

REPRESENTATIVE FOR PETITIONER: Pastor Jeffrey Mikels

REPRESENTATIVE FOR RESPONDENT: Eric Grossman, Tippecanoe County Assessor

---

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Lafayette Community Church,	)	Petition:	79-005-18-2-8-00404-19
	)		
Petitioner,	)	Parcel	79-07-34-401-006.000-005
	)		
v.	)	County:	Tippecanoe
	)		
Tippecanoe County Assessor,	)	Assessment Year:	2018
	)		
Respondent.	)		

---

**January 27, 2020**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (“Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**INTRODUCTION**

1. In 2017, Lafayette Community Church (“Church”) bought a building that was not exempt from property tax. The Church attempted to apply for an exemption at that time. Although the Church used the incorrect form, we find its filing was substantially compliant with the requirements for applying for an exemption. Thus, we find the property to be 100% exempt from taxation for the 2018 assessment year.

**PROCEDURAL HISTORY**

2. The PTABOA found the property was 100% taxable for the 2018 assessment date. The Church appealed the PTABOA’s decision to the Board.

3. On October 30, 2019, Ms. Jennifer Thuma, the Board’s designated administrative law judge (“ALJ”), held a hearing on the petition. Neither she nor the Board inspected the property.
  
4. Pastor Jeffrey Mikels appeared pro se for the Lafayette Community Church. The Tippecanoe County Assessor, Eric Grossman, represented himself. Both were sworn as witnesses.
  
5. The following exhibits were admitted without objection:
 

Petitioner Exhibit A:	Letter to the Board from Pastor Mikels,
Petitioner Exhibit B:	Copy of Exemption Application-Form 136
Respondent Exhibit 1:	Subject Property Narrative
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Notice of Change of Ownership Form-136 COU
Respondent Exhibit 4:	Application for Exemption-Form 136
Respondent Exhibit 5:	PTABOA Decision-Form 120
Respondent Exhibit 6:	Indiana Code-Procedures for Claiming Exemption
  
6. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or the Board’s ALJ; (3) an audio recording of the hearing.

**FINDINGS OF FACT**

7. The Church bought the property located at 2311 Concord Road in Lafayette in March of 2017 from a for-profit business. The property was not tax exempt in 2017.
  
8. On March 31, 2017, Pastor Jeffrey Mikels went to the Assessor’s office to file an application for exemption. An employee of the Assessor’s office gave him a Form 136-CO/U, the form a property owner must file when an exempt property changes ownership or use. He filled out and filed that form while still at the Assessor’s office. He checked the box for religious exemption. In the “Description of Change in Use” box, he wrote: “From Bar and Bookstore to Church Operated Community Center.” He was also given a

Form 136 exemption application, but the Assessor's employee told him he could not file that Form until January 2018. He was also informed that the deadline to submit that application was April 1, 2018. *Pastor Mikels' testimony; Mr. Grossman testimony; Pet'r Ex. A; Resp't Ex. 1, 3.*

9. Pastor Mikels returned to the Assessor's Office in January of 2018. He met with the same employee and asked for the forms he needed to file. He received business personal property forms, which he filled out and filed. He did not receive a Form 136 application for property tax exemption. *Pastor Mikels' testimony; Mr. Grossman testimony; Pet'r Ex. A; Resp't Ex. 1.*
10. On June 1, 2018, Pastor Mikels returned to the Assessor's Office to ask a question about the Church's 2017 taxes. He then learned that the Assessor's office had no record of a Form 136 application for the 2018 assessment year. He filled out and completed a Form 136 application at that time. He was told that the deadline had passed to apply for a 2018 exemption, but the application would be considered for 2019. *Pastor Mikels' testimony; Mr. Grossman testimony; Pet'r Ex. A.*
11. The Assessor admitted the property was used for an exempt purpose in 2018. *Mr. Grossman testimony; Resp't Ex. 1.*

#### CONCLUSIONS OF LAW

12. While property is generally taxable in Indiana, the legislature exempts certain types of properties from taxation. The taxpayer bears the burden of providing that it is entitled to an exemption. *Hamilton County Property Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). Indiana Code §6-1.1-10-16 (a) provides an exemption for all or part of a building that is owned and exclusively or predominately used and occupied for educational, literary, scientific, religious, or charitable purposes. *See also* Indiana Code §6-1.1-10-36.3 (c).

13. Indiana statutes provide the general rule that if a property owner does not comply with the procedures for obtaining an exemption, the exemption is waived. If the exemption is waived, the property is subject to taxation per Indiana Code §6-1.1-11-1. Exemption applications must be filed by April 1 of the assessment year.
  
14. It is clear that the Church made considerable effort to timely file its application. The Assessor argues that by failing to file the actual Form 136 application until June 1, 2018, the Church waived its exemption for that year. We disagree. The Church did file the Form 136 CO/U application before the deadline for the 2018 assessment year. We must determine whether that form substantially complied with the requirements to obtain an exemption. The exemption statute requires a taxpayer to provide the following information:
  - (1) A description of the property claimed to be exempt in sufficient detail to afford identification.
  - (2) A statement showing the ownership, possession, and use of the property.
  - (3) The grounds for claiming the exemption.
  - (4) The full name and address of the applicant.
  - (5) For the year that ends on the assessment date of the property, identification of:
    - (A) each part of the property used or occupied; and
    - (B) each part of the property not used or occupied; for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.
  - (6) Any additional information which the department of local government finance may require.

I.C. § 6-1.1-11-3. The Church's Form 136 CO/U clearly fulfilled requirements (1)-(4). For requirement (5), although not explicitly stated, it can be inferred from the description of use that the Church exclusively used the property for exempt purposes.

15. The Assessor argues that the Form 136 CO/U was insufficient because it does not require the detail or substantiating documentation of the Form 136. This speaks to requirement (6). We agree that taxpayers are generally required to use the correct form and submit all required information. But under these circumstances we find the information on the Church's Form 136 CO/U, coupled with the Church's good faith attempts to follow the

law, sufficient to substantially comply with the statute's requirements for seeking an exemption. Finally, we note that the Form 136 CO/U form itself should have put the Assessor's office on notice that the Church was seeking a new exemption, as it stated that the previous use of the property was as a bar and bookstore, and the Assessor's records should have shown the property was not previously exempt.

### CONCLUSION

16. Because we find the Church constructively filed a timely application for exemption, and the Assessor admitted the subject property was used for an exempt purpose, we find it to be 100% exempt from taxation for the 2018 assessment year.

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

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.