

REPRESENTATIVE FOR PETITIONER:

Paul T. Berkowitz, Attorney, Paul T. Berkowitz & Associates, LTD.

REPRESENTATIVE FOR RESPONDENT:

Sharon S. Meier, Hearing Officer, Porter County

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

United Brotherhood of Carpenters )	Petition No.:	64-025-08-2-8-00001
and Joiners of America, Local #1043 )		
	Parcel Nos.:	64-06-05-278-002.000-024
Petitioner, )		64-06-05-427-007.000-024
v. )	Personal property:	25-058480070
Porter County Assessor, )		
	County:	Porter
Respondent. )	Township:	Westchester
	Assessment Year:	2008

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

**December 11, 2009**

**FINAL DETERMINATION**

The Board has 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 is whether the Petitioner's real and personal property qualified for property tax exemption in 2008 under Indiana Code § 6-1.1-10-16 because the property was predominately used for educational purposes.

### PROCEDURAL HISTORY

2. The Petitioner, United Brotherhood of Carpenters and Joiners of America, Local #1043 (Local #1043), filed an exemption application for real and personal property for 2008.<sup>1</sup>
3. The Porter County Property Tax Assessment Board of Appeals (PTABOA) issued its assessment determination denying an exemption for the Petitioner's real and personal property on December 9, 2008. The Petitioner filed its Petition for Review of Exemption (Form 132) on January 22, 2009.
4. Pursuant to Indiana Code §6-1.1-15-4 and § 6-1.5-4-1, the duly designated Administrative Law Judge (ALJ), Ellen Yuhan, held a hearing on September 16, 2009, in Valparaiso, Indiana.
5. The following persons were sworn as witnesses:

For the Petitioner:

Ryan Zimmer, Union representative,  
John Rockhill, Union representative,

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<sup>1</sup>The Petitioner marked the Form 132 for the March 1, 2006, assessment date. The Form 120 issued December 9, 2008, however, was for the March 1, 2008, assessment date. Further, according to the Form 120 issued August 23, 2006, the Petitioner was exempt for 2006.

For the Respondent:

Sharon Meier, Porter County Hearing Officer,  
Peggy Hendron, Porter County Deputy Assessor.

6. The Petitioner submitted the following exhibits:

- Petitioner Exhibit 1 – Form 132 petition,
- Petitioner Exhibit 2 – Injunction entered by the Marion County Superior Court, Cause No. S 366-521,
- Petitioner Exhibit 3 – A copy of the Petitioner’s Application for Exemption, Form 136, with the Petitioner’s By-laws; the Constitution of the United Brotherhood of Carpenters and Joiners of America; a copy of the Petitioner’s 2004 Return of Organization Exempt from Income Tax, Form 990; A copy of the Petitioner’s 2003 Return of Organization Exempt from Income Tax, Form 990; and a copy of the Petitioner’s 2002 Return of Organization Exempt from Income Tax, Form 990; attached thereto,
- Petitioner Exhibit 4 – Notice of Action on Exemption Application, Form 120,
- Petitioner Exhibit 5 – Notice of Action on Exemption Application, Form 120, for Indiana/Kentucky Regional Council.

7. The Respondent submitted the following exhibits:

- Respondent Exhibit 1 – Indiana Code § 6-1.1-10-16,
- Respondent Exhibit 2 – Indiana Code § 6-1.1-10-20,
- Respondent Exhibit 3 – Indiana Code § 6-1.1-10-23,
- Respondent Exhibit 4 – Minutes from the PTABOA meeting,
- Respondent Exhibit 5 – Board decision in *International Union of Operating Engineers, Local 150*,<sup>2</sup>
- Respondent Exhibit 6 – Property record card for Parcel No. 64-06-05-278-002.000-024,
- Respondent Exhibit 7 – Property record card for Parcel No. 64-06-05-427-007.000-024.

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

Board Exhibit A – Form 132 Petition with attachments,

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<sup>2</sup> The Petitioner’s counsel objected to the submission of Respondent Exhibit 5 alleging that the Board’s determination denying an exemption to the International Union of Operating Engineers, Local 150 was “irrelevant” to the Petitioner’s case. The Board overrules the Petitioner’s objection.

