

REPRESENTATIVE FOR PETITIONER:
Pastor Martin L. Jones, Trinity Springs Baptist Church

REPRESENTATIVE FOR RESPONDENT:
Carolyn S. McGuire, Martin County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Trinity Springs Baptist Church)	Petition: 51-006-13-2-8-00001
)	
Petitioner,)	
)	
v.)	Parcel: 51-05-29-100-056.000-006
)	
Martin County Assessor,)	
)	
Respondent)	Assessment Year: 2013

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

April 21, 2014

FINAL DETERMINATION

The 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 is whether Trinity Springs Baptist Church is exempt from property taxes for 2013 because it is owned, occupied, and used for religious purposes pursuant to Indiana Code section 6-1.1-10-16.

PROCEDURAL HISTORY

2. On May 1, 2013, Martin L. Jones, on behalf of Trinity Springs Baptist Church (the Petitioner or the Church), filed a Letter of Notification requesting the property be removed from the tax rolls for 2013.¹ On July 31, 2013, the Martin County Property Tax Assessment Board of Appeals (PTABOA) issued the Notice of Action on Exemption Application (Form 120), denying the religious exemption. On August 28, 2011, the Petitioner filed a Letter of Notification petitioning the Board to conduct an administrative review of the above petition.

HEARING FACTS AND OTHER MATTERS OF RECORD

3. Administrative Law Judge (ALJ) Ron Gudgel held a hearing on February 11, 2014. He did not inspect the property.
4. The following persons were sworn as witnesses at the hearing:
 - For the Petitioner:
 - Pastor Martin L. Jones, Trinity Springs Baptist Church,
 - Pastor Gregory Dixon, Indianapolis Baptist Temple,
 - For the Respondent:
 - Carolyn S. McGuire, Martin County Assessor.
5. The Petitioner presented the following exhibits:
 - Petitioner's Summary of the Issues
 - Petitioner Exhibit A – Trinity Springs Baptist Church Congregational Resolution,
 - Petitioner Exhibit B – The Trail of Blood, J.M. Carroll,
 - Petitioner Exhibit C – Trinity Springs Baptist Church Letter of Notification to Assessor, 2006
 - Petitioner Exhibit D – Trinity Springs Baptist Church Letter of Notification to Assessor, 2013
 - Petitioner Exhibit E – 1989 Memorandum from State Board of Tax Commissioners to

¹ The Church holds that it cannot file an application for exemption from property taxation pursuant to Indiana Code 6-1.1-11-3 and 3.5 because the filing of such application would operate as recognition of the authority of civil government to tax the Church. The Petitioner cites to a 1989 State Board of Tax Commissioners memorandum which establishes this procedure. *Petitioner Exhibit E.*

County Auditors regarding exemption of religious property,
Petitioner Exhibit F – Biblical and Historical Baptist Position –Separation of Church and
State,
Petitioner Exhibit G – 2007 pay 2008 tax statement.

6. The Respondent presented no exhibits.
7. The following additional items are officially recognized as part of the record of proceedings and labeled as Board Exhibits:
 - Board Exhibit A – Letter of Notification dated August 28, 2013,
 - Board Exhibit B – Notice of Hearing-Reschedule, dated December 5, 2013,
 - Board Exhibit C – Hearing sign-in sheet.
8. The subject property is a church located at State Road 450, Trinity Springs, Indiana.
9. For 2013, the PTABOA determined the property to be 100% taxable.
10. For 2013, the Petitioner contends the real property should be 100% exempt.

JURISDICTIONAL FRAMEWORK

11. The Indiana Board of Tax Review is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted pursuant to Indiana Code chapter 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

BASIS OF EXEMPTION AND BURDEN

12. The general rule is that all property is subject to taxation. Ind. Code § 6-1-1-2-1. The General Assembly may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Ind. Const., Art. 10, §

1. This provision is not self-enacting. The General Assembly must enact legislation granting an exemption. *See Hamilton County Property Tax Assessment Board of Appeals & Hamilton County Assessor v. Oaken Bucket Partners, LLC.*, 938 N.E.2d 654, 656-57 (Ind. 2010).

13. All property receives protection, security, and services from the government, such as fire and police protection, and public schools. These governmental services carry with them a corresponding obligation of pecuniary support in the form of taxation. When property is exempt from taxation, the effect is to shift the amount of taxes a property owner would have paid to other parcels that are not exempt. *See generally, National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E.2d 218 (Ind. Tax Ct. 1996).

14. Worthwhile activity or noble purpose alone is not enough. An exemption is justified because it helps accomplish some public purpose. *Miniature Enthusiasts*, 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 Ct. 1990)).

15. 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 statutory authority for the exemption. *Indianapolis Osteopathic Hospital, Inc. v. Department of Local Government Finance*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004).

