

**STATE OF INDIANA
Board of Tax Commissioners
Appeals Division**

NEW LIFE CHRISTIAN CENTER, INC.)	On Appeal from the Lake County
)	Property Tax Assessment Board
Petitioner,)	of Appeals
)	
v.)	Petition for Review of Exemption
)	Form 132
LAKE COUNTY PROPERTY TAX)	Petition No. 45-004-00-2-8-00001
ASSESSMENT BOARD OF APPEALS)	Parcel No. 254202390001
)	
Respondent.)	

Findings of Fact and Conclusions of Law

The Appeals Division of the State Board of Tax Commissioners (State Board), having reviewed the facts and evidence, and having considered the issues, now makes the following findings of fact and conclusions of law.

Issue

Whether the land and improvements owned by the Reverend May L. Thomas and her husband Willie L. Thomas, Jr. qualify for property tax exemption pursuant to Indiana Code (IC) 6-1.1-10-16 for religious purposes.

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 be considered a finding of fact.

2. Pursuant to IC 6-1.1-11-3, New Life Christian Center, Inc. filed an application for property tax exemption with the Property Tax Assessment Board of Appeals (PTABOA) on April 28, 2000. The PTABOA denied the application on January 29, 2001, and gave New Life Christian Center, Inc. proper notice of denial.
3. Pursuant to IC 6-1.1-11-7, New Life Christian Center, Inc. filed a Form 132 petition seeking a review of the PTABOA action by the Appeals Division. The Form 132 petition was filed February 13, 2001.
4. Pursuant to IC 6-1.1-15-4, a hearing was held on June 5, 2001 before Administrative Law Judge (ALJ) Tim Rider. Testimony and exhibits were received into evidence. The Reverend May L. Thomas represented the Petitioner. Sharon Fleming, Lake County Nonprofit Deputy, represented the PTABOA.
5. At the hearing, the subject Form 132 petition and attachments were made part of the record and labeled Board Ex. A. The Notice of Hearing on Petition was labeled Board Ex. B. In addition, the following items were received into evidence:

Petitioner's Ex. 1 – Memorandum from Bank One dated June 1, 2001.
Respondent's Ex. 1 – Letter from PTABOA to the Petitioner dated January 16, 2001, which detailed reason for denial of exemption.
Respondent's Ex. 2 – Real Property Maintenance Record for property in dispute.
Respondent's Ex. 3 – Two photographs of the property in dispute.
Respondent's Ex. 4 – Copy of Indiana Code 6-1.1-1-2.
6. The subject property is located at 4040 Broadway Avenue, Gary, IN 46408.
7. The ALJ did not view the property.
8. The material facts of this case are not in dispute.

9. In November 1999 the Reverend and Mr. Thomas applied for a loan from Bank One for the sole purpose of purchasing a building to relocate Reverend Thomas' church (Pet. Ex. 1).
10. Subsequent to the loan application but before March 1, 2000, the loan was approved and Reverend and Mr. Thomas closed on the property at 4040 Broadway Avenue, Gary, Indiana (deed appears to have been transferred on November 16, 1999 – Board Ex. A).
11. The building in question was formerly a bank but after the purchase by Reverend and Mr. Thomas, the building was used solely as a church (testimony of Reverend Thomas and Ms. Fleming).
12. The Reverend and Mr. Thomas, who are both officers of the New Life Christian Center, Inc., meant for the land and building to be church corporation property. However, due to mistake or someone's nonfeasance, the property in question was deeded in the Thomas' names rather than New Life Christian Center, Inc. (testimony of Reverend Thomas).
13. Since the property was not in the name of the church corporation on March 1, 2000, the PTABOA denied the exemption request.
14. The denial was based on the PTABOA taking the position that to receive an exemption pursuant to IC 6-1.1-10-16 the property must be owned by a religious entity (See Res. Ex. 1 and Board Ex. A).
15. On November 13, 2000, the Reverend and Mr. Thomas executed a quitclaim deed and conveyed the property in question to New Life Christian Center, Inc. (Board Ex. A).

Conclusions of Law

1. The Appeals Division of the State Board is the proper body to hear an appeal of the action of the PTABOA pursuant to IC 6-1.1-15-3.

A. Burden In General

2. The courts have long recognized that in the administrative review process, the State Board is clothed with quasi-judicial power and the actions of the State Board are judicial in nature. *Biggs v. Board of Commissioners of Lake County*, 7 Ind. App. 142, 34 N.E. 500 (1893). Thus, the State Board has the ability to decide the administrative appeal based upon the evidence presented.
3. In reviewing the actions of the PTABOA, the State Board 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).
4. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128. See also Ind. Code § 4-21.5-2-4(a)(10) (Though the State Board is exempted from the Indiana Administrative Orders & Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).

5. Where a taxpayer fails to submit evidence that is probative evidence of the error alleged, the State Board can properly refuse to consider the evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1119 (Ind. Tax 1998)(citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
6. If the taxpayer was not required to meet his burden of proof at the State administrative level, then the State Board would be forced to make a case for the taxpayer. Requiring the State Board to make such a case contradicts established case law. *Phelps Dodge v. State Board of Tax Commissioners*, 705 N.E. 2d 1099 (Ind. Tax 1999); *Whitley, supra*; and *Clark, supra*.
7. 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).
8. In the event a taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer’s evidence and justify its decision with substantial evidence.

B. Constitutional and Statutory Basis for Exemption

9. 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.

10. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal, exemption is claimed under IC 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 religious purposes.
11. For property tax exemption, the property must be predominantly used or occupied for the exempt purpose. IC 6-1.1-10-36.3.

C. Basis of Exemption and Burden

12. In Indiana, the general rule is that all property in the State is subject to property taxation. IC 6-1.1-2-1.
13. 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).
14. 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.

15. 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)).
16. 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).

D. Conclusions Regarding the Exemption Claim

17. The only issue to be resolved is whether the property in question was owned for a religious purpose pursuant to IC 6-1.1-10-16.
18. The PTABOA determined that the property being owned by the Reverend and Mr. Thomas rather than the church corporation (New Life Christian Center, Inc.), made the property subject to property taxation.
19. The PTABOA's determination is incorrect. IC 6-1.1-10-16 requires that the property be owned for a religious purpose and not necessarily by the religious entity.
20. In *Sangralea Boys Fund, Inc. v. State Board of Tax Commissioners*, 686 N.E. 2d 954 (Ind. Tax Court 1997), Sangralea owned property but leased it to other entities for operation in a manner consistent with Sangralea's charitable purposes. The State Board denied Sangralea a charitable exemption due to this conflict between ownership and use. The Indiana Tax Court reversed and held that such unity of ownership, occupancy and use is not required. *Id.* at 955.

21. In the instant case, the property in question, which was owned by corporate officers of the New Life Christian Center, Inc., was occupied strictly for religious purposes and used as the churches' facility.

22. The State Board finds that the requirements of IC 6-1.1-10-16 were met as the property was owned, occupied and used for religious purposes. Accordingly, the subject property is exempt from property taxation.