

REPRESENTATIVE FOR PETITIONER:  
Dr. Saharra Bledsoe, Founder, Women of Color, Inc.

REPRESENTATIVE FOR RESPONDENT:  
F. John Rogers, Attorney, Thompson & Rogers

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Women of Color, Inc.,	)	Petition Nos.:	02-074-08-2-8-00002
	)		02-074-08-2-8-00003
	)		02-074-08-2-8-00004
	)		02-074-08-2-8-00005
Petitioner,	)		02-074-08-2-8-00006
	)		02-074-08-2-8-00007
	)		02-074-08-2-8-00008
	)		02-074-08-2-8-00009
v.	)		02-074-08-2-8-00010
	)		02-074-08-2-8-00011
	)		02-074-08-2-8-00012
	)		02-074-08-2-8-00013
	)		
Allen County Assessor,	)	Parcel Nos.:	02-12-01-381-010.000-074
	)		02-12-01-381-011.000-074
	)		02-12-01-381-012.000-074
	)		02-12-01-381-013.000-074
Respondent.	)		02-12-12-229-024.000-074
	)		02-12-12-229-023.000-074
	)		02-12-12-235-019.000-074
	)		02-12-12-235-022.000-074
	)		02-12-12-235-023.000-074
	)		02-12-12-235-024.000-074
	)		02-12-15-207-008.000-074
	)		02-12-12-127-001.000-074
	)		
	)	Assessment Year:	2008

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

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**June 29, 2011**

## **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 for consideration by the Board was whether the properties at issue in the Petitioner's appeals were owned, used, and occupied for a charitable purpose under Indiana Code § 6-1.1-10-16.<sup>1</sup>

#### **Procedural History**

2. The Petitioner, Women of Color, Inc., filed Form 136 Applications for Property Tax Exemption with the Allen County Property Tax Assessment Board of Appeals (PTABOA) on May 1, 2008. The Allen County PTABOA issued its determinations denying the exemptions on September 30, 2008, and October 1, 2008. On November 4, 2008, the Petitioner filed Form 132 Petitions for Review of Exemption, petitioning the Board to conduct an administrative review of the above petitions.

#### **Hearing Facts and Other Matters of Record**

3. Pursuant to Indiana Code § 6-1.1-15-4, a hearing was held on April 5, 2011, in Fort Wayne, Indiana, before Carol Comer, the duly designated Administrative Law Judge authorized by the Board under Indiana Code § 6-1.5-5-2.
4. The following persons were sworn and presented testimony at the hearing:

For the Petitioner:

Dr. Saharra Bledsoe, Founder of Women of Color, Inc.

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<sup>1</sup> The Petitioner claimed exemption under an educational purpose on its Form 136 Applications for Property Tax Exemption, but filed its Form 132 petitions claiming a charitable exemption.

For the Respondent:

John Swihart, Tax-exempt Deputy, Allen County Assessor's Office.

5. The following exhibits were presented:

For the Petitioner:

Petitioner Exhibit 1 – Letter verifying a building agreement between People of

Conviction and Log Cabin and Storage Company,

Petitioner Exhibit 2 – Certificate of Good Standing issued by the Commonwealth  
of Pennsylvania,

Petitioner Exhibit 3 – Letter from the Internal Revenue Service granting  
501(c)(3) status to the Petitioner,

Petitioner Exhibit 4 – Articles of Amendment indicating a change in the  
Petitioner's corporate name to People of Conviction,

For the Respondent:

Respondent Exhibit 1 – Indiana Code § 6-1.1-10-16,

Respondent Exhibit 2 – Notice of Hearing on Petition dated August 21, 2009,

Respondent Exhibit 3 – Notice of Hearing on Petition-Reschedule dated February  
8, 2011,

Respondent Exhibit 4 – Listing of the Petitions and parcels at issue in this  
hearing,

Respondent Exhibit 5 – Letter from the Internal Revenue Service granting  
501(c)(3) status to the Petitioner,

Respondent Exhibit 6 – The Petitioner's Articles of Incorporation,

Respondent Exhibit 7 – The Petitioner's By-laws,

Respondent Exhibit 8 – Corporate financial statement for Women of Color, Inc.,

Respondent Exhibit 9 – Correspondence from the Allen County Assessor to  
Women of Color, Inc.,

Respondent Exhibit 10 – GIS mapping, property record card, Form 120, Form  
132, and Form 136 for each parcel at issue.

