facility at Burns Harbor ("Burns Harbor" or the "Company"). The Union owns one parcel of real estate which includes two buildings. The Union Hall is 12,000 square feet in area and houses the offices and some of the meeting rooms used by Union employees. The Meeting Facility is 22,000 square feet and used for larger Union-related meetings, partnership meetings with the Company, and various educational courses. The Union also allows the facility to be used by community organizations at no charge. At times, the Meeting Facility is available for rent for banquets and parties, but only when the facility is not being used for Union purposes.
Trinidad testimony.
14. The Union is an organization which is tax exempt under Internal Revenue Code § 501(c)(5). It is also an Indiana non-profit organization. Most of the revenue the Union

¹ 52 IAC 2-8-6(d) limits the length of any briefs submitted to the Board to 30 pages without written prior permission by the Board or ALJ. The Board filed the Petitioner's oversized proposed findings without objection from the Respondent.

collects is from dues charged to its members and is used to cover the cost of the services the Union provides, along with a small reserve. The dues are not for the purpose of making a profit. The revenue earned from non-exempt use does not cover the costs associated with the Meeting Facility. The Union's expenses for the Meeting Facility exceeded its revenue by \$383,568 in 2006, \$246,700 in 2007, \$325,037 in 2008, and \$380,585 in 2009. *Trinidad and Kadish testimony; Petitioner Exhibits 8, 9, and 42.*

15. The bylaws of the Union describe the purposes of the Union. The Union's stated objectives are:

First. To unite in this Local Union, regardless of race, creed, color, or nationality, all working men and working women who are members of United Steel Workers of America...and who are within the jurisdiction of this Local Union.

Second. To establish through collective bargaining, adequate wage standards, shorter hours of work, and improvements in the conditions of employment for workers in the industry.

Third. To engage in educational, legislative, political, civic, social, welfare, community, and other activities; to advance and safeguard the economic security and social welfare of workers in industry, the International Union, its Local Unions and the free labor movements of the United States, Canada and the world; to protect and extend our democratic institutions and civil rights and liberties; and to perpetuate and extend the cherished traditions of democracy and social and economic justice in the United States, Canada, and the world community.

Fourth. To take all steps and actions consistent with the Constitution and policies of the International Union and these bylaws, to implement and carry out the objects, rights, activities, and responsibilities of this organization and the International Union.

Fifth. (To) affiliate with the appropriate central and local bodies chartered by the Federation and with all district and subdistrict bodies of the United Steelworkers of America.

Sixth. (To) establish a better civic and political relationship within the Burns Harbor community...(and)...build the image of our Local

Union, the United Steel Workers of America, and the trade labor union as a whole in this new community.

Trinidad testimony; Petitioner Exhibit 12, pp. 3 and 4.

16. The Union contends that, to the extent that it achieves the intended purposes with regard to its bylaws, it would likely qualify as having a charitable purpose, as broadly construed (i.e., spiritually, physically, intellectually, socially and economically advancing mankind in general, or those in need of advancement and benefits in particular). *Raintree Friends Housing, Inc. v. Indiana Dep't of Revenue*, 667 N.E. 2d 810, 814 (Ind. Tax Ct.1996). As such, it deserves to be rewarded (i.e., an exemption from property tax) in exchange for the benefit it provides to the state's citizens through the services it offers. *Id.* at 814.
17. The Union devotes a significant portion of its time and resources negotiating the Basic Labor Agreement (the "BLA") between itself and the Company for the benefit of its members. The intent of the BLA is to establish and maintain a partnership which will provide the parties with the ability to achieve the following objectives:
 - a. improve health and safety;
 - b. provide continued, permanent, rewarding employment;
 - c. improve product quality;
 - d. reduce operation/unit costs;
 - e. improve productivity/efficiency of operation;
 - f. improve quality of life in the working environment;
 - g. increase the overall skills of employees;
 - h. improve Company and Union relations at all levels;
 - i. promote Employee involvement in solving problems and business challenges.

Trinidad testimony; Petitioner Exhibit 13, page 61.

18. The Union negotiated the BLA to provide employment security for its members. The BLA requires that the Company give priority for hiring to persons active in the military, relatives of current employees, and the disabled. Further, priority for continued employment is given to employees who have three years or more continuous service. The BLA states that it is in the parties' mutual interests to provide employees with at least three years of continuous service with the opportunity for at least forty hours of pay each week. It also provides that, prior to the company implementing layoffs, it must

discuss the need for layoffs and the impact of layoffs with the Union. Further, the parties must develop a layoff minimization plan (an “LMP”). *Trinidad testimony; Petitioner Exhibit 13.*

19. In 2008, the Company notified the Union of its intent to lay off 2,444 of its 3,200 Union employees. Such a layoff would have been in conjunction with a “hot idle” of Burns Harbor’s furnaces and coke ovens. Because of the structural and environmental effects of a hot idle, it is very possible that the furnaces and ovens would never have been returned to active status, which would have resulted in a permanent reduction of the workforce. *Trinidad testimony; Petitioner Exhibit 14.*

20. The Union immediately began discussions with the Company to negotiate an LMP. This resulted in 490 members choosing voluntary, temporary retirement and 900 workers reducing their work week to 32 hours. The LMP allowed all of the members of the Union to retain their employment. Approximately one and a half years later, the parties entered into a Memorandum of Understanding (the “MOU”), which amended the BLA and terminated the LMP. The members made various concessions, but the voluntary, temporary retirements and the 32-hour work weeks were discontinued. Further, in the event of future production cut-backs, Burns Harbor would not be one of the first facilities to be shut down, and, so long as the Company operated at least three blast furnaces in the U.S., two would be at Burns Harbor. In this way, the Union provided relief from human want for its members. The negotiation of the LMP by the Union and the Company relieved the government of the need to provide its members with unemployment benefits or other similar benefits should those individuals become unemployed. Further, the terms of the MOU elevated the status of Burns Harbor in relation to other Company plants. This provided the members of the Union and the communities of Northwest Indiana with enhanced job and economic security. *Trinidad testimony; Petitioner Exhibits 15, 17.*

