

REPRESENTATIVES FOR PETITIONER: Duane W. Wilson, Director, Life Station, Inc.

REPRESENTATIVES FOR RESPONDENT: Ross A. Portolese, St. Joseph County PTABOA;  
Rosemary Mandrici, St. Joseph County PTABOA

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

In the matter of:

LIFE STATION, INC.	)	
	)	Petition No: 71-031-02-2-8-00001
	)	
Petitioner	)	
	)	Parcel No.: 14-1042-0727
	)	
v.	)	County: St. Joseph
	)	
	)	Township: Penn
ST. JOSEPH COUNTY	)	
PROPERTY TAX ASSESSMENT	)	
BOARD OF APPEALS	)	
	)	Assessment Year: 2002
	)	
Respondent.	)	
	)	

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Appeal from the Final Determination of  
St. Joseph County Property Tax Assessment Board of Appeals

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**October 3, 2003**

**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:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issue

1. The issue presented for consideration by the Board was:

*Whether the land qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-1-10-16 under claim of charitable purposes.*

### Procedural History

2. Pursuant to Ind. Code § 6-1.1-11-3, Life Station, Inc. (Petitioner) filed an application for property tax exemption with the St. Joseph County Auditor on May 15, 2002. On November 8, 2002, the St. Joseph County Property Tax Assessment Board of Appeals (PTABOA) granted partial exemption on the property.
3. Pursuant to Ind. Code § 6-1.1-11-7, Life Station filed a Form 132 petition petitioning the Board to conduct an administrative hearing. The Form 132 petition was filed December 5, 2002.

### Procedural Issues

4. The Petitioner filed three separate applications for exemption for three separate parcels of property. Because each application sought exemption for three individual and distinct parcels of property, the Board will address each parcel separately and will analyze the issue of property tax exemption for each parcel under the appropriate statutes.

### Hearing Facts and Other Matters of Record

5. Pursuant to Ind. Code § 6-1.1-15-4 a hearing was held on April 17, 2003 in South Bend, Indiana before Ellen Yuhan, the duly designated administrative law judge.

6. The following persons were present at the hearing:

For the Petitioner:

Duane W. Wilson, Director, Life Station, Inc.

For the Respondent:

Ross A. Portolese, St. Joseph County PTABOA

Rosemary Mandrici, St. Joseph County PTABOA

7. The following persons were sworn in as witnesses and presented testimony:

For the Petitioner:

Duane W. Wilson, Director, Life Station, Inc.

For the Respondent:

Ross A. Portolese, St. Joseph County PTABOA

Rosemary Mandrici, St. Joseph County PTABOA

8. The following exhibits were presented:

For the Petitioner:

Petitioner's Exhibit 1 – A copy of the Articles of Incorporation for Life Station, Inc.

Petitioner's Exhibit 2 – A copy of the Bylaws for Life Station, Inc.

Petitioner's Exhibit 3 – A copy of the Amendment to the Articles of Incorporation for Life Station, Inc.

Petitioner's Exhibit 4 – A copy of the financial documents for the years ending December 31, 2000 and December 31, 2001.

For the Respondent:

Respondent's Exhibit 1 – A copy of the parcel's property record card.

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

Board Exhibit A – The Form 132 petition with attachments.

Board Exhibit B – The Notice of Hearing.

9. The property is 20 acres of unimproved land located at 55255 Bittersweet, Mishawaka in the township of Penn and the county of St. Joseph. The assessment year for which exemption is sought is 2002 with property taxes due and payable in 2003. The PTABOA wholly denied property tax exemption.
10. The Hearing Officer did not view the property.

**Jurisdictional Framework**

12. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
13. The Board is authorized to issue this final determination pursuant to Ind. Code § 6-1.1-15-3.

**Indiana's Property Tax System**

14. The Indiana Constitution requires Indiana to create a uniform, equal, and just system of assessment. See Ind. Const. Article 10, §1.

**State Review and Petitioner's Burden**

15. The State does not undertake to reassess property, or to make the case for the petitioner. The State decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998).
16. The petitioner must submit 'probative evidence' that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be

considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E. 2d 1230 (Ind. Tax 1998). [‘Probative evidence’ is evidence that serves to prove or disprove a fact.]