PETITIONER'S CONTENTIONS

16. The Petitioner contends that its real property is eligible for exemption pursuant to Indiana Code section 6-1.1-10-16 because the property has always been owned, occupied and used for religious purposes. The Petitioner presented the following evidence in support:
 - A. Trinity Springs Baptist Church is a New Testament Church in the Anabaptist tradition. The subject property was built as a church in 1856 and has been used

- exclusively as a church since that time. Until now, it has always been exempt from property taxation. *Jones testimony.*
- B. In 2006, Trinity Springs Baptist Church executed a Declaration of Trust, together with a Congregational Resolution from the members, wherein Pastor Martin Jones, was designated as the Trustee of Trinity Springs Baptist Church property, both real and personal. This action necessitated that a Quit Claim deed be prepared and recorded. This was not a change in ownership, only a substitution of Trustee. *Petitioner Exhibit A; Jones testimony.*
- C. The quit claim deed was recorded on June 1, 2006. A Letter of Notification stating the sole purpose of the property was for worship and explaining that filing an exemption application was against the Church's religious precepts was accepted and filed by the Assessor on June 5, 2006. *Petitioner Exhibit C; Jones testimony.*
- D. In 2008, the Martin County Assessor issued a Real Estate Tax Statement for Trinity Springs Baptist Church showing no tax due. *Petitioner Exhibit G.*
- E. In April 2013, the Church received a Notice of Tax Due. The Assessor notified Pastor Martin it was a mistake and that she would fix of it. Instead, Pastor Martin received a letter stating the exemption would be denied because the Church failed to file the proper paperwork to apply for a religious exemption. He offered the same Letter of Notification, which was used and accepted seven years earlier, but it was denied for 2013. *Petitioner Exhibits C, D; Jones testimony.*
- F. The Church appealed the matter to the PTABOA. The final adjudication from the PTABOA on July 13, 2013, included the statement, "The PTABOA denied the letter that was presented. No form answering the specific questions was filed, no Articles of Incorporation or By-laws were filed and no financial statements were filed."
Petitioner's Summary of the Issues.

- G. The Church believes in separation of church and state. The Church cannot pay a tax of any kind for it would constitute a sin against God and constitute a recognition of another sovereign greater than Jesus Christ over the Church, its establishment, its properties, its ministries, its internal affairs, and its government. For the same reason, the Church cannot file an application for exemption from property taxation pursuant to Indiana Code section 6-1.1-11-3 and 3.5 because the filing of such application would operate as recognition of the authority of civil government to tax the Church. *Petitioner's Summary of the Issues; Petitioner Exhibits C and D; Jones testimony.*
- H. The Church presented their cause to the Governor of Indiana 25 years ago. As a result, the Governor instructed those in their respective offices to write a memorandum to all County Assessors on behalf of their unregistered churches. The memo allowed for a letter to be submitted during the filing period stating that the affected organization was unable to complete the form due to religious beliefs. For 25 years, churches have been able to get religious exemptions following this format. This is the first time a Letter of Notification has been denied by an assessor. *Petitioner's Summary of the Issues; Petitioner Exhibit E; Jones testimony.*
- I. The law granting the religious exemption in favor of Trinity Springs Baptist Church is overwhelming. Petitioner directs the Board's attention to the following: State of Indiana Constitution, Bill of Rights, Article 1, Sections 1, 2, 3, and 4; United States Constitution Bill of Rights, 1st Amendment ("Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."); Indiana Code § 6-1.1-11-3 and 3.5 ("accommodation for religiously based objections to statutory requirement, when reasonable alternatives are available, i.e. notification"); and a Memorandum from the State Board of Tax Commissioners regarding exemptions for religious property. *Petitioner's Summary of the Issues. Jones testimony.*
- J. As applied, the state statutes are unconstitutional, in that they deprive the congregation of their 1st Amendment right to the free exercise of their religion The 1st Amendment of the Constitution compels the government to accommodate a

religiously based objection to the statutory requirement. *Sherbert v. Verner, Review Board, Inc. Empl. Sec. Div.*, 450 U.S. 67 L. Ed. 624, 101 S. Ct. 1425 (1981).²
Petitioner Exhibits C and D.

- K. The 1st Amendment of the Constitution and the Indiana Bill of Rights require the State to accommodate religiously based objections to statutory requirements when reasonable alternatives are available. Reasonable alternatives to the filing of an application are available here as evidenced by the 1989 memo from the State Board of Tax Commissioners. Unquestionably, the property would qualify for exemption if Trinity Springs Baptist church was organized as a state corporation or unincorporated association. *Petitioner Exhibits C and D.*
- L. The Letter of Notification filed in 2006 was accepted by the Assessor at that time. The law is clear that a church is not required to file for an exemption again unless it changes ownership or its use. In this case, Trinity Springs Baptist Church has not changed ownership or its use. *Petitioner Exhibit C; Jones testimony.*
- M. For 25 years, any property where Pastor Dixon has started a church, the property has been exempt from property taxes. For example, over the past 13 years, Pastor Dixon has started 19 churches, mostly in the City of Indianapolis. Each year, the church sends a letter to Marion County requesting a religious exemption for the real and personal property. Marion County has always accommodated our faith and he hopes this court will do the same. *Dixon testimony.*

RESPONDENT'S CONTENTIONS

17. The Respondent presented the following evidence in support:

² The Petitioner's cite for *Sherbert v. Verner* is incorrect. It should be *Sherbert v. Verner*, (1963) 374 U.S. 398, 10 L.Ed.2d 965, 83 S. Ct. 1790. The citation the Petitioner used is actually for *Thomas v. Review Board, Ind. Empl. Sec. Div.* (1981) 450 U.S. 707, 67 L.2d 6224, 101 S. Ct. 1425, which also addresses religious discrimination.