21. The health and safety of the workforce is one of the Union’s primary objectives. The Union reduces danger in the workplace through protections in the BLA. The BLA ensures that employees have the right to a safe and healthful workplace, the right to refuse dangerous work, the right to be provided with adequate personal protective

equipment, the right to safety and health training, the right to a proper medical program for workplace injuries and illnesses, and the right to a reasonable alcoholism and drug abuse program. Employees also have the right to participate in joint safety and health programs. *McClure testimony; Petitioner Exhibit 13, p. 24.*

22. A steel mill is a hazardous environment and workers have to be aware of any changes in equipment, automation, or procedures. The amount of health and safety education a steelworker needs is extensive, both inside and outside the plant. For instance, new employees receive three weeks of intensive training at Deerfield and then additional training in their specific departments. *Trinidad testimony, Needleman testimony; McClure testimony.*
23. The Union has ten safety coordinators. These safety coordinators are involved in hazard recognition, control issues, shift work, domestic issues, and workplace violence, which are all components of a safe work environment in the mill. The coordinators meet once a week at the Meeting Facility to discuss issues and opportunities to increase safety protocols. In addition, there is a Joint Safety and Health Committee composed of Union members and plant managers. Some of the functions of the joint committee include: participation in the design of Company safety and health programs; assisting in the establishment of safe job procedures; overseeing and participating in plant safety and health audits; reviewing plant safety rules; participating in the investigation of workplace accidents; participating in the design of safety and health training programs; reviewing proposed changes in plant technology or operations for their impact on employee health and safety; and participating in the selection of personal protective equipment. *McClure testimony; Petitioner Exhibit 13, pp. 28, 29.*
24. The BLA allows an employee to make a unilateral decision to stop work if there is an unsafe condition in the workplace. When this occurs, if the employee is using objective information, a supervisor assesses the situation and tries to fix the problem. Once the situation is rectified the employee can return to work. In non-union employment, an employee is not protected and can be fired if he complains about a safety hazard. *Trinidad testimony; Needleman testimony; Petitioner Exhibit 13, p. 25.*

25. The BLA requires the Company to provide, without cost to the employee, effective protective equipment in good working condition as required by law, or when necessary, to protect employees from injury or illness. The BLA also provides that each employee, other than a probationary employee, receives a voucher for use at local vendors for the full purchase price of one pair of safety boots. The company will replace the shoes as necessary, in accordance with applicable laws. The price for a pair of boots ranges from \$120 to \$180 per pair. *Trinidad testimony; McClure testimony; Petitioner Exhibit 13, pp. 25, 26, 31, 32.*
26. The Burns Harbor facility is the safest of the twelve Company plants in the country. The fact that it has the lowest injury rate of all of the plants is a direct result of the priority that the Union places on health and safety. The Union members are aware of the hazards and know the consequences of unsafe conditions. As a result, they prioritize safety to protect both themselves and their jobs. The Union's efforts on behalf of its members are charitable in nature because they meet the needs of people who work in dangerous conditions, and their families, by advocating for increased safety education and oversight throughout the facility. *Needleman testimony; McClure testimony; Petitioner Exhibits 32, 35.*
27. The Union gives to families of members deployed on active duty \$400 per month in aid from its food bank. Members donate to the food bank through a payroll deduction. From 2007 through 2011, the Union made \$22,900 in donations to families of the members who were assigned to active military duty. This helps to offset the decrease in income that results from active duty. *Trinidad testimony; Bradley testimony; Petitioner Exhibit 47.*
28. When Union members are assigned to active duty, the BLA permits them to remain on the Company's health insurance plan. This benefit relieves the federal government of providing medical insurance through Tricare to Union members and their families. The estimated savings to the government from not having to provide medical insurance to

members on active duty was approximately \$88,000 during the 2008 and 2010 biennia. *Bradley testimony; Kadish testimony; Petitioner Exhibit 48.*

29. The BLA also provides for re-employment rights. A member on active duty accrues continuous service which allows him the right to receive the necessary training to continue the job he had prior to deployment. Some non-member military personnel are not re-employed by their former employers and are forced to seek government assistance. *Bradley testimony; Petitioner Exhibit 13, p. 100.*

30. The Union and the Company established an Employee Assistance Program (EAP), known as Awakenings, which is administered and funded by the Company. Its purpose is to facilitate the rehabilitation of employees afflicted with alcoholism and drug addiction. Awakenings is paid about \$100,000 per year. As such, there is no fee to employees using the Awakenings services. Awakenings provided 1,328 counseling sessions for 228 people between 2007 and 2010. The counseling sessions are provided exclusively for Union and management employees, and their dependents, and cover topics such as alcoholism, drug abuse, marital issues, depression, and occupational problems. Most of the counseling takes place at Awakenings' private offices, but sometimes an intervention occurs at the plant or Union Hall if necessary. *Trinidad testimony; Harman testimony; Petitioner Exhibit 13, p. 27; Petitioner Exhibit 38.*

31. The extent and degree of counseling services provided to Union members is unusually extensive and is attributable to the significant interest that the Union takes in its members' welfare. Burns Harbor has very comprehensive benefits relative to other EAP contracts. For instance, most EAP contracts are a three-session model. Burns Harbor is a basic eight-session model unless the member's treatment issue involves substance abuse, which then allows for unlimited sessions. The Union contends that its efforts are charitable in nature as they meet the needs of people who work in dangerous, stressful conditions, by providing them and their families with emotional support. *Harman testimony.*

32. The Union also negotiated \$1.5 million per year to be spent on implementation of wellness initiatives by the Company. The Burns Harbor facility is allotted a little over \$300,000 to spend on wellness initiatives in an effort to make their workplace a healthier place. The initiatives raise awareness on healthy eating, blood pressure, biometric screening, diabetes, and kidney disease. There are smoking cessation classes and a Health Fest held every year that features a wide range of tests and workshops. The wellness benefits are for Company employees as well as Union members. *Trinidad testimony; Needleman testimony; Petitioner Exhibit 32.*
33. The Union's emphasis on safety and health extends to the community. It provides services like defensive driving courses, education on the negatives of sleep deprivation, information on healthy cooking and nutrition, water safety, bicycle safety, and blood drives. There are safety classes for hunters, and mailings and handouts for summer safety and back to school safety. "Red October," another annual Union event, focuses on fire prevention and home safety. Workshops are offered on furnace maintenance. *Needleman testimony; Petitioner Exhibit 32.*
34. In order to reduce discrimination and civil rights violations, the BLA provides that the provisions of the agreement apply to all employees without regard to race, color, religious creed, national origin, disability, status as a veteran; sex, or age, except where sex or age is a bona fide occupational qualification; or citizenship and immigration status, except as permitted by law. The BLA further states that harassment based on any of the characteristics set forth shall be considered discrimination and that the Company shall not retaliate against an employee who complains of discrimination or who is a witness to discrimination. *Jackson testimony; Petitioner Exhibit 13, p.33.*
35. To achieve such a reduction in violations, the BLA calls for a Joint Committee on Civil Rights. The committee is responsible for ensuring that all members enjoy the rights provided by law, and for training all employees, whether Union members or not, to make them aware of the harassment and civil rights laws and how the employees can better protect themselves. The committee also investigates civil rights complaints and mediates among employees who have filed such complaints and the alleged offending persons in

an attempt to resolve the complaints internally. On cross-examination, Mr. Jackson testified the training was for Union members and management, but not the general public. *Jackson testimony.*

36. The efforts of the committee have reduced the rate of claims filed with the Equal Employment Opportunity Commission. This means that the committee has succeeded in its primary goal, which is to internally resolve discrimination claims made by Burns Harbor employees. As a result, the rate at which Union members have sought governmental assistance to resolve civil rights complaints has been significantly reduced. Further, these efforts are clearly charitable because they meet the needs of people who work in dangerous, stressful conditions by providing emotional security and freedom from discrimination to a significant portion of Indiana's citizens who would not have been able to secure such benefits otherwise. *Jackson testimony.*
37. The Union strives to make its members more employable by arranging for them to receive free education. The Union and the Company established the Institute for Career Development (the "ICD") to provide resources and support services for education, training, and personal development of the employees, including upgrading their basic skills and educational levels. The ICD is financed with \$.15 per hour worked by all employees and the Union receives approximately \$1 million per year as a result of the program. *Trinidad testimony; Petitioner Exhibit 13, pp. 75, 76.*
38. The ICD offers a wide variety of classes to meet any interest or skill level. Instruction ranges from basic to graduate-level college courses. The emphasis focuses on portable skills that can be used to enhance existing careers. Approximately 80% of the classes are "customized," meaning that instructors are hired to design classes specifically for steelworkers. Many of the classes are taught in learning centers at or near the plants and are offered twice a day to accommodate employees working various shifts. The employees are allowed up to \$2,000 per year for the classes and are also eligible for \$1,800 in tuition reimbursement for education at accredited learning institutions. *Trinidad testimony; Petitioner Exhibits 22, 23, 24, 25.*

39. In 2007 and 2008, ICD offered culinary arts classes through Ivy Tech Corporate College. Ivy Tech is an accredited Indiana institution providing educational training to individuals seeking a college degree. The culinary classes were similar to those taught by Ivy Tech at other locations and similar to those taught at other state-supported institutions of higher learning. Each student who successfully completed a culinary course received credit toward a college degree. The classes were held in the Meeting Facility. Approximately eight classes were held between 2007 and 2011. Classes met once a week, but because a class was offered as a swing shift opportunity, it was offered twice a day. In some instances there were two classes per week. For the 2008 biennium, the Meeting Facility was used for 832 hours for teaching the Ivy Tech culinary courses. On cross examination, Ms. Orosz testified that the students were all Union members but, in reality, non-members could take the class. *Kadish testimony; Orosz testimony; Petitioner Exhibits 25, 40, 41.*
40. There are also courses offered by the International United Steelworkers that enhance the employability of Union members. These classes include courses to improve leadership skills, courses to improve communication skills, courses about Union activities, and courses in arbitration and collective bargaining. Such education provides Union members with the ability to function in leadership roles thereby allowing them to continue to bring relief from human want and to provide education to Union members. *Kadish testimony; Petitioner Exhibit 43.*
41. One of the Union's overriding purposes is to encourage the Union membership to take advantage of all the educational opportunities that the Union has arranged for them. In that regard, the Union relieves the government of its burden to provide education. *Trinidad testimony.*
42. The Union also provides charitable support to organizations in northwest Indiana. The Union donated the following amounts to charitable organizations: \$17,615 in 2007; \$7,631 in 2008; \$4,675 in 2009; and \$4,000 in 2010. The Union is the largest funding source for the United Way of Porter County. Union members donated \$782,000 to the United Way between 2010 and 2012. Furthermore, the Union permitted community

organizations to use the Meeting Facility free of charge and sponsored or led many charitable events. *Kadish testimony; Petitioner Exhibit 46.*

43. The Union takes an active role in participating in charitable activities by raising money for breast cancer awareness, holding smoking cessation classes, participating in Toys for Tots and Steelworkers for Kids, contributing to food banks, and financially supporting healthier lifestyles. The Union makes its facilities available for community blood drives, educational programs, and meetings. The Meeting Facility is also designated as an emergency meeting place for Porter County. These actions are charitable in nature because they support various charitable organizations that have as their intended purpose to meet the needs of Indiana's citizens who would not have been able to secure such support otherwise. *Needleman testimony; Petitioner Exhibits 33, 44.*
44. The benefits that the Union provides for its members and families permit them to engage in a high level of civic engagement and volunteerism, to create a higher tax base used for school funding, after-school programs, summer activities, and to increase the economic investment in the communities of northwest Indiana. These actions are charitable in nature because they support, financially and otherwise, those charitable programs. *Needleman testimony; Petitioner Exhibit 33.*
45. The Union commissioned a report by an expert witness showing the effect that the Union has on community economics. The report concluded the following:
 - a. The presence of the Union in Porter County contributed to higher wages in non-union industries in the years 2007 to 2010 as well as contributing to less inequality generally and to a larger middle class than would have been the case without this union in the county and the region.
 - b. Reduced inequality is important to a functioning democracy, as it widens the group of people who benefit from economic development, increasing equity, and reducing tensions among different income and ethnic groups.
 - c. Higher rates of pay among members of this union, in addition to higher pay in non-union employment in the county, led to higher incomes amounting to an estimated \$195.2 million to \$260.2 million for the years 2007 to 2012 in income in Porter County that would not have existed in the absence of this union. In addition, an estimated \$1 million to \$1.3

million was generated by this income difference in the form of county income tax revenues. An estimated \$13 million in state income revenue was generated by the income difference for all Local 6787 workers during this time period. In addition, these effects led to further spending, commerce and economic development in the form of multiplier effects, estimated to be 1.5 times the estimated income difference.

- d. Higher incomes for retirees than are provided by non-union steel mills have also led to greater incomes, tax revenues, spending, indirect spending, and commerce throughout the region.

Duggan testimony; Petitioner Exhibit 36, p.6.

46. When considering the number of employees that the Company announced it was laying off in 2008, the annual impact on the Indiana state and county income tax would have been approximately \$6.6 million. *Petitioner Exhibit 36.*

47. The Union has led an effort to assist Los Mineros, the union for the Company in Mexico. The goal of the Union is to enhance the relief from human want that the Mexican union brings to their members through increased wages and better safety procedures. By doing this, the wage gap between employees who work at Burns Harbor and those who work in Mexico has narrowed, resulting in a more level playing field for the production of steel. The tangible result for northwest Indiana is that Burns Harbor has remained a competitive source for steel production, which has enhanced the economic climate in that region.

Trinidad testimony.

48. The Union Hall is used exclusively by the Union to carry out its purposes, which are to provide relief from human want for its members and the community, and to provide education to its members. The floor plan shows the structure includes offices and multiple small conference rooms. *Kadish testimony; Petitioner Exhibit 10.*

49. The Union presented documents which listed the various usages of the Meeting Facility during the 2008 and 2010 biennia. For 2008, the exempt uses of the Meeting Facility included culinary classes, Union activities, organizational meetings, Northwest Indiana Federation of Labor meetings, AFL-CIO meetings, Steelworker's Organization of Active Retirees meetings, charitable events, and non-profit events, for a total of 74.4%. For

2010, the exempt uses were essentially the same with the exception of the culinary classes, which were not held. The total exempt use totaled 67.2%. The Union does not charge rent for the usage of the Meeting Facility by other organizations, except for those usages which do not fulfill its main purposes, such as weddings and banquets. *Kadish testimony; Petitioner Exhibits 40, 41.*

50. The Assessor cited to three tax exemption decisions by the Board related to unions as support for his proposition that unions are inherently not charitable. *In United Brotherhood of Carpenters and Joiners of America, Local #1043 v. Porter County Assessor*, Petition 64-025-08-2-8-00001 (December 31, 2009), the Board stated that the petitioner offered no documentation to support its claim that its property's predominant use is educational. In *International Union of Operating Engineers, Local 150, Building Corp. v. Lake County Property Tax Assessment Board of Appeals*, Petition 45-030-00-2-8-00005 (October 9, 2007), the Board concluded that the petitioner failed to show how its union meetings are educational and presented only anecdotal type information to support its charitable use. In *Local 692 Operative Plasterers and Cement Masons International Association v. Porter County Property Tax Assessment Board of Appeals*, Petition 64-026-06-2-8-00001 (June 11, 2007), the Board found that the petitioner failed to provide any evidence of the use of its property or its purposes or objectives. None of these decisions stand for the proposition that unions are inherently not charitable, but do show that the Board tried to make a "facts and circumstances" determination and that the petitioners in those cases failed to present sufficient evidence to make their exemption case. *Gilday argument.*
51. In this case, the Union provided a significant amount of probative evidence that its primary and secondary purposes are charitable and educational. The Union's primary purpose is charitable in nature because it provides benefits to its members and their families, as well as to the communities in northwest Indiana. Such benefits include relief from human want, and the provision of physical safety, economic security, relief from discrimination, emotional stability, and improved health of the members. *Petitioner Pre-Hearing Brief, p.5.*

SUMMARY OF THE ASSESSOR'S CASE

52. The Assessor contends that the subject property is not eligible for an exemption pursuant to Ind. Code § 6-1.1-10-16, because the property is not predominantly owned, used, and occupied for an educational or charitable purpose. *Buckley argument.*
53. Neither the Union Hall nor the Meeting Facility is entitled to exemption because, while the Union activities may have some charitable and educational aspects, the Union's main function is to promote the members' interests as they relate to their employment at the Company. Activities intended to primarily benefit an organization's membership are not charitable such as to justify a property tax exemption. *Buckley argument.*
54. Union activities are not exempt under Indiana statutes. If the legislature had intended union activities to be exempt, it would have provided a specific exemption for that use. The Assessor cites to administrative precedent set by the Board suggesting that no statute or other authority exists for the premise that union activities are exempt at all, as was found in *Local 692 Plasterers v. Porter County Assessor*, Petition 64-026-06-2-8-00001 (June 11, 2007); *Operators' Local 150 v. Lake County Assessor*, Petition 45-020-02-2-8-00001 (October 9, 2007); *United Carpenters v. Porter County Assessor*, Petition 64-025-08-2-8-00001 (December 11, 2009); *Local Union 414 International Brotherhood of Teamsters v. Allen County Assessor*, Petition 02-074-08-2-8-00014 (December 3, 2012); *United Steelworkers, Local 14 v. Allen County Assessor*, Petitions 02-074-08-2-8-00015 and 02-074-10-2-8-00001 (January 14, 2013). *Buckley argument.*
55. The Union's arguments have been presented in previous years and failed on the same grounds presented at this hearing. In *6787 Steelworkers Hall, Inc. v. Scott*, 933 N.E.2d 591 (Ind. Tax Ct. 2010), *affirming Steelworkers Hall, Inc. v. Porter County Property Tax Assessment Board of Appeals*, Petition 64-016-06-2-8-00113 (May 8, 2009), the taxpayer argued that its business activities, its union business, and its organizational activities were inherently exempt. The Court did not agree with that contention and held that the subject property did not qualify for exemption because, by definition, the purposes for which

unions are formed and operated are not charitable. The same is true here. *Buckley argument.*