6. The following additional items are officially recognized as part of the record of  
proceedings:

Board Exhibit A – Form 132 with attachments

Board Exhibit B – Notice of Hearing on Petition- Reschedule dated February 8,  
2011

Board Exhibit C – Order Regarding Conduct of Exemption Hearing dated  
December 21, 2009,

Board Exhibit D – Hearing Sign-in Sheet.

7. The subject properties include Parcel No. 02-12-01-381-010.000-074, which is a vacant lot located at 726 East Jefferson Boulevard; Parcel No. 02-12-01-381-011-000-074, which is a vacant lot located at 728 East Jefferson Boulevard; Parcel No. 02-12-01-381-012.000-074, which is a vacant lot located at 732 East Jefferson Boulevard; Parcel No. 02-12-381-013.000-074, which is a vacant lot located at 734 East Jefferson Boulevard; Parcel No. 02-12-12-229-024.000-074, which is a vacant lot located at 1302 South Anthony Boulevard; Parcel No. 02-12-12-229-023.000-074, which is a two-story commercial building located at 1304 South Anthony Boulevard; Parcel No. 02-12-12-235-019.000-074, which is a vacant lot located at 1312 South Anthony Boulevard; Parcel No. 02-12-12-235-022.000-074, which is a vacant lot located at 1322 South Anthony Boulevard; Parcel No. 02-12-12-235-023.000-074, which is a vacant lot located at 1328 South Anthony Boulevard; Parcel No. 02-12-12-235-024.000-074, which is a vacant lot located at 1330 South Anthony Boulevard; Parcel 02-12-15-207-008.000-074, which is a two-story residential structure located at 1431 Waldron Circle; and Parcel No. 02-12-12-127-001.000-074, which is a vacant lot located at 806 East Lewis Street.
8. For 2008, the PTABOA determined that all twelve of the Petitioner's parcels were 100% taxable.
9. For 2008, the Petitioner contends its properties should be 100% tax exempt.

#### **JURISDICTIONAL FRAMEWORK**

10. 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

11. 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).
12. 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”).
13. 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 case. *Id.; Meridian Towers*, 805 N.E.2d at 479.

## BASIS OF EXEMPTION AND BURDEN

14. The general rule is that all property is subject to taxation. Ind. Code § 6-1-1-2-1. The General Assembly may exempt any property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Article 10, § 1 of the Constitution of Indiana. This provision is not self-enacting. The General Assembly must enact legislation granting the exemption.
15. All property receives protection, security, and services from the government, like fire and police protection and public schools. These government services carry with them a corresponding obligation of pecuniary support in the form of taxation. When a property is exempt from taxation, the effect is to shift the amount of taxes its owner would have paid to other parcels that are not exempt. *See generally, Nat’l Assoc. of Miniature Enthusiasts v. State Bd. of Tax Comm’rs*, 671 N.E. 2d 218 (Ind. Tax Ct.1996).

16. Worthwhile activities or noble purpose alone is not enough for tax exemption. 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 Bd. of Tax Comm'rs*, 550 N.E. 2d 850, 854 (Ind. Tax Ct.1990)).
17. The taxpayer seeking exemption bears the burden of proving that the property is entitled to an exemption by showing that the property falls specifically within the statutory authority for the exemption. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't Fin.*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004); *Monarch Steel, v. State Bd. of Tax Comm'rs*, 611 N.E. 2d at 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Bd. of Tax Comm'rs*, 512 N.E. 2d 936, 938 (Ind. Tax Ct. 1987).