17. The petitioner has a burden to present more than just ‘de minimis’ evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Bd. of Tax Comm'rs*, 715 N.E. 2d 1018 (Ind. Tax 1999). [‘De minimis’ means only a minimal amount.]
18. The petitioner must sufficiently explain the connection between the evidence and petitioner’s assertions in order for it to be considered material to the facts. ‘Conclusory statements’ are of no value to the State in its evaluation of the evidence. See *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E. 2d 329 (Ind. Tax 1999). [‘Conclusory statements’ are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]
19. Essentially, the petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Bd. of Tax Comm'rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind., 2001), and *Blackbird Farms Apartments, LP v. DLGF* 765 N.E.2d 711 (Ind. Tax, 2002).
20. The State will not change the determination of the County PTABOA unless the petitioner has established a ‘prima facie case’ and, by a ‘preponderance of the evidence’ proven, both the alleged error(s) in the assessment, and specifically what assessment is correct. See *Clark v. State Bd. of Tax Comm'rs*, 694 N.E. 2d 1230 (Ind. Tax 1998), and *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E. 2d 765 (Ind. Tax 1997). [A ‘prima facie case’ is established when the petitioner has presented enough probative and material (i.e. relevant) evidence for the State (as the fact-finder) to conclude that the petitioner’s position is correct. The petitioner has proven his position by a ‘preponderance of the evidence’ when the petitioner’s evidence is sufficiently persuasive

to convince the State that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the petitioner's position.]

### Property Tax Exemption

21. Generally, all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.

22. Article 10, § 1 of the Indiana Constitution reads:

(a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property real and personal. The General Assembly may exempt from property taxation any property in the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.

23. Article 10, § 1 of the Constitution is not self-enacting. The Indiana General Assembly must enact legislation granting exemption.

24. The justification for tax exemption is the public benefit. *State Board of Tax Commissioners v. Wright* (1966), 139 Ind. App. 370, 215 N. E. 2d 57. The purpose of tax exemption, whether for religious or other classification, is to insure that the property and funds devoted to one public benefit are not diminished by being diverted through taxation for another public benefit. *Id.*

25. The grant of tax exemption releases property from the obligation of bearing its share of the cost of government and disturbs the equality and distribution of the common burden of government upon all property. *St. Mary's Medical Center of Evansville, Inc. v. State Board of Tax Commissioners*, 534 N.E. 2d 277, 280 (Ind. Tax 1989), *aff'd.*, 571 N.E. 2d

1247 (Ind. 1991). The grant of tax exemption shifts the tax burden to others or results in the loss of tax revenue. *NAME*, 671 N.E. 2d at 220.

26. Accordingly, exemptions are strictly construed against the organization seeking exemption and in favor of taxation. *Id* at 220; *Indiana Association of Seventh-Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938, (Ind. Tax 1987). A taxpayer seeking exemption bears the burden of proving that it is entitled to exemption. *NAME*, 671 N.E. 2d at 220 (citing *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 611 N.E. 2d 708, 714 (Ind. Tax 1993)). As a condition precedent to being granted an exemption for charitable or educational purposes, the taxpayer must demonstrate that it provides "a present benefit to the general public...sufficient to justify the loss of tax revenue." *St. Mary's Medical Center*, 534 N.E. 2d at 279.
27. In determining whether the property qualifies for exemption, the predominant and primary use of the property controls. *NAME*, 671 N.E. 2d at 220, (citing *Fort Wayne Sports Club*, 258 N.E. 2d at 881 and *Indianapolis Elks Buildings Corp. v. State Board of Tax Commissioners*, 251 N.E. 2d 673, 679 (Ind. App. 1969)).
28. The use of the property for exempt purpose is the minimum requirement for exemption. The General Assembly may add other requirements when enacting exemption statutes. *Sangralea Boys Fund, Ind. v. State Board of Tax Commissioners*, 686 N.E. 2d 954, n. 2 (Ind. Tax 1997).

