

**STATE OF INDIANA
Board of Tax Review**

GRANGER COMMUNITY CHURCH, UNITED METHODIST INC, Petitioner,) On Appeal from the St. Joseph County) Property Tax Assessment Board) of Appeals)
v.) Petition for Review of Assessment, Form 132) Petition No. 71-036-00-2-8-00001) Parcel No. 30-1012-0148
ST. JOSEPH COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS And HARRIS TOWNSHIP ASSESSOR,))))))
Respondents.)

Findings of Fact and Conclusions of Law

On January 1, 2002, pursuant to Public Law 198-2001, the Indiana Board of Tax Review (IBTR) assumed jurisdiction of all appeals then pending with the State Board of Tax Commissioners (SBTC), or the Appeals Division of the State Board of Tax Commissioners (Appeals Division). For convenience of reference, each entity (the IBTR, SBTC, and Appeals Division) is hereafter, without distinction, referred to as “State”. The State having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

Issues

1. The primary issue in this appeal is whether all the 29.54 acres of land listed on parcel 30-1012-0148 and owned by Granger Community Church United Methodist Incorporated (GCC) should be entitled to an exemption under Ind. Code § 6-1.1-10-16, as an educational institution.

2. The secondary issue in this appeal is whether the pricing and attribution of the subject 29.54 acres of land was improper.

Findings of Fact

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall also be considered a finding of fact.

2. Pursuant to Ind. Code § 6-1.1-15-3, GCC filed an application for property tax exemption with the St. Joseph County Property Tax Board of Appeals (PTABOA) on May 11, 2000. GCC claimed 100% of the land under appeal as exempt. The PTABOA allowed 15 acres or (51%) exemption on the land and 100% exemption on the subject improvements. The PTABOA denied 14.54 acres (49%) exemption on the land. The PTABOA notified GCC of the determination on January 8, 2001.

3. Pursuant to Ind. Code § 6-1.1-15-7, GCC filed a Form 132 petition requesting a review by the State. The Form 132 petition was filed on February 2, 2001.

4. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on July 19, 2001, before Hearing Officer Patti Kindler. Mr. Stephen Fink, Attorney at Law, and Mr. Anthony P. Morgan, Pastor represented GCC. David Wesolowski and Kevin Klaybor represented the St. Joseph County PTABOA. Michael Gregorich represented Harris Township.

5. At the hearing, the Form 132 petition with attachments was made a part of the record and labeled as Board Exhibit A. The Notice of Hearing is labeled as Board Exhibit B. The Request for Additional Evidence Form is labeled Board Exhibit C. In addition, the following items were submitted and entered into the record as evidence:

Petitioner's Ex. 1 – Articles of Incorporation, amended for GCC, dated 2/10/99.

Petitioner's Ex. 2 – GCC Ministry Campus Schedule for 1/01/01 to 7/01/01.

Petitioner's Ex. 3 – GCC Classes & Seminars brochure for Spring 2001.

Petitioner's Ex. 4 – GCC Core Curriculum Manual and class dates.
Petitioner's Ex. 5 – GCC Class Schedule (Fall 2000).
Petitioner's Ex. 6 – GCC Class Schedule (Spring 2000).
Petitioner's Ex. 7 – GCC Class Schedule (Fall 1999).
Petitioner's Ex. 8 – GCC Class Schedule (Spring 1999).
Petitioner's Ex. 9 – GCC Women's Ministry Classes (Fall 1999).
Petitioner's Ex. 10 – GCC Children's Class Schedule.
Petitioner's Ex. 11 – St. Joseph County Land Valuation Order, effective 1995.

Respondent's Ex. 1 – PRC for the subject parcel 30-1012-0148.

Respondent's Ex. 2 – Copy of the subject Form 132 with attachments.

6. The subject property under appeal is located at 630 East University Drive in Granger, Indiana (St. Joseph County, Harris Township). The Hearing Officer did not view the property.

Testimony and Evidence Presented to the State Board

7. GCC is a not-for-profit United Methodist Church corporation organized for religious, charitable, and educational purposes within the meaning of § 501(c) (3) of the Internal Revenue Code of 1986. *Petitioner's Ex. 1, Section 2.*
8. The subject parcel consists of a church property located on 29.54 acres of land. *Respondent's Ex. 1.* GCC filed a Form 136 application for property exemption for the year 2000 claiming 100% of the land and improvements to be exempt under the classification of a religious exemption pursuant to Ind. Code § 6-1.1-10-16. *Respondent's Ex. 2, See Form 136.*

Issue 1 – Whether the subject property is eligible for an educational exemption

9. The PTABOA allowed 100% exemption on all the improvements and 51% of the total 29.54 acres of land exempt. The PTABOA claims 14.54 acres, or 49% of

the subject vacant land is taxable pursuant Ind. Code § 6.1.1-10-16, which allows exemption for no more than 15 acres of land for religious organizations.