#### **PETITIONER'S CONTENTIONS**

18. The Petitioner contends its properties should be exempt under Indiana Code § 6-1.1-10-16 because the properties are owned, used, and occupied for charitable purposes.
19. The Petitioner presented the following evidence in regard to the issue:
  - A. The Petitioner's representative contends that Women of Color, Inc., is a 501(c)(3) federal, tax-exempt entity founded for the purpose of serving mankind with its main focus on helping female veterans. *Bledsoe testimony*. According to Dr. Bledsoe, the organization changed its name in 2004 from Women of Color, Inc., to People of Conviction because of an error with the IRS. *Id.*; *Petitioner Exhibit 4*. Dr. Bledsoe further contends the organization's 501(c)(3) tax-exempt status is intact and the Respondent's research is incorrect. *Bledsoe argument*.
  - B. The Petitioner's representative testified that the city deeded the properties on South Anthony Boulevard to the Petitioner. *Bledsoe testimony*. According to Dr. Bledsoe, the Petitioner plans to use 1304 South Anthony Boulevard for a health food store and employment center. *Id.* Dr. Bledsoe testified that the organization had the groundbreaking ceremony for the store five years ago and they submitted plans to the

state and the city, both of which approved the plans. *Id.* Dr. Bledsoe contends that the Petitioner was led to believe that the organization would receive some funding from the city, but that did not happen. *Id.* When their funding was rejected, Dr. Bledsoe testified, the Petitioner began to work on renovating the building using its own resources. *Id.* According to Dr. Bledsoe, new floors have been put in, the doors were replaced or ordered, the plate glass for the store front has been ordered and the Petitioner has collected grocery bins, shelving and windows for the building. *Id.*

C. Dr. Bledsoe testified that the store is a project designed to help the Petitioner's clients and the community in several ways. *Bledsoe testimony.* First, in the store's retail environment, Dr. Bledsoe testified, the Petitioner's clients would be taught how to manage inventory, set up bookkeeping, develop customer service skills, and maintain a business. *Id.* Further, Dr. Bledsoe testified, a section of the store would be for food service, such as coffee and donuts, which would allow the Petitioner's clients with schizophrenia and post-traumatic stress disorder to interact with people in a positive manner. *Id.* Moreover, Dr. Bledsoe contends, the store would offer healthy food that would help with problems of obesity and high blood pressure in the community. *Id.* In addition, the second floor of the building has been renovated and will be used as a small business incubator where clients could meet with their customers and have their mailed delivered. *Id.*

D. Dr. Bledsoe further testified that the properties located at 1302 South Anthony Boulevard, 1312 South Anthony Boulevard, 1322 South Anthony Boulevard, and 1328 South Anthony Boulevard are contiguous to the building being renovated at 1304 South Anthony and the lots are slated to be the parking area for the store and employment center. *Bledsoe testimony.* Currently, they are being used for a summer youth program where at-risk youth in the community are taught about neighborhood beautification and lawn service. *Id.*

E. In addition, Dr. Bledsoe contends that the properties located at 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard are contiguous, vacant parcels that the organization purchased

- for \$100 each. *Bledsoe testimony*. According to Dr. Bledsoe, the parcels are intended to be used for low-income housing. *Id.* Dr. Bledsoe testified that the organization became a Community Housing Development Organization in order to accomplish its goal and secured a contract with a company for prebuilt houses. *Id.* In support of this contention, the Petitioner submitted a letter from Log Cabin and Storage Company verifying an agreement concerning the construction of new homes with unfinished housing shell kits. *Petitioner Exhibit 1*.
- F. Similarly, the property at 806 East Lewis Street is a vacant lot that was intended to be used for low income housing. *Bledsoe testimony*. According to Dr. Bledsoe, however, the property is currently being used as part of the youth beautification program. *Id.* Moreover, the lot has been slated to become a memorial garden for female veterans that will reflect the historical value of female veterans to the area. *Id.*
- G. Finally, Dr. Bledsoe testified that the property at 1431 Waldron Circle was purchased for \$100 in 2008. *Bledsoe testimony*. According to Dr. Bledsoe, the property is a house that the organization plans to use as another employment center. *Id.* Dr. Bledsoe testified that the property has had the most extensive renovation with a new roof, new flooring, new bathrooms, and stairwells installed. *Id.* Dr. Bledsoe testified that the Petitioner anticipates the property at 1431 Waldron Circle will be ready for use at the end of the summer.<sup>2</sup> *Id.*
- H. In response to cross-examination, Dr. Bledsoe testified that the Petitioner has an accountant as well as a board of directors consisting of thirteen members. *Bledsoe testimony*. Further, she contends, the Petitioner has a building committee and has filed building plans. *Id.* While Dr. Bledsoe admitted that the Petitioner does not have the cash reserves to complete its plans on the twelve properties, she contends the Petitioner has the “materials reserve” to accomplish its goals. *Id.*

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<sup>2</sup> Dr. Bledsoe also testified regarding a transitional facility located at 1325 South Anthony Boulevard. However, the Board does not have an appeal for that property for the 2008 tax year. Because the parcel was not at issue in these proceedings, the Board will not include the evidence regarding 1325 South Anthony Boulevard in these findings.



## RESPONDENT'S CONTENTIONS

20. The Respondent contends that the Petitioner's properties should not be exempt under Indiana Code § 6-1.1-10-16 because the properties are not owned, used, and occupied for charitable purposes.
21. The Respondent presented the following evidence in regard to the issue:
- A. The Respondent's counsel argues that the Petitioner has not met the burden of establishing it has a charitable purpose as set forth in Indiana Code § 6-1.1-10-16. *Rogers argument*. According to Mr. Rogers, Indiana Code §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." *Id.*; *Respondent Exhibit 1*. Further, he argues, subparagraph (d) states, "A tract of land is exempt from property taxation if it is purchased for the purpose of erecting a building that is to be owned, occupied, and used as set out in paragraph (a), but not more than four years after the property is purchased and for each four years thereafter, the owner demonstrates substantial progress and active pursuit towards the erection of the intended building and use of the tract for the exempt purpose." *Id.*
  - B. To establish substantial progress, Mr. Rogers contends, the owner of a property must prove the existence of factors such as, "Organization of and activity by a building committee or other oversight group; completion and filing of building plans with the appropriate government authority; cash reserves dedicated to the project in a sufficient amount to lead a reasonable person to believe that construction can and will begin within four years; the breaking of ground and the beginning of construction." *Rogers argument*. Mr. Rogers argues that the Petitioner has failed to meet these criteria. *Id.* According to the Respondent's witness, the Petitioner acquired 1322 South Anthony Boulevard and 1330 South Anthony Boulevard on July 11, 2003. *Swihart testimony*; *Respondent Exhibit 10*. 1302 South Anthony Boulevard and 1304 South Anthony Boulevard were

acquired on February 27, 2004, and 1312 South Anthony Boulevard was acquired on January 7, 2004. *Id.* The Petitioner acquired 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard on February 24, 2006; 1431 Waldron Circle and 806 East Lewis Street on March 1, 2006; and 1328 South Anthony Boulevard on February 11, 2008. *Id.* According to the Respondent's counsel, little to no progress toward using the properties for an exempt purpose has been made on any of the properties at issue in this appeal. *Rogers argument.*

- C. The Respondent further argues that the Petitioner has not proven that it is 501(c)(3) tax-exempt. *Rogers argument.* The Respondent's witness, Mr. Swihart, contends that he researched the status of Women of Color, Inc., on the Internal Revenue Service website and there is no current listing for the organization. *Swihart testimony.* Further, Mr. Swihart testified, the letter from the Internal Revenue Service is dated February 6, 2003, and the Petitioner presented no information from any source that would indicate the Petitioner's tax-exempt status was current. *Id.; Respondent Exhibit 5.* Mr. Swihart admitted, however, that after the March 1, 2008, assessment he became aware that the successor organization to Women of Color, Inc., was People of Conviction. *Swihart testimony.* Mr. Swihart testified that he did not have the opportunity to check the successor's name on the Internal Revenue Service website. *Id.*
- D. Finally, the Respondent contends that the Petitioner was invited to appear before the PTABOA on three separate occasions but it failed to appear. *Swihart testimony.* According to Mr. Swihart, the lack of information about the Petitioner's purpose and the Petitioner's failure to appear at the PTABOA hearing were the PTABOA's grounds for denying the Petitioner's applications for exemption. *Id.*

## ANALYSIS OF THE ISSUE

22. Indiana Code § 6-1.1-10-16(a) provides that “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 to in subdivision (1) is situated on it.” Ind. Code § 6-1.1-10-16(a). An exemption requires probative evidence that a property is owned, occupied, and used for an exempt purpose. *Knox County Property Tax Assessment Board of Appeals v. Grandview Care, Inc.*, 826 N.E.2d 177, 183 (Ind. Tax Ct. 2005). Once these three elements are met, the property can be exempt from property taxation. *Id.*
23. Exemption statutes are strictly construed against the taxpayer. *See New Castle Lodge #147, Loyal Order of Moose, Inc. v. State Bd. of Tax Comm’rs.*, 733 N.E.2d 36,38 (Ind. Tax Ct. 2000). The taxpayer bears the burden of proving that it is entitled to the exemption it seeks. *Id.* Despite this, the term “charitable purpose” is to be defined and understood in its broadest constitutional sense. *Knox County Property Tax Assessment Board of Appeals*, 826 N.E.2d at 182 (citing *Indianapolis Elks Bldg. v. State Bd. of Tax Comm’rs.*, 251 N.E.2d 673, 682 (1969)). A charitable purpose will generally be found to exist if: (1) there is evidence of relief of human want manifested by obviously charitable acts different from the everyday purposes and activities of man in general; and (2) there is an expectation that a benefit will inure to the general public sufficient to justify the loss of tax revenue. *College Corner, L.P. v. Department of Local Government Finance*, 840 N.E.2d 905, 908 (Ind. Tax Ct. 2006).
24. “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); and *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).

23. Here, the Petitioner's representative testified that the Petitioner was a 501(c)(3) organization. However, use of property by a nonprofit entity does not establish any inherent right to an exemption. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because an income tax exemption does not depend so much on how property is used, but on how money is spent. *See Raintree Friends Housing, Inc. v. Indiana Dep't of Revenue*, 667 N.E.2d 810,813 (Ind. Tax Ct.1996) (non-profit status does not automatically entitle a taxpayer to tax exemption). Thus, the Board must look at the use of each parcel to determine individually whether the specific property is entitled to an exemption.
  
24. According to the Petitioner's representative, the properties located at 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard are contiguous, vacant parcels that the organization intends to use for low-income housing. *Bledsoe testimony*. Under Indiana Code § 6-1.1-10-16(i), "A tract of land or a tract of land plus all or part of a structure on the land is exempt if: (1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold: (A) in a charitable manner; (B) by a nonprofit organization; and (C) to low income individuals... and (4) not more than four (4) years after the property is acquired for the purpose described in subdivision (1), and for each year after the four (4) year period, the owner demonstrates substantial progress and active pursuit towards the erection, renovation, or improvement of the intended structure."
  
25. Here, Dr. Bledsoe testified that the organization became a Community Housing Development Organization in order to accomplish its goal and secured a contract with a company for prebuilt houses. *Bledsoe testimony*. In support of this contention, the Petitioner submitted a letter from Log Cabin and Storage Company verifying an agreement concerning the construction of new homes with unfinished housing shell kits. *Petitioner Exhibit 1*. However, "To establish substantial progress and active pursuit

under this subdivision, the owner must prove the existence of factors such as the following: (A) Organization of and activity by a building committee or other oversight group. (B) Completion and filing of building plans with the appropriate local government authority. (C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within in five (5) years of the initial exemption received under this subsection. (D) The breaking of ground and the beginning of actual construction. (E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being: (i) completed; and (ii) transferred to a low income individual who does not receive an exemption under this section; within eight (8) years considering the circumstances of the owner.”

26. While the Petitioner may have a building committee and may have filed building plans with the local government authorities, the organization appears not to have the fiscal ability to complete its plans. The Petitioner presented no evidence that the Log Cabin and Storage Company intends to donate the housing shell kits. Similarly there is no evidence that the \$2,000 a year that the Petitioner typically collects is sufficient to purchase a single housing shell kit, let alone four shell kits.<sup>3</sup> Dr. Bledsoe’s testimony that the Petitioner has the “materials reserve” to operate does not change that analysis. While the organization may have dedicated volunteers to work on its construction projects and may be able to obtain donated goods and services, the fact remains that the housing shell must be obtained before it can be installed on the lots and the interior finished by its volunteers. “Property acquired for future use in furtherance of exempt purposes may qualify for a property tax exemption under section 6-1.1-10-16.” *Trinity Episcopal Church v. State Board of Tax Commissioners*, 694 N.E.2d 816, 819 (Ind. Tax Ct. 1998). (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E.2d 850 (Ind. Tax Ct. 1990)). However, the intent to use the property for an exempt purpose must be “more than a mere dream.” *Trinity Episcopal*,

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<sup>3</sup> See *Respondent Exhibit 8*, the “Women of Color, Inc., Corporate Financial Statement” which states “Women of Color, Inc., is a nonprofit entity that has an annual membership drive which is our major source of funding. The membership drive normally raises two thousand dollars per year and on an as needed bases, Women of Color may receive donations to fit a particular requirement.”

694 N.E.2d at 819. Thus, while the Petitioner's goals and intentions are lofty and commendable, its plans to build low income housing on the four lots located at 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard at this point are speculative at best.

27. However, the Petitioner is seeking an exemption for the March 1, 2008, assessment date. Therefore the Board must rule on the circumstances as they existed on that date. According to the Respondent's evidence, the Petitioner acquired 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard on February 24, 2006. *Respondent Exhibit 10*. Because the Petitioner had only owned the properties for a little over two years on the assessment date, the Board cannot find that the properties located at 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard were not entitled to an exemption as of that date.
28. Similarly, the property at 806 East Lewis Street is a vacant lot that was intended to be used for low income housing. *Bledsoe testimony*. According to Dr. Bledsoe, however, the property is currently being used as part of the youth beautification program. *Id.* Moreover, the lot has been slated to become a memorial garden for female veterans that will reflect the historical value of female veterans to the area. *Id.* Like the lots located at 726 East Jefferson Boulevard, 728 East Jefferson Boulevard, 732 East Jefferson Boulevard, and 734 East Jefferson Boulevard, the property at 806 East Lewis Street was not acquired until 2006. Thus, the Board cannot find that the property was not entitled to an exemption as of March 1, 2008. The Board makes no determination whether a lot being used as part of a youth beautification program is entitled to an exemption or whether a lot that is intended to become a memorial garden is exempt. The Board only holds that a property that is intended to be used to construct low income housing that has not been owned for more than four years without substantial progress toward its completion can be exempt under Indiana Code § 6-1.1-10-16(d).

29. According to Dr. Bledsoe, the Petitioner plans to use 1304 South Anthony Boulevard as a health food store and employment center. *Bledsoe testimony*. Dr. Bledsoe testified that the store is designed to help the community by teaching the Petitioner's clients – mainly female veterans – how to manage inventory, set up bookkeeping, develop customer service skills, and maintain a business. *Id.* Further, Dr. Bledsoe testified, a section of the store would be for food service, such as coffee and donuts, which would allow the Petitioner's clients with schizophrenia and post-traumatic stress disorder to interact with people in a positive manner. *Id.* In addition, the second floor of the building has been renovated to use as a small business incubator where clients could meet with their customers and have their mail delivered. *Id.* The lots at 1302 South Anthony Boulevard, 1312 South Anthony Boulevard, 1322 South Anthony Boulevard, and 1328 South Anthony Boulevard are slated to be the parking area for the store and employment center. *Bledsoe testimony*. Currently, they are being used for a summer youth program where at-risk youth in the community are taught about neighborhood beautification and lawn service. *Id.*
30. If the properties had been used as an employment training center at the time of the assessment, they would undoubtedly be exempt. The building, however, required extensive renovation prior to the Petitioner's use of the properties. Thus, the question at issue is whether property intended for an exempt purpose in the future can be exempt under Indiana Code § 6-1.1-10-16. This question has already been answered by the Indiana Tax Court in *Trinity Episcopal Church v. State Board of Tax Commissioners*, 694 N.E.2d 816 (Ind. Tax Ct. 1998). In that case, the Tax Court found that an exemption for a church was proper even though the building was vacant on the assessment date because the owner was renovating the building for its future use. *Trinity Episcopal*, 694 N.E.2d at 819.
31. According to the Respondent's witness, the Petitioner acquired 1322 South Anthony Boulevard and 1330 South Anthony Boulevard on July 11, 2003; 1302 South Anthony Boulevard and 1304 South Anthony Boulevard on February 27, 2004; and 1312 South Anthony Boulevard on January 7, 2004. *Respondent's Exhibit 10*. Thus, at the time of

the March 1, 2008, assessment date, the Petitioner had owned each property more than four years. However, the Petitioner's representative testified that the Petitioner submitted plans that were approved by the city and state; new floors were put in and a glass store front was ordered; and the Petitioner has collected grocery bins, shelving and windows for the building. *Bledsoe testimony*. While there is no evidence how much of the work had been completed as of March 1, 2008, the Board is reluctant to frustrate the Petitioner's charitable purpose by declaring that its work has not been performed sufficiently timely to support an exemption.

32. Finally, the Petitioner's representative argues that the building located at 1431 Waldron Circle is also to be used as an employment center. *Bledsoe testimony*. According to Ms. Bledsoe, the Petitioner has repaired the garage, installed a new roof, new flooring, a new bathroom, new fixtures and a new stairwell on the property and, Ms. Bledsoe testified, the Petitioner anticipates that the property will be operating within a few months. *Id.* While the Petitioner's witness provided little explanation regarding the property's use, except that it would be used as an "employment center," the Respondent did not argue that an employment center was not an exempt purpose. Further, the Respondent's evidence shows the property was purchased on March 1, 2006, thus only two years had passed at the time of the assessment. Therefore, the Board finds the property at 1431 Waldron Circle exempt for the March 1, 2008, assessment date.
33. Once the Petitioner establishes a prima facie case that its property is entitled to an exemption, the burden shifts to the assessing official to rebut the Petitioner's case. *See American United Life v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). Here the Respondent only argues that the Petitioner did not show sufficient progress toward constructing or renovating its properties to be entitled to an exemption. When viewed as of the date of the hearing, the Respondent's arguments are well-founded – at least for several of the Petitioner's parcels. However, as the Board held above, the evidence must be viewed as of the assessment date at issue and, as of that date, the Petitioner's time for showing substantial progress had not yet run.



34. The Respondent also argued that the Petitioner may not be a 501(c)(3) organization because “Women of Color” was not listed as a tax-exempt organization on the Internal Revenue Service website. *Swihart testimony*. This argument, however, fails for two reasons. First, the Petitioner’s representative testified that the organization changed its name to “People of Conviction” and the Respondent’s witness admittedly did not research the tax exempt status of “People of Conviction.” Second, the Respondent’s evidence was current, not as of March 1, 2008. Thus, the Board has no evidence before it to rebut the Petitioner’s evidence and its representative’s sworn testimony that the Petitioner is a 501(c)(3) tax exempt entity.

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

35. The Petitioner established a prima facie case that the properties on appeal are entitled to exemption for the March 1, 2008, assessment year. The Respondent failed to rebut or impeach the Petitioner’s evidence. The Board therefore finds in favor of the Petitioner and holds that the twelve properties at issue in this appeal are 100% exempt for 2008.

This Final Determination of the above captioned matters 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

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Commissioner, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

- 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>.