56. The Union contends the Union Hall should be 100% exempt and the Meeting Facility should be 74% exempt for 2008 and 67% for 2010. However, when the Union calculated the exempt usage, it included all of the Union's organizational use. If the organization's use of the property is excluded, the property is not predominantly used for educational or charitable purposes and, therefore, is not eligible for exemption under Indiana Code § 6-1.1-10-16. *Buckley argument.*

57. Further, the educational use of the property as an exempt purpose is in question. Under *Dep't of Local Gov't Finance v. Roller Rink Operators Association*, 853 N.E.2d 1262 (Ind. 2006), any educational exemption claim must be for the general benefit of the public and not the membership of the organization. The Indiana Supreme Court held that "education that primarily serves the private interests of an organization's members does not warrant public subsidy because it does not meet the 'public benefit' test established in Indiana case law." *Id.* at 1266. In that case, the Court held that the educational activities were incidental to the roller skating rink operators' promotional activities. Contrasting previous cases where an educational purpose was found, the Court held:

In each of these earlier cases where an educational purpose was found, the courses (general business, photography, gymnastics training, natural health courses) did not duplicate programs offered in public schools or institutions, but they were offered to the public and did not further the business objectives of the attendees. And the persons attending were not largely or exclusively affiliated with the presenter. In contrast, RSA's offerings are for the benefit of its own members and serve their business purposes.

Id. See also *National Association of Miniature Enthusiasts v. State Bd. of Tax Comm'rs.*, 671 N.E.2d 218, 221 (Ind. Tax Ct. 1996) ("declaring itself a charity does not make NAME's activities and endeavors the sort the law recognizes as charitable and therefore entitled to tax exemption.").

58. The Assessor agrees that the Union benefits the community, but the benefits have to be predominant, they have to be direct, and they have to be connected to the real estate and

to the owner in order to qualify for the exemption. The charitable and educational benefits, while commendable, are incidental and collateral to the predominant use of the subject property in this case. The Union failed to connect the real estate and the use of the real estate to an exempt purpose. *Buckley argument*.

ANALYSIS

59. All property is subject to taxation, however, the General Assembly may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Ind. Const., Art. 10, § 1.
60. Ind. Code § 6-1.1-10-16(a) states that “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.” Further, “a tract of land ... is exempt from property taxation if: (1) a building that is exempt under subsection (a) or (b) is situated on it; [or] (2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it.” I.C. § 6-1.1-10-16(c).
61. The test used to determine whether all or a portion of a subject property qualifies for an exemption is the “predominant use” test. *New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d at 1259 (Ind. 2002). Pursuant to I.C. § 6-1.1-10-36.3, “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 50% of the time that it is used or occupied in the year that ends on the assessment date of the property.” I.C. § 6-1.1-10-36.3(a). Further:

Property that is predominantly used or occupied for one (1) or more of the stated purposes . . . is exempt under that section from property tax on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of time that the property was used or occupied for any purpose during that year.

I.C. § 6-1.1-10-36.3(c)(3).

62. Exemption statutes are strictly construed against the taxpayer. *See New Castle Lodge #147*, 733 N.E.2d at 38. The taxpayer bears the burden of proving that it is entitled to the exemption it seeks. *Id.*
63. Exemption determinations are fact sensitive. *See 6787 Steelworkers Hall, Inc. v. Scott*, 933 N.E.2d 591, 596 (Ind. Tax Ct. 2010). “[E]very exemption case depends on its own facts and, ultimately, how the parties present those facts.” *Jamestown Homes v. St. Joseph Co. Assessor*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009).
64. An organization “declaring itself a charity does not make [its] activities and endeavors the sort the law recognizes as charitable and therefore entitled to tax exemption.” *Miniature Enthusiasts*, 671 N.E.2d at 221. “The declaration of charity by an organization does not necessarily mean that the dominant use of the organization's property is of the form of charity which the law recognizes as entitling an organization to tax exemption.” *Indianapolis Elks Bldg. v. State Board of Tax Commissioners*, 251 N.E.2d 673, 683 (1969).
65. It has long “been established that the words ‘educational, literary, scientific, religious or charitable purposes,’ . . . are to be defined and understood in their broad constitutional sense.” *Id.* at 682. The Tax Court has thus held that “‘charity,’ as used in Indiana's property tax exemption statutes, is favored with the broadest constitutional definition allowable.”² *Indianapolis Osteopathic Hosp., Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). However, a term’s “broadest constitutional definition” is not the same as a term’s broadest definition:

In its broadest sense, “education” comprehends “the acquisition of all knowledge tending to develop and train the individual.” Because

² The Board notes that *Indianapolis Elks* directs the terms to be understood in the “*broad* constitutional sense” but later Tax Court opinions citing *Indianapolis Elks* have paraphrased it as the “*broadest* constitutional sense.” *See Indianapolis Osteopathic Hosp., Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004); *Knox County Property Tax Assessment Board of Appeals v. Grandview Care, Inc.* 826 N.E.2d 177, 182 (Ind. Tax Ct. 2005)

education can occur anywhere, “a more restrictive definition of 'educational purposes,' as concerns tax exemptions” is required

Dep't of Local Gov't Fin. v. Roller Skating Rink Operators Ass'n, 853 N.E.2d 1262, 1265 (citations omitted). This is also true in interpreting the term charity:

It seems apparent to us that almost any activity which is not undertaken for profit and which has beneficial aspects concerning certain segments of our society may readily be classed as “charitable” Conceivably, this could include a banking business, manufacturing business, or any other commercial enterprise, the proceeds from which are used to promote and advance the well-being of man. It is our firm conviction that no such all-embracing application of the term was contemplated by the drafters of our constitution.

Jamestown Homes, 909 N.E.2d at 1144 (adopting the reasoning of the Supreme Court of New Mexico in *Mountain View Homes, Inc. v. State Tax Comm'n*, 77 N.M. 649, 427 P.2d 13, 17 (N.M. 1967)).

66. For these reasons, Indiana has adopted the public interest test for determining eligibility for an exemption:

Because exemption relieves property owners of their share of the cost of government services, applicants for the educational exemption must show that their use of their property provides some public benefit. If a property owner's use of property does not serve the public good, the property is taxable.