- A. There is no intent to harass anyone. The Assessor is acting in compliance with the Department of Local Government Finance requirements. Churches are required to file the proper paperwork to receive a property tax exemption. Trinity Springs Baptist Church did not file for an exemption, so its letter was denied. *McGuire testimony.*
- B. In 2009, there was a memorandum stating that if the PTABOA approved the organization as a non-profit, the organization no longer had to file after that. However, the last time the Church filed, the PTABOA denied the exemption. Because there were so many applications at that time, there was a mix-up and she signed the approval in error. *McGuire testimony.*
- C. Any church building in Indiana is to be assessed as a theater according to the Department of Local Government Finance. *McGuire rebuttal to Petitioner's Summary of Issues.*

ANALYSIS

18. Indiana Code section 6-1.1-10-16(a) states “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.” Further, “a tract of land ... is exempt from property taxation if: (1) a building that is exempt under subsection (a) or (b) is situated on it; [or] (2) a parking lot or structure that serves a building referred in subdivision (1) is situated on it.” Ind. Code § 6-1.1-10-16(c).
19. The test used to determine whether all or a portion of a subject property qualifies for an exemption is the “predominant use” test. *New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002). Indiana Code section 6-1.1-10-36.3(a) states “property is predominantly used or occupied for one (1) or more stated purposes if it is used or occupied for one (1) or more of those purposes during more than fifty percent (50%) of the time that it is used or occupied in the year that ends on the assessment date

of the property.” Indiana Code section 6-1.1-10-36.3(c) further provides that “[p]roperty that is predominantly used or occupied for one (1) or more of the stated purposes by a church, religious society, or not-for-profit school is totally exempt under that section.”

20. “The evaluation of whether property is owned, occupied, and predominately used for an exempt purpose,” however, “is a fact sensitive inquiry; there are no bright-line tests.” *Jamestown Homes of Mishawaka, Inc. v. St. Joseph County Assessor*, 914 N.E.2d 13 (Ind. Tax Ct. 2009). Thus, every exemption case “stand[s] on its own facts” and on how the parties present those facts. *See Indianapolis Osteopathic Hospital, Inc.*, 818 N.E.2d 1009, 1018 (Ind. Tax Ct. 2004); *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (explaining that a taxpayer has a duty to walk the Indiana Board through every element of its analysis; it cannot assume the evidence speaks for itself).
21. Under Indiana Code section 6-1.1-11-4(d), an exemption application is not required if “the exempt property is tangible property used for religious purposes described in IC 6-1.1-10-21;... and (2) the exemption application referred to in section 3 of this chapter was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-21.” Ind. Code § 6-1.1-11-4(d).
22. In this case, there is no dispute that the property is owned, occupied and used for religious purposes. It has always been a church, and has always received an exemption, until 2013 when the Assessor denied the exemption based on the Church’s alleged failure to file what the Assessor deemed to be a proper exemption application. To the extent the Assessor disputes this fact, it is only because she claims that she incorrectly granted an exemption to the Church in 2009 due to a paperwork error.³
23. Regardless of the reason the Assessor denied the exemption application in 2013, she erred in doing so. In 2006, the Assessor granted the Petitioner an exemption based on the Letter of Notification. The Letter of Notification is an acceptable mechanism for

³ The Assessor cited two reasons for her denial of the Church’s exemption application: 1) the Church’s failure to file the proper exemption application; and 2) the Church only received an exemption in 2009 due to a paperwork error by the Assessor.

claiming a religious exemption according to the State Board of Tax Commissioners. *Petitioner Exhibit E*. Under Indiana Code section 6-1.1-11-4(d), the Church was not required to file an application for 2013.⁴ Because Petitioner was not required to file an application and the property met all of the other requirements of Indiana Code section 6-1.1-11-4, the PTABOA erroneously denied the exemption.

FINAL DETERMINATION

24. The Petitioner proved it was entitled to a property tax exemption. The Respondent failed to rebut the Petitioner's case. The Board finds for the Petitioner.

In accordance with the above findings and conclusions, the Board grants the Petitioner's exemption on its real and personal property.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

⁴ To the extent the execution of the Declaration of Trust can be considered a change in ownership of the property, the Assessor did not raise this argument and it is waived. Nonetheless, "a change in ownership of property does not terminate an exemption of the property if after the change in ownership the property continues to meet the requirements for an exemption." See Ind. Code 6-1.1-11-4(d). The facts are undisputed that the property continued to meet the requirements.

- 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>>.