Wesolowski Testimony; Respondent's Ex. 2.

10. The Petitioner claims that the subject property should be eligible for a charitable educational exemption, which allows 50 acres to be exempt under IC 6-1.1-16. *Board Exhibit A; Fink Testimony.; IC 6-1.1-10-16(c)(2)(A) and (d)(2)(A).*
11. The Petitioner submitted evidence of class brochures, schedules, and curriculum offered on a regular basis at GCC in support of the request for an educational exemption. *Petitioner's Exhibits 2-10.*
12. The classes offered at the GCC "campus" location include such subjects as: women's ministries, healthy eating, Bible study, financial counseling, grief recovery, college planning, books of the Bible, salvation, spiritual maturity, and children's Sunday School classes. *Petitioner's Exhibits 2-10.* In addition, GCC offers tutoring for middle school students during the school year. *Morgan Testimony.*
13. The brochures for the class offerings are distributed to everyone who attends the religious services at GCC. *Morgan Testimony.* Approximately 1,400 individuals have completed session one, 1,000 individuals have completed session two, and 700 individuals have completed session three of a three-part biblical curriculum course. *Petitioner's Ex. 4; Morgan Testimony.* In addition, several other classes are offered throughout the week and numerous hours are allotted at GCC for educational curriculum. *Morgan Testimony.*
14. The PTABOA reviewed the subject application for exemption on the Form 136 Petition, which claimed specific exemption under the *religious* classification according to Ind. Code 6-1.1-10-16. *Wesolowski Testimony.* The Petitioner did not check the appropriate box on the subject Form 136 to claim exemption under the educational provision, and therefore an educational exemption was not

considered by the PTABOA. *Wesolowski Testimony; Respondent's Exhibit 2.*

Issue 2 – Whether the pricing and attribution of the subject land was improper

15. The subject land was assessed at \$25,000 an acre for all 29.54 acres pursuant to the St. Joseph County Land Valuation Order for special use land with a good location rating. *Fink Testimony; Respondent's Ex. 1; Petitioner's Ex. 11.*
16. The Petitioner claims that part of the unutilized land should have been assessed from the County Land Valuation Order for rural excess acreage applicable to special use land and valued at \$1800 an acre. *Fink Testimony; Petitioner's Ex. 11.*
17. Further, the Petitioner argues that the PTABOA illegally applied the exemption to the subject parcel by allocating the exemption for the 15 allowable acres on a pro rata basis rather than using the appropriate procedure. *Fink Testimony; Board Ex. A.*
18. The Petitioner claims that the subject land that is assessed at \$25,000 per acre for primary land should be the land included in the 15 acres of allowable exemption, whereas the remaining secondary land assessed at \$1,800 should be considered the taxable acreage. *Fink Testimony; Board Ex. A.*
19. The correct allocation of the 15-acre exemption would be to apply the exemption to the developed portion of the parcel with any excess land beyond the 15 acres listed at the rural residential excess acre rate of \$1,800 per acre. *Fink Testimony; Board Ex. A.* The developed portion of the parcel is approximately 8 acres, leaving approximately 22 acres of excess land to be valued at the \$1,800 rate. *Fink Testimony; Board Ex. A.*
20. The Township agrees that the excess land values should be reduced according to the County Land Valuation and has changed the pricing on the excess land

from \$25,000 an acre to \$1,800 an acre for the assessment year 2001.

Gregorich & Fink Testimony.

21. The PTABOA claims that the request for reduced assessment of the land and/or the reallocation of the assessment of the land is not applicable to the Form 136 and Form 132 petitions for exemption, and thus no changes were made to the assessment. *Wesolowski Testimony.* The proper forum to address the subject issues would be the Form 133 petition. *Wesolowski Testimony.*
22. During the hearing, the Hearing Officer asked the parties to the appeal if they could agree to stipulate to the land values that were agreed upon for the year 2001. The Respondents indicated that they would be willing to agree on the pricing and allocation issue. *Gregorich Testimony.*
23. The Petitioner requested additional time to consider a possible stipulation, or for submission of additional evidence in the form of cites from Indiana Tax Court decisions regarding the educational exemption request. *Fink Testimony.* The Hearing Officer allowed the Petitioner ten days to submit evidence or a stipulation agreement. *Board Exhibit C.* No additional evidence or stipulation agreement was received in the time allowed.