### **Discussion of Issue**

*Whether the land qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-1-10-16 under claim of charitable purposes.*

29. The Petitioner contends that the subject property should be 100% exempt from property taxes for charitable and religious purposes.
30. The Respondent contends the property does not qualify for property tax exemption pursuant to Ind. Code § 6-1.1-10-16.

31. The applicable statutes governing this issue are:

**Ind. Code § 6-1.1-10-16(a)**

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.

**Ind. Code § 6-1.1-10-16(c)**

A tract of land is exempt from property taxation if a building qualifying for exemption is situated on it and the tract does not exceed fifteen (15) acres.<sup>1</sup>

**Ind. Code § 6-1.1-10-16(d)**

Land is exempt from taxation if it was purchased for the purpose of erecting a structure to be used in a manner that would qualify for property tax exemption.

32. Evidence and testimony considered particularly relevant to this determination include the following:

- A. The property is vacant, unimproved land. (Resp. Ex. 1.)
- B. The PTABOA agrees that the Petitioner's activities and purposes meet the standards for exemption as a charitable organization. (Resp. Testimony.)

Analysis of the Issue

33. The Petitioner contends that the property should be 100% tax-exempt as it had been in the past.

34. The Respondent does not dispute the charitable purposes of the Petitioner. The Respondent maintains the property is not entitled to property tax exemption because it is

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<sup>1</sup> Ind. Code § 6-1.1-10-16(c) sets forth a limitation on the total acreage of land that may be exempt from taxation. This limitation is 15 acres in most cases with an exception given to the campus and athletic grounds of educational institutions and the grounds used by an organization for the operation of 4-H programs. The Petitioner is neither an educational institution nor an organization formed for the operation of 4-H programs. Thus, exemption for land would be limited to 15 acres.



part of the total acreage owned by the Petitioner that exceeds the 15 acres allowed for property tax exemption.

35. Because property tax exemption for land is provided under both subsection 16(c) and subsection 16(d) of chapter 10, the Board will address the Petitioner's claim under each provision.

Property Tax Exemption for Land Under Ind. Code § 6-1.1-10-16(c)

36. Under Ind. Code § 6-1.1-10-16(c), property tax exemption is available for land only if the land supports a building that qualifies for property tax exemption.
37. The Petitioner argued that the property should remain exempt from taxation simply because it was exempt in prior years. This argument is merely a conclusory statement and does not serve as evidence probative of the exemption claim.
38. To succeed in obtaining exemption under subsection 16(c), the Petitioner was required to show that the property qualified for exemption because it supported a building also qualifying for exemption. The testimony offered by the Petitioner was conclusory in nature and did not constitute evidence probative of the exemption claim.
39. The record is void of any evidence that a building qualifying for exemption is located on the property. In fact, the evidence on record clearly establishes that the property is an unimproved, vacant parcel. The Petitioner has not presented sufficient evidence to establish a prima facie case regarding the claim for exemption under subsection 16(c).

Property Tax Exemption for Land Under Ind. Code § 6-1.1-10-16(d)

40. Under Ind. Code § 6-1.1-10-16(d), property tax exemption is available for land if the land was purchased for the purpose of constructing a building that will be used in a way that would qualify for property tax exemption. To obtain property tax exemption under

subsection 16(d), the Petitioner was required to show that the property was for the construction of a building that will be used for religious or charitable purposes.

41. The Petitioner's testimony that the property should continue to enjoy exemption because the property had been exempt in previous years is simply a conclusory statement. A conclusory statement does not constitute evidence probative of the exemption claim.
42. The record is void of any evidence that the property is for future construction in the furtherance of the Petitioner's religious or charitable purposes. The Petitioner has not presented sufficient evidence to establish a prima facie case regarding the exemption claim under Ind. Code § 6-1.1-10-16(d).

### **Summary of Final Determination**

Determination of ISSUE: *Whether the land qualifies for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 under claim of charitable purposes.*

43. The Petitioner failed to make a prima facie case regarding property tax exemption for land under either Ind. Code § 6-1.1-10-16(c) or Ind. Code § 6-1.1-10-16(d). The PTABOA determination remains undisturbed.

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

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Chairman, Indiana Board of Tax Review

**IMPORTANT NOTICE**

**- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**