Board Exhibit B – Notice of Hearing- Reschedule dated July 8, 2009,  
Board Exhibit C – Order Regarding Conduct of Exemption Hearing,  
Board Exhibit D – Hearing sign-in sheet.

9. The subject property is real and personal property located at 302 Melton Road, Burns Harbor, Indiana.
10. For 2008, the Porter County PTABOA determined the Petitioner's real and personal property was 100% taxable.
11. For 2008, the Petitioner claims its property is 100% exempt.

#### **JURISDICTIONAL FRAMEWORK**

12. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) property tax exemptions; 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 under Indiana Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

#### **ADMINISTRATIVE REVIEW AND THE PETITIONER'S BURDEN**

13. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

14. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
15. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

#### **BASIS OF EXEMPTION AND BURDEN**

16. 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.
17. 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).
18. 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)).

19. 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); *Monarch Steel v. State Board of Tax Commissioners*, 611 N.E.2d 708, 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E.2d 936, 938 (Ind. Tax Ct. 1987).

#### **PARTIES' CONTENTIONS**

20. The Petitioner contends the real and personal property is eligible for exemption pursuant to Indiana Code § 6-1.1-10-16 because it is owned, occupied and used for educational purposes.
21. The Petitioner presented the following evidence in regard to this issue:
  - A. The Petitioner's counsel argues that the Petitioner's property is exempt because the property is predominantly used for educational purposes. *Berkowitz argument*. Further, Mr. Berkowitz contends, because Local #1043 had an exemption initially, it is the county's responsibility to prove the Petitioner is not entitled to keep it. *Berkowitz argument*.
  - B. The Petitioner's witness, Mr. Zimmer, testified that Local #1043 is one of 25 local organizations affiliated with the regional council, Indiana/Kentucky Regional Council of Carpenters and Joiners of America. *Zimmer testimony*. Mr. Zimmer testified that the regional council has its main office in Indianapolis, but there is a local regional office in Hobart. *Id.* The Hobart

office is where the Joint Apprenticeship Training Committee (JATC) conducts the apprentice training program. *Id.*

- C. Mr. Zimmer testified that, although affiliated with the regional council, Local #1043 has separate offices at 302 Melton Road. *Zimmer testimony.* Local #1043 has not-for-profit status and files tax returns. *Id. Petitioner Exhibit 4.* Further, Local #1043 also has its own officers, by-laws, and constitution. *Id.* According to Mr. Zimmer, meetings are held twice a month and “that is the time that the building is used for membership meetings.” *Id.* “All business of 1043 is done at that building.” *Id.* Mr. Zimmer contends that at least 50% of each union meeting is devoted to education and training. *Id.*
- D. Mr. Zimmer testified that federal and state regulations have become more rigorous and Local #1043 keeps its members informed as to the rules that regulate how the members must perform their jobs. *Zimmer testimony.* According to Mr. Zimmer, Local #1043 conducts training on specific jobs and on how to fulfill customer and contractor requirements at specific sites. *Id.* For example, Mr. Zimmer testified that an oil refinery is different from a steel mill or from a powerhouse and that each location will have site specific regulations, safety issues, and machinery designed for the particular industry. *Id.* According to Mr. Zimmer, the members of Local #1043 must have the skills and training to fulfill the requirements of their employment or the employment will be given to others. *Id.*
- E. Mr. Zimmer testified that some training takes place outside the building. *Zimmer testimony.* According to Mr. Zimmer, a fire demonstration program must be done outside for safety reasons. *Id.* Further, Mr. Zimmer testified, contractors will bring equipment such as forklifts to the Local #1043 so that members can become familiar with the equipment and its operation. *Id.*

- F. Mr. Zimmer testified that there are three meeting rooms in the building, the main meeting room, the executive board meeting room, and the trustee's office. *Zimmer testimony*. According to Mr. Zimmer, all three rooms are used at every meeting, although not simultaneously. *Id.* Mr. Zimmer also testified that the personal property, which consists of desks, chairs, a television, VCR, and DVD, are used for educational purposes. *Id.*
- G. In rebuttal, Mr. Zimmer argued that the person who appeared at the PTABOA and stated that only union meetings took place at the Local #1043 offices was mistaken. *Zimmer testimony*. However, Mr. Zimmer admitted that the witness, Mr. Gardner, had been a member of the union for six years and was not elderly. *Id.*
- H. Finally, the Petitioner's counsel requested that the Board take judicial notice of an injunction issued by the Marion County Superior Court in which the Court enjoined Marion County from collecting taxes on a predecessor organization of the current Local #1043. *Berkowitz argument; Petitioner Exhibit 2*. Mr. Berkowitz also requested that the Board take judicial notice of a decision by the Marion County Board which found the apprentice program of the Indiana/Kentucky Regional Council Carpenters to be 100% exempt. *Id.; Petitioner Exhibit 5*.
22. The Respondent contends the property is not entitled to an exemption.
23. The Respondent presented the following evidence in regard to the issue:
- A. The Respondent's representative, Ms. Meier, contends that the Petitioner is not entitled to an exemption because during the PTABOA meeting, the Petitioner presented the testimony of Mr. Garner, who testified that the building at 302 Melton Road was only used for union meetings twice a month.



*Meier testimony; Respondent Exhibit 4.* Mr. Garner also testified that no training was conducted at the Petitioner’s location. *Id.*

B. The Respondent’s witness also requested that the Board review various statutes stating that, to be entitled to an exemption, the primary use of the property must be for an exempt purpose and that the property must be owned, used, and occupied for the exempt purpose. *Meier testimony; Respondent Exhibit 1.* Ms. Meier also presented a Board decision in which the Board denied an exemption for educational purposes to a labor union. *Id.*; *Respondent Exhibit 5.*

#### ANALYSIS

24. Indiana Code § 6-1.1-10-16 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.” The test used to determine whether all or a portion of a subject property qualifies for an exemption is the “predominant use” test. *State Bd. of Tax Comm’rs v. New Castle Lodge #147, Loyal Order of the Moose, Inc.* 765 N.E.2d 1257, 1259 (Ind. 2002).
25. Pursuant to Indiana Code §6-1.1-10-36.3, “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.” Ind. Code § 6-1.1-10-36.3(a). Further, “property that is predominantly used or occupied for one (1) or more of the stated purposes by a person other than a church, religious society, or not-for-profit school is exempt under that section from property tax on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of

time that the property was used or occupied for any purpose during that year.”  
Ind. Code § 6-1.1-10-36.3(c).

26. Here, the Petitioner claims its property is exempt because it is predominantly used for educational purposes. *Berkowitz argument*. “Education,” as that term is broadly understood, can occur anywhere, including private homes. *Fort Wayne Sports Club, Inc. v. State Bd. or Tax Comm’rs*, 258 N.E.2d 874, 881(1970). Thus, the Court of Appeals in *Fort Wayne Sports Club* held that a more restrictive definition was required to avoid irrationally applying the tax-exemption statute. 258 N.E.2d at 881.
27. A taxpayer must demonstrate a public benefit by showing that it provides education that is the “substantial equivalent” to instruction offered in Indiana’s tax-supported institutions. *Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1266 (Ind. 2006). The closer the taxpayer’s activity is to traditional educational programs offered in public schools, the more obvious is the public benefit. But a taxpayer need not offer courses that are directly analogous to courses taught in public schools. Rather, the taxpayer’s courses simply need to be related to public-school offerings. *Id.* (citing *Trinity Sch. of Natural Health v. Kosciusko County Prop. Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1238 (Ind. Tax Ct. 2003)). Further, the taxpayer need only relieve the state’s burden of providing public education to “some limited extent.” *Id.* (quoting *Trinity Sch.*, 799 N.E.2d at 1238).
28. The cases granting educational-purposes exemptions almost uniformly involve entities that offered classes or other systematic instruction. *See Trinity School of Natural Health, Inc. v. Kosciusko County Property Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234 (Ind. Tax Ct. 2003) (correspondence school offering health-related courses); *State Bd. of Tax Comm’rs v. Professional Photographers of America, Inc.*, 148 Ind. App. 601, 268 N.E.2d 617 (1971) (school offering courses in various phases of professional photography); *State Bd. of Tax Comm’rs*

*v. Int'l Bus. Coll., Inc.* 145 Ind. App. 353, 251 N.E.2d 39 (1969) (business college offering courses in mathematics, English, typing, shorthand, etc.). Therefore the Board must determine whether property owned by a union and used for union purposes is predominantly educational because the meetings held at the property provide some general safety training and site specific training.

29. The by-laws of the Petitioner state that “The objects of this Local Union shall be to promote and protect the interest of our membership, to encourage the apprenticeship system and higher standard of skill, to reduce the hours of labor, to secure adequate pay for our work, to elevate the standard of our craft, to cultivate a feeling of friendship among the members of this Brotherhood, to assist our members in procuring employment and to protect our members by legal and proper means against any injustice that may be done to them, and to improve the moral, social and intellectual conditions of our members and all working people.” *Petitioner’s Exhibit 4*. Thus, while the petitioner might argue that certain aspects of the Petitioner’s purpose or goal is educational – “to encourage the apprenticeship system and higher standard of skill” – a substantial part of that purpose or goal is non-educational: “reduc[ing] the hours of labor”; “secur[ing] adequate pay”; “cultivat[ing] a feeling of friendship among members”; and “promot[ing] and protect[ing] the interest” of the union’s membership.
30. Mr. Zimmer testified as to the type of work that Local #1043 members perform and the type of knowledge or training that might be necessary for such work. *Zimmer testimony*. However, the full extent of his quantification of the property’s training use was the bald assertion that “at least 50% of the time is for training and education.”<sup>3</sup> Statements that are unsupported by probative evidence are

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<sup>3</sup> “There are state rules that regulate how we perform our jobs. There are specific regulations that deal with safety, OSHA regulations. There are specific state regulations that govern how I perform my job. Customers have their own requirements as to how to do jobs ... customers and contractors that we’re working for. Individual members maintain themselves with respect to fulfilling the state requirements, the contractor requirements, and the customer requirements. We go over what we can at the hall, 302 Melton Road, at our meetings. If there is something that comes up that needs to be addressed, we address it as soon as possible. We meet twice a month. That is the time that the building is used for membership meetings. At least 50% of the time is for training and education.” *Zimmer testimony*.

conclusory and of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1118 (Ind. Tax Ct. 1998); and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 890, 893 (Ind. Tax Ct. 1995). *Zimmer testimony*.

31. The Petitioner offered no documentation to support its claim that its property's predominant use is educational. The Petitioner presented no meeting agendas and no training materials. The Petitioner merely offered the conclusory testimony of Mr. Zimmer. *Zimmer testimony*. A taxpayer must present more than anecdotal type information to prove that the property is entitled to an exemption. The onus is on taxpayers to produce detailed facility usage reports with supporting documentation of exempt use. *New Castle Lodge*, 765 N.E.2d 1257, 1264 (Ind. 2002). With the many lobbying and promotional purposes enumerated in the Petitioner's by-laws, the Board requires more than a simple conclusion that 50% of its bi-monthly membership meeting is educational for the Board to find that education is the property's predominant use.
  
32. Moreover, despite Mr. Zimmer's testimony that the property was predominantly used for training and education, Mr. Zimmer had difficulty articulating what training occurred. For example, when the Respondent's representative asked about the uses of the land, Mr. Zimmer testified that the grass was mowed. *Zimmer testimony*. When Mr. Berkowitz asked on redirect if training was performed on the site, Mr. Zimmer agreed that a fire demonstration occurred and sometimes equipment was brought in. *Id.* Yet when the Respondent again inquired about the land, Mr. Zimmer only testified that the grass was being mowed and the property was to be used for "future training." *Id.* Similarly when Mr. Berkowitz asked for a specific example of fire training, the best Mr. Zimmer could do was testify "I don't know... we done it maybe a year ago... had a training class there." *Id.* Thus, to the extent that Mr. Zimmer can be seen as testifying as to training or education at the subject property, there was insufficient detail as to the date or time or content of that training on which the Board could

base its exemption decision. In fact, the Petitioner presented no evidence whatsoever about any training that occurred during the year at issue in this appeal.

33. Even when asked to provide a specific example about what training occurred related to the Local #1043's employment with a specific employer, Mr. Zimmer could only testify that "the Local addressed the safety aspect out there. Everything is about safety out there. They are trying to change our view of safety." *Id.* When pushed for further definition, Mr. Zimmer testified that "you have to understand when you go out there you can't just do as you please. You can't leave your site. That's one of the main things I try to stress to people. You can't just go out there and wander around. No smoking. You can't have lighters. There are so many rules for everything just to warn that person before they go out there what to expect and what is expected of them." *Id.* The Board finds little evidence of the type of training or education that is the "substantial equivalent" of instruction offered in Indiana's tax-supported institutions. *Dep't of Local Gov't Fin. v. Roller Skating Rink Operators Ass'n*, 853 N.E.2d 1262, 1266 (Ind. 2006). Further, while there are educational aspects to preparing a union member for his or her employment, "Education that primarily serves the private interests of an organization's members does not warrant public subsidy. It does not meet the 'public benefit' test established in Indiana case law." *Department of Local Government v. Roller Skating Rink Operators Associations*, 853 N.E.2d 1262, 1266 (Ind. 2006).

34. In addition, Mr. Zimmer's testimony is directly contradicted by the evidence presented at the PTABOA hearing by Mr. Garner, who was identified as a Trustee of Local #1043. *See Respondent's Exhibit 4.* In that hearing, Mr. Garner repeatedly testified that no training occurred at the subject property. *Id.* According to Mr. Garner, "it's just meetings there... there is no training... there is no teaching the people how to do the job." *Id.* When a PTABOA member suggested that the meetings might have some type of training, Mr. Garner disagreed. He testified that "with the government grants that's [sic] being

involved with our union, you're not allowed to ... conduct business where you have education.” *Id.* While Mr. Berkowitz argued that Mr. Garner was simply “confused” about what constitutes “training”, the Board finds it more likely that the property serves many union purposes (including according to the by-laws “reduc[ing] the hours of labor”, “secur[ing] adequate pay”, “cultivat[ing] a feeling of friendship among members”, and “promot[ing] and protect[ing] the interest” of the union’s membership) which Mr. Garner recognizes are not education-related. Thus, while the Petitioner’s membership meetings may well have educational aspects within the context of the trades represented by the union, the Petitioner presented insufficient evidence that education is the “predominant use” of the property as contemplated by the Legislature in Indiana Code § 6-1.1-10-36.3.<sup>4</sup>

35. Finally, the Petitioner argues that, because the PTABOA removed the exemption, it is the Respondent’s burden to prove that the Petitioner is no longer entitled to the exemption. A Petitioner seeking review of a determination of an assessing official, however, has the burden to establish a prima facie case showing that the current assessment is incorrect. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003). The Petitioner presented no statute or case that shifts this burden to the Respondent. Further, each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm’rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm’rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property’s assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*

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<sup>4</sup> The Board notes that even if it had found that the Petitioner raised a prima facie case it was entitled to an exemption, it failed to prove its property should receive a 100% exemption. Indiana Code § 6-1.1-10-36.3(c) provides that property that is predominantly used for an exempt purpose is exempt from property tax “on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of time that the property was used or occupied for any purpose during that year.” The Petitioner merely argued the property was used “at least 50% of the time” for educational purposes which, at best, could only support an exemption of 50%.

36. The Petitioner failed to establish a prima facie case that its property qualifies for exemption under Indiana Code § 6-1.1-10-16.<sup>5</sup> Where the Petitioner has not supported its claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N. E. 2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

#### **SUMMARY OF FINAL DETERMINATION**

37. The Petitioner failed to raise a prima facie case to support its claim for a property tax exemption. The Board finds in favor of the Respondent and holds that the Petitioner's real and personal property is 100% taxable.

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<sup>5</sup> The Petitioner also requested that the Board take judicial notice of an injunction issued by the Marion County Superior Court in 1974. The Petitioner, however, failed to establish how a final disposition of a 1974 Marion County Court trial in which neither the Petitioner nor the Respondent in this case were party to should be binding on the Porter County PTABOA over thirty years later. The Petitioner also requested that the Board take judicial notice of a Marion County PTABOA approval of exemption for the IN/KY Regional Council Carpenters' apprenticeship program. The Board, however, is not bound by the determination of a local PTABOA Board. More importantly, by the Petitioner's witness' own admission, no apprenticeship program is held at the subject property. Thus, the Petitioner failed to show that the property at issue in the IN/KY Regional Council Carpenters' application was used in the same manner as the Petitioner's property in its appeal here.

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

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

### **IMPORTANT NOTICE**

- Appeal Rights -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5, as amended effective July 1, 2007, by P.L. 219-2007, and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. P.L. 219-2007 (SEA 287) is available on the Internet at <<http://www.in.gov/legislative/bills/2007/SE/SE0287.1.html>>