Roller Skating Rink Operators Ass'n, 853 N.E.2d at 1265 (internal citations omitted). For a charitable exemption, an owner must show: (1) there is evidence of relief of human want manifested by obviously charitable acts different from the everyday purposes and activities of man in general; and (2) there is an expectation that a benefit will inure to the general public sufficient to justify the loss of tax revenue. *College Corner, L.P. v. Department of Local Government Finance*, 840 N.E.2d 905, 908 (Ind. Tax Ct. 2006). The law:

Requires the showing of a charitable purpose, not simply the accomplishment of good and noble deeds, to ensure that: 1) the benefit conferred by the exemption relieves government of a cost it would otherwise bear, and 2) the exemption's largess does not primarily fulfill a commercial profit motive.

Tipton County Health Care Found., Inc. v. Tipton County Assessor, 961 N.E.2d 1048, 1052 (Ind. Tax Ct. 2012).

67. The law is clear that not every “noble endeavor” can be considered to “relieve human want and suffering.” *Miniature Enthusiasts*, 671 N.E.2d at 221. Moreover, a finding that an activity relieves human want is not alone sufficient. The mere fact that an organization’s “facilities and activities undoubtedly suppress human want and suffering in addition to promoting brotherly love, justice, fidelity, etc.,” is not sufficient if “these noble objectives can also be seen in the family home and at various other public and private establishments, all of which are not exempt from property tax.” *Indianapolis Elks Bldg.*, 251 N.E.2d at 682. Similarly, a finding that the “provision of low-income housing relieves human want,” does not necessarily mean that “such housing rises to the level necessary for an exemption, nor . . . that through the provision of such housing, a benefit inured to the public sufficient to justify the loss of tax revenue.” *Jamestown Homes*, 909 N.E.2d at 1142 n.9. The case law may firmly establish that human want is relieved by “meeting the needs of the aging, namely, relief of loneliness and boredom, decent housing that has safety and convenience and is adapted to their age, security, well-being, emotional stability, and attention to problems of health,” but that does not mean there is “a per se rule that an assisted living facility that cares for the elderly is automatically considered exempt by the mere character of its deeds.” *Tipton County Health Care Foundation*, 961 N.E.2d at 1051. Thus a showing of relief from human or educational activity is only the first step in determining whether a property is exempt.

The Union’s General Operations Are Not Charitable

68. The touchstone of a charitable use is the relief of human want through obviously charitable acts, which inure to the benefit of the public. Relief of human want contemplates services associated with necessities like food, shelter, clothing, safety, health, and well-being, and tasks that would otherwise burden the government. Obviously charitable acts are those that are pursued through altruistic or philanthropic motives rather than self-interest. The relief inures to the public if the benefits are

quantifiable and justify the loss of revenue. The charitable use must also be the predominant use of the property.

69. The Union asserts that its general purposes and operations are charitable, in that it relieves human want for its members, their families, and the communities in northwest Indiana, and these benefits to the public entitle it to an exemption. The Board finds that the general operations of the Union do relieve human want, but that its general operations are not charitable as contemplated in the exemption statute.
70. The Board acknowledges that the law has always held that exempt charitable activities may be directed solely to its membership. *Indianapolis v. Grand Lodge*, 25 Ind. 518, 522-23 (Ind. 1865). The Board acknowledges it has long been held that an organization may collect fees or dues from the recipients of its charitable services. *See generally, State Board of Tax Comm'rs v. Methodist Home for the Aged*, 241 N.E.2d 84 (Ind. Ct. App. 1968). The Board notes that any relief from human want, be it housing, medical care, or direct assistance, involves a benefit that is private to the recipient. Similarly, the greater good is served by the relief of human want through the increased well-being of individual recipients.
71. With these principles in mind, the Board turns to the Union's use of the property. The bylaws of the Union declare noble and charitable purposes. However, a seal and a charter are not sufficient. *Fraternal Order of Eagles #3988 v. Morgan County Prop. Tax Assessment Bd. of Appeals*, 5 N.E.3d 1195, 1201 n.10 (Ind. Tax Ct. 2014). The Indiana Tax Court has declined to find that the general purposes of unions are per se charitable or educational. *See 6787 Steelworkers Hall*, 933 N.E.2d at 597. Rather, the actual activities must be examined. *Id.*
72. The evidence before the Board establishes that the Union expends the vast majority of its time and resources in the negotiation and implementation of the BLA between the Union

and the Company.³ The purposes of the BLA are expressly identified in the agreement itself and include:

- a) the guarantee of Union member employment at forty hours per week;
- b) preference with regard to the hiring of Union members' relatives;
- c) the promotion of the health and safety of Union members;
- d) the provision of continued, permanent, rewarding employment;
- e) the provision of competitive wages, paid training and safety boots;
- f) the improvement of the quality of life in the working environment;
- g) the increase in the overall skills of Union employees; and
- h) the improvement in Company and Union relations at all levels.

Pet'r Pre-Hearing Brief, p. 11. The Board's review of the BLA and the activities of the Union in ensuring that the Company complies with its obligations, lead to the conclusion that the Union's actions are in the furtherance of the members' private interests rather than out of altruistic or philanthropic motives.

73. When the activities of an organization also promote the pecuniary interests of its members, the Indiana Supreme Court has looked to whether the claimed exempt purpose primarily serves the private interests of the organization's members or the public:

[A claimed exempt purpose] that primarily serves the private interests of an organization's members does not warrant public subsidy. It does not meet the "public benefit" test.

Roller Skating Rink Operators Ass'n, 853 N.E.2d 1262, 1266 (Ind. 2006)

(considering whether a trade organization's education programs are entitled to exemption). The Tax Court has paraphrased this case as holding that an "exemption is improper when the benefits arising from the property's use inure to private entities rather than the public." *Tipton County Health Care Foundation*, 961 N.E.2d at 1052.

74. Though solely an educational exemption case, the Board finds *Roller Skating Rink Operators* to be the most instructive because it considers the activities of a trade association. The Supreme Court held that when the benefits of a claimed exempt activity

³ "[The Union] devotes the lion's share of its time to assuring that the agreements reached in the BLA are being enforced such that its members are receiving those benefits that were intended in the BLA." *Pet'r Pre-Hearing Brief*, p. 2.

is “‘merely incidental’ to [an organization’s] promotional activities,” it is not entitled to an exemption. *Id.* Because the educational activities of the roller skating rink trade union were the same that “could be said of the professional development and training provided by virtually any trade association,” it was not entitled to an exemption. *Id.* The Board is compelled to find that the general activities of a trade union that are for the purpose of promoting its members’ interests cannot be considered as conveying a public benefit if they are merely incidental to the private interests of the members.

75. The Board acknowledges that a labor union representing steelworkers provides services of a different type and different magnitude than a trade association of skating rink owners.⁴ But the Board finds that the private-public benefit analysis in *Roller Skating Rink Operators* applies equally to a trade union of steel workers.
76. The Board finds that the general operations of the Union primarily serve the private interests of its members. The benefits to the community are generally incidental, and could be said of any union or trade association. The Board does not dispute that the vast majority of activities by the Union have tangential benefits to the community as a whole, but the evidence does not support a finding that the members of the Union bargain for higher wages and safer conditions out of a charitable concern for the greater community.⁵
77. The Board reaches the same conclusion regarding the work of the Union to prevent plant closures or layoffs. The benefits to the entire community are incidental to the benefits conferred on the members. Similarly, the Union’s activities in promoting worker rights in Mexico were self-interested. The Union admitted that the higher the wages elsewhere, the smaller the competitive advantage for the Company to consider relocating.
78. The Union engaged Ruth Needleman as an expert witness to examine and report on the beneficial aspects of the Union as it relates to its members. Ms. Needleman confirmed that the Union improves working conditions for its members through contractual

⁴ The fact that roller skating is a recreational pursuit, a type of activity not considered charitable in some cases, was not a factor in the Court’s decision in *Roller Skating Rink Operators*.

⁵ The Board notes that the BLA has a nepotism provision, giving preference to hiring relatives of Union members over others in the community.

requirements for safety in the BLA and through an emphasis on safety through education and training for its members. While this emphasis on safety is certainly commendable and of obvious value to its members, the benefit realized by the community at large is incidental under *Roller Skating Rink Operators*.

79. The Union commissioned a report that concluded the following: The presence of the Union in Porter County contributed to higher rates of pay among members of this union, in addition to higher pay in non-union employment in the county, led to higher incomes amounting to an estimated \$195.2 million to \$260.2 million for the years 2007 to 2012 in income in Porter County that would not have existed in the absence of this union; In addition, an estimated \$1 million to \$1.3 million was generated by this income difference in the form of county income tax revenues; An estimated \$13 million in state income revenue was generated by the income difference for all Union workers during this time period; in addition, these effects led to further spending, commerce and economic development in the form of multiplier effects, estimated to be 1.5 times the estimated income difference; Higher incomes for retirees than are provided by non-union steel mills have also led to greater incomes, tax revenues, spending, indirect spending, and commerce throughout the region. Again, these benefits to the community are merely incidental to the direct benefit to the members of the Union, and they do not provide grounds for an exemption.⁶
80. The Board thus finds that the general operations of the Union are not charitable within the meaning of the statute and an exemption cannot be granted on those grounds. Even when an organization's general purposes are not exempt, the Board must still "consider the [organization's] objective charity, i.e., its support of philanthropic endeavors," and educational endeavors constitute a predominant use of the property. *Indianapolis Elks Bldg.*, 251 N.E.2d at 683.

⁶ The Board notes that these measures of economic impact might be said of any company with above average wages and progressive employee policies, yet surely, such a company would not be considered as engaged in a charitable endeavor.

The Union's Charitable Activities

81. As indicated above, the vast majority of the Union's activities relieve human want. But a finding of relief from human want is not sufficient. *See Tipton County Health Care Foundation*, 961 N.E.2d at 1051; *Jamestown Homes*, 909 N.E.2d at 1142 n.9; *Indianapolis Elks Bldg.*, 251 N.E.2d at 682. The relief must be obviously charitable and provide a public benefit. *College Corner*, 840 N.E.2d at 908.
82. The Union provides charitable support to organizations in northwest Indiana. The Union donated the following amounts to charitable organizations: \$17,615 in 2007; \$7,631 in 2008; \$4,675 in 2009; and \$4,000 in 2010. The Union is the largest funding source for the United Way of Porter County. Union members donated \$782,000 to the United Way between 2010 and 2012.⁷ The Board finds that these are charitable activities of the type contemplated in the exemption statute.
83. The Union permits numerous community organizations to use the Meeting Facility free of charge and sponsors or leads many charitable events. The Board finds that these are charitable activities of the type contemplated in the exemption statute.
84. The Union is involved with public initiatives bringing awareness to issues such as defensive driving, sleep deprivation, smoking, water safety, hunting safety, school children safety, home fire safety, railroad crossings, and bicycle safety. Similarly, the Union has public health initiatives for blood drives, mammograms, and health screenings. The Board finds that such public initiatives qualify as charitable activities as contemplated in the exemption statute.
85. The Union overseas safety initiatives regarding operations at the Company. The Board finds that time spent on worker training, addressing specific hazard issues with management, identifying and referring workers to substance or mental health providers,

⁷ To the extent the members made these contributions, the efforts by the Union in fundraising (encouraging members to participate) are properly attributed to the Union rather than the members.

and addressing civil rights initiatives may be considered charitable activities as contemplated in the exemption statute, but the record is insufficiently developed to determine whether the Union is providing services similar to those received by most employees in similar employment, or is engaged in uniquely charitable activities.

86. The Union's contract negotiations with the Company resulted in an agreement to provide free safety shoes to Union members at a cost of approximately \$425,000 per year, and free mental health and addiction counseling to Union members at a cost of approximately \$100,000 per year. The Union has arranged with the Company to continue a deployed member's company-paid healthcare benefits while he or she is deployed. The Board finds these are fringe compensation benefits of the BLA and not attributable to charitable activities as contemplated in the exemption statute.

