

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

SPRINGHILL CHRISTIAN MINISTRIES,	)	On Appeal from the Allen County
	)	Property Tax Assessment Board
Petitioner,	)	of Appeals
	)	
v.	)	Petition for Review of Exemption
	)	Form 132
MORGAN COUNTY PROPERTY TAX	)	Petition No. 55-005-00-2-8-00001
ASSESSMENT BOