
**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

In the matter of:

SIGMA PI CHAPTER HOUSE OF)	Petition for Review of Exemption, Form 132
PURDUE,)	
)	Petition No: 79-023-02-2-8-00001
Petitioner,)	
)	County: Tippecanoe
v.)	
)	Township: Wabash
TIPPECANOE COUNTY)	
PROPERTY TAX ASSESSMENT)	Parcel Nos.: 064-00735-5005
BOARD OF APPEALS,)	164-01900-0794
)	
Respondent.)	Assessment Year: 2002

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

May 25, 2004

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 Petitioner timely filed an exemption application to claim exemption from property taxation pursuant to Ind. Code § 6-1.1-10-16.

Procedural History

2. On October 20, 2003, Sigma Pi Chapter House of Purdue University (Petitioner) filed a Form 136, Application for Property Tax Exemption, for property located at 130 Russell Street, Lafayette, Indiana. The application shows the year filing for as 2002.
3. After receiving the Form 136 application, the county assessor returned the application to the Petitioner with a note. The note stated that the Tippecanoe County Property Tax Assessment Board of Appeals (PTABOA) would act on the application for 2004, but that it was too late to apply for 2002. The note requested that the Petitioner sign if they wished to proceed with the application for 2004.
4. On November 20, 2003, the Petitioner filed a Form 132, Petition for Review of Exemption, with the Board. The Form 132 petition shows the year under appeal as March 1, 2002.
5. On December 2, 2003, the Board sent the Petitioner a Notice of Defect. The defects in the petition included: 1) the Form 132 petition was not filed with the county assessor; 2) the Form 136 application was filed in an untimely manner and the need for evidence to show timely filing; and 3) a copy of the Form 120 must be attached. The Petitioner was given 30 days to correct the defects.
6. On December 18, 2003, the Tippecanoe County PTABOA issued the Form 120, Notice of Action on Exemption Application. The PTABOA denied the exemption for March 1, 2002, due to late filing of the application.
7. On December 22, 2003, the Petitioner responded to the Notice of Defect. The Petitioner provided a copy of the Form 132 petition filed stamped by the county assessor and a copy of the Form 120 determination by the PTABOA. The Petitioner did not address the untimely filed Form 136 application.

Matters of Record

8. The following items are officially recognized as part of the record of proceedings:
- Board Exhibit A – Form 132 petition, filed November 20, 2003.
- Board Exhibit B – Form 136 Application for Property Tax Exemption filed October 20, 2003, with attachments.
- Board Exhibit C – Notice of Defect dated December 2, 2003.
- Board Exhibit D – Form 120, Notice of Action on Exemption Application, dated December 18, 2003.
- Board Exhibit E – “Corrected” copies of Form 136 application for 2004 year.

Jurisdictional Framework

9. This matter is governed by the provisions of Ind. Code §§ 6-1.1, 6-1.5, 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.
10. The Board is authorized to issue this final determination, findings of fact and conclusions of law pursuant to Ind. Code § 6-1.5-5-5.

Discussion of Issue

Whether the Petitioner timely filed an exemption application to claim exemption from property taxation pursuant to Ind. Code § 6-1.1-10-16.

11. The Petitioner contends the property is exempt pursuant to Ind. Code § 6-1.1-10-16 as Fraternal.
12. The Respondent denied the exemption due to late filing and cited to Ind. Code § 6-1.1-11-3.
13. The applicable rules 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 § 6-1.1-11-3(a)

An owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms prescribed by the department of local government finance.

Ind. Code § 6-1.1-11-1

An exemption is a privilege that may be waived by a person who owns tangible property that would qualify for the exemption. If the owner does not comply with the statutory procedures for obtaining an exemption, he waived the exemption. If the exemption is waived, the property is subject to taxation.

Indiana C.A.P. Directors Association v. Department of Local Government Finance, 797 N.E. 2d 878 (Ind. Tax 2003)

“CAP, not having received a tax exemption for the previous year, filed its application seeking a tax exemption for the 1998 tax year on April 28, 1999. CAP was required to file its application by May 15, 1998. As a result, CAP’s exemption application was properly denied.”

14. Evidence considered particularly relevant to this determination include the following:
 - a. The Form 136 application for 2002 was filed on October 20, 2003.
 - b. The Form 132 petition shows the assessment date under appeal to be March 1, 2002. *Board Exhibit A.*
 - c. The PTABOA denied the exemption application for the March 1, 2002 assessment date due to late filing. *Board Exhibit D.*
 - d. The Form 136 application was not timely for the March 1, 2002, assessment date.
 - e. The Petitioner did not address the late filed Form 136 application when correcting the defects. The Petitioner did not provide any evidence to show that the Form 136 application was filed timely.

Analysis of the Issue

15. The Petitioner filed a Form 136 application for property tax exemption on October 20, 2003. In order to be timely filed for the March 1, 2002 assessment date, the Form 136

application was required to be filed by May 15, 2002. The Form 136 application was not filed timely for 2002.

16. The statute is clear, an owner who wishes to obtain an exemption shall file an application on or before May 15 of the year for which the application is filed. If the owner does not comply with the statutory procedures for obtaining an exemption, he waives the exemption. The Petitioner failed to file the exemption application on or before May 15, 2002, therefore, the Petitioner has waived the exemption for 2002.
17. The Petitioner failed to respond to the Board's request to provide evidence indicating that the application for exemption was timely filed.
18. In *Indiana C.A.P. Directors Association v. Department of Local Government Finance*, 797 N.E.2d 878 (Ind. Tax 2003), the Tax Court found that the State Board properly denied CAP's exemption application. CAP was seeking an exemption for the 1998 tax year, but did not file until April 28, 1999.

Summary of Final Determination

Whether the Petitioner timely filed an exemption application to claim exemption from property taxation pursuant to Ind. Code § 6-1.1-10-16.

19. The Petitioner did not provide evidence that the exemption application was filed on or before May 15th of the year for which the exemption was sought. The Petitioner did not follow the statutory procedures for obtaining an exemption. The PTABOA's determination to deny the exemption application is upheld.

The above stated findings of fact and conclusions of law 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 25th day of May, 2004.

Commissioner, 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.