The Union's Educational Activities

87. Turning to the educational exemption claim, the Board must look to the "predominant use" test as outlined in I.C. § 6-1.1-10-36.3(a). In order to meet the predominant use requirements, the facility must be used for the stated purpose "more than fifty percent (50%) of the time." As the term is broadly understood, "education" can occur anywhere, including private homes, but a more restrictive definition is required to avoid irrationally applying the exemption. *See Fort Wayne Sports Club, Inc. v. St. Bd. of Tax Comm'rs*, 258 N.E.2d 874, 881 (Ind. App. 1970). Applicants for the educational exemption must show their use of the property provides some public benefit. *Roller Skating Rink Operators, Ass'n*, 853 N.E.2d 1262 at 1266. Examining "the public benefits that accrue from a property's use [is] a method of determining whether the predominant use of a property is educational." *Trinity School of Natural Health, Inc., v. Kosciusko Co. Property Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1237 (Ind. Tax Ct. 2003).
88. The closer the activity is to traditional educational programs offered in public schools, the more obvious is the public benefit. *St. Bd. of Tax Comm'rs v. Prof'l Photographers of Am., Inc.*, 268 N.E.2d 617, 622 (Ind. Ct. App. 1971). "The educational exemption is

available to taxpayers who provide instruction and training equivalent to that provided by tax supported institutions of higher learning and public schools because to the extent such offerings are utilized, the state is relieved of its financial obligation to furnish such instruction.” *Miniature Enthusiasts*, 671 N.E.2d at 221 (quoting *Ft. Wayne Sport Club*, 258 N.E.2d 874, 881-882).

89. The Union has a program referred to as the Institute for Career Development (“ICD”) which offers educational opportunities. It is funded through the BLA and facilitated by the Union. ICD courses run the gamut from jewelry-making to auto repair to grant writing.
90. While “‘educational’ programs need not be the same as offerings of public schools and universities,” the courses should be offered to the public and not “largely or exclusively affiliated with the presenter.” *Roller Skating Rink Operators, Ass’n*, 853 N.E.2d 1262 at 1266. The Supreme Court held that:

Education that primarily serves the private interests of an organization's members does not warrant public subsidy. It does not meet the "public benefit" test

Id. The crux of the decision in *Roller Skating Rink Operators* was the finding by the Board that to “the extent any educational training is provided through [the taxpayer's] activities, it is *merely incidental* to the promotional activities of the organization.” *Id.* at 1266 (emphasis added). The Supreme Court reasoned:

Based on the evidence presented at the hearing before the State Board, we conclude that the State Board's conclusions that educational training is “merely incidental” to [the taxpayer's] promotional activities and does not confer a public benefit are supported by substantial evidence.

Id. However, the Court more broadly held that “programs of a trade association directed to the development of the private businesses of its members, though ‘educational’ in some sense, do not qualify for property tax exemption as educational activities.” *Id.* at 1263. Even though “the marketing and business concepts taught . . . are the same as those that are 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 any trade association.” *Id.* at 1266. The Board concludes that the typical educational activities offered by trade associations are not sufficient for an exemption.

91. The educational activities of the ICD are less compelling than the activities offered in *Roller Skating Rink Operators* because those were similar to the type taught in tax supported colleges and business schools. The Board finds that the ICD courses are a fringe benefit of employment⁸ under the BLA and cater as much to Union members’ hobby interests as professional development. The evidence fails to clearly indicate which courses were conducted on the subject properties. Moreover, it is not clear that the Union actually conducts educational activities. It appears the Union merely coordinates with outside educational providers. The activities of the ICD program do not confer a public benefit and cannot be considered as grounds for an exemption.
92. The BLA contemplates educational grants for members to use at qualifying educational institutions. The Board finds this is a fringe benefit of employment for Union members under the BLA, and not an activity by the Union qualifying for an exemption under the statute.
93. The Union has failed to present evidence that the Union conducts educational activities entitled to exemption under the standard set forth in *Roller Skating Rink Operators*.

Exempt Use of the Union Hall

94. The Union has not provided an analysis of the use of the Union Hall for general union purposes in contrast to charitable purposes. An organization must provide a “comparison of the relative amounts of time that the [building] was used for exempt and non-exempt purposes . . . for either a full or a partial exemption.” *Fraternal Order of Eagles #3988*, 5 N.E.3d at 1202. While the Board has found that some Union activities are charitable, the Board cannot determine whether any portion of the Union Hall is used predominately for exempt purposes. The Board does not have a summary of employee duties, work space

⁸ Mr. Trinidad admitted that the ICD is part of the BLA compensation package.

use, budgets, or other evidence that might delineate the overall division between exempt and non-exempt use. Thus, the Board cannot find that the Union spends a predominant amount of time and resources on the activities considered charitable and exempt, as compared to non-exempt activities relating to the BLA. For these reasons, the Union Hall is not entitled to an exemption for 2008 or 2010.⁹

Exempt Use of the Meeting Facility

95. The Board has provided an analysis of the use of the Meeting Facility for general Union purposes in contrast to charitable purposes. For 2008, the claimed use of the Meeting Facility for ICD culinary classes was 41.7%. It has already been determined by the Board that the ICD is not an exempt educational use. Another 25.6% was used for weddings and events. Because these two uses exceed 50% of the use of the Meeting Facility, the Union has failed to show it predominately used the Meeting Hall for exempt purposes for 2008. For 2010, the claimed use of the Meeting Facility for general Union use was 42.6%. The usage summary does not include information sufficient for the Board to determine what amount of that use constitutes exempt charitable activity rather than non-exempt general union activity. Another 32.8% was used for weddings and events. Because these two uses exceed 50% of the use of the Meeting Facility, the Union has failed to show it predominately used the Meeting Facility for exempt purposes for 2010.

SUMMARY OF FINAL DETERMINATION

96. The Petitioner failed to prove it owned, occupied, and predominantly used the property for exempt purposes on the March 1, 2008, and March 1, 2010, assessment dates. The Board finds for the Respondent.

⁹ The Union also presented evidence regarding educational courses and training specific to members' employment duties. It appears that those activities were conducted by the Company rather than the Union, and at locations other than the subject property. Likewise, the training of employees of the Union conducted by the national body is not necessarily an activity attributable to the Union. Regardless, the record is insufficient for the Board to conclude that such activities convey a public benefit under *Roller Skating Rink Operators* or constituted a predominate use of either the Meeting Facility or Union Hall.

The 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

-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>>.