Conclusions of Law

1. The State is the proper body to hear an appeal of the action of the County pursuant to Ind. Code § 6-1.1-15-3.

A. Burden in General

2. In reviewing the actions of the County Board (or PTABOA), the State is entitled to presume that its actions are correct. "Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the

work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

3. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State Board is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State Board in the untenable position of making the taxpayer’s case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
4. To meet his burden, the taxpayer must present probative evidence in order to make a prima facie case. In order to establish a prima facie case, the taxpayer must introduce evidence “sufficient to establish a given fact and which if not contradicted will remain sufficient.” *Clark*, 694 N.E. 2d at 1233; *GTE North, Inc. v. State Board of Tax Commissioners*, 634 N.E. 2d 882, 887 (Ind. Tax 1994).

B. Constitutional and Statutory Basis for Exemption

5. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.
6. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal, GCC claims exemption under Ind. Code § 6-1.1-10-16 which provides that all or part of a building is exempt from property taxes if it is owned, occupied, and used for educational or charitable purposes. Further, GCC argues that the property is eligible for an educational exemption and therefore all of the subject acreage would be entitled to exemption. *Board Ex. 1*.

7. In Indiana, the fact that a nonprofit entity owns the property under examination does not establish any inherent right to exemption. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how property is used but on how money is spent. *Raintree Friends Housing, Inc. v. Indiana Department of Revenue*, 667 N.E. 2d 810 (Ind. Tax 1996)(501(c)(3) status does not entitle a taxpayer to tax exemption). For property tax exemption, the property must be predominantly used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

C. Basis of Exemption and Burden

8. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
9. The courts of some states construe constitutional and statutory tax exemptions liberally, some strictly. Indiana courts have been committed to a strict construction from an early date. *Orr v. Baker* (1853) 4 Ind. 86; *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 669 N.E. 2d 199 (Ind. Tax 1996).
10. Strict construction construes exemption from the concept of the taxpayer citizen. All property receives protection, security and services from the government, e.g., fire and police protection and public schools. This security, protection, and other services always carry with them a corresponding obligation of pecuniary support - - taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners (NAME)*, 671 N.E. 2d 218 (Ind. Tax 1996). Non-exempt property picks up a portion of taxes that the exempt property would otherwise have paid, and this should never be seen as an inconsequential shift.

11. This is why worthwhile activities or noble purpose is not enough for tax exemption. Exemption is justified and upheld on the basis of the accomplishment of a public purpose. *NAME*, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E. 2d 850, 854 (Ind. Tax 1990)).
12. The taxpayer seeking exemption bears the burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statute under which the exemption is being claimed. *Monarch Steel*, 611 N.E. 2d at 714; *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938 (Ind. Tax 1987).
13. As a condition precedent to being granted an exemption under the charitable or educational purpose clause of the statute, the taxpayer must demonstrate that it provides “a present benefit to the general public . . . sufficient to justify the loss of tax revenue.” *NAME*, 671 N.E. 2d at 221 (quoting *St. Mary’s Medical Center of Evansville, Inc. v. State Board of Tax Commissioners*, 534 N.E. 2d 277, 279 (Ind. Tax 1989), *aff’d* 571 N.E. 2d 1247 (Ind. 1991)).

D. Conclusions Regarding Educational Classification Claim

14. For the purpose of educational exemption, the term “education” is not restricted to academic curricula or to ivy covered halls. *State Board of Tax Commissioners v. Fort Wayne Sport Club*, 147 Ind. App. 129, 258 N.E. 2d 874 (1970).
15. To qualify for an educational purpose exemption, GCC must show that it “provides at least some substantial part of the educational training which would otherwise be furnished by our tax supported schools.” *NAME*, 671 N.E. 2d at 221 (quoting *Fort Wayne Sport Club*, 147 Ind. App. at 140, 258 N.E. 2d at 882).
16. “An 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.” *NAME*, 671 N.E. 2d at 222 (quoting *Fort Wayne Sport Club*, 147 Ind. App. At 140, 258 N.E. 2d at 881-82).

17. The educational activity must confer a public benefit. Obviously, the closer the activity is to the type of educational activity traditionally occurring in public schools, the more obvious is the public benefit. *Professional Photographers of American, Inc., v. State Board of Tax Commissioners* 148 Ind. App. 601, 268 N.E. 2d 617 (1971); *Ft. Wayne Sport Club*, 147 Ind. App. At 129, 258 N.E. 2d 874 (1970).
18. GCC failed to prove that they relieve the government of its burden of public education by providing at least some substantial part of the educational training which would otherwise be furnished by tax supported schools. GCC’s curriculum consists largely of Biblical based classes offered by churches and religious organizations throughout the State.
19. GCC’s testimony that they offer a middle-school tutoring program is insufficient because no evidence was submitted to demonstrate that this program was offered or available to the general public. Rather, the educational services GCC provides to its members are merely incidental to the religious classification that is the predominant use to which the subject property is put.
20. Accordingly, GCC is required to affirmatively demonstrate that its activities (such as women’s ministries, healthy eating, bible study, grief management, and Oasis Institute programs) provide educational training that would otherwise be furnished by tax-supported schools. The educational exemption is available if the organization makes a substantial contribution to the relief of the burden of government. The record does not show that such activities are furnished by public schools and, thus, relieve a government obligation.

21. GCC did not offer probative evidence that they relieve the State of any of its educational burden by failing to demonstrate that their educational activities and curriculum confer a benefit to the *general* public. In contrast, GCC's testimony demonstrated that their educational services are privatized – available to anyone “who attends their church services.” No evidence or testimony was submitted to indicate that any individuals, other than church members, were given access to the class brochures and information. Obviously, the educational activities benefit the GCC church members, but that benefit is not shifted to the general public.
22. Whereas, the educational curriculum does further its charitable religious purposes, the limitation of the benefits to a specified small or select class, in this case members of GCC, does not provide relief to the taxpayers or benefit the general public sufficiently to justify the loss of tax revenue.
23. To meet its burden, GCC would have needed to demonstrate how its activities educated the public on subjects of instruction furnished by tax supported schools. The predominant educational activities are of a religious nature.
24. For all of the above reasons, the State finds that GCC is not entitled to the educational purpose claim.

E. Conclusions Regarding the Pricing and Attribution of the Acreage

25. With regard to the application of property tax exemption for land, the legislature did, in fact, enact legislation placing a limitation on the amount of land that may be exempted from property taxation. Subsection (d) of Ind. Code § 6-1.1-10-16 is very specific, *only* 15 acres of a tract of land, regardless of how many acres that tract may contain, may be exempted from property taxation in all cases (excepting educational institutions). As stated above, GCC is not entitled to an educational purpose exemption. Based on the undisputed testimony and evidence presented, 15 acres of GCC's 29.54 acre tract of land are exempt from property taxation, the remaining 14. 54 acres are taxable.

26. The remaining issue is how the taxable land should be assessed. While it is true that the Form 132 petition is not used to correct errors in the assessment, in this case the exemption and assessment of taxable land are directly related.
27. GCC claims that the 29.54 acres listed on the subject parcel are improperly priced. GCC submitted the County Land Valuation Order in support of their claims that approximately 8 acres of developed land should be priced at \$25,000 per acre, with the remaining undeveloped land (approximately 22 acres) priced at \$1,800 per acre. *Petitioner's Ex. 11*. In addition, GCC claims that if the acreage were properly priced, the exemption should then be applied to the developed portion of the parcel.
28. The Respondents indicated a willingness to stipulate to the values and allocation of land, based on the corrections the Township has already made for the year 2001. GCC requested additional time to consider the proposed stipulation agreement. The Hearing Officer did not receive any further information from GCC.
29. Of GCC's 29.54 acres of land, the Petitioner testified that approximately 8 acres is developed, the remainder is undeveloped. The exempt land would include the 8 acres of developed land and 7 acres of undeveloped land. Based on the undisputed testimony, the remaining 14.54 acres of taxable land is undeveloped and should be valued at \$1,800 per acre.
30. For all of the above reasons, 15 acres of GCC's tract of land is 100% exempt from property taxation. The remaining 14.54 acres of GCC's tract of land is fully taxable at \$1,800 per acre.

The above stated findings and conclusions are issued in conjunction with, and serve as the basis for, the Final Determination in the above captioned matter, both issued by the Indiana Board of Tax Review this ____ day of _____, 2002.

Chairman, Indiana Board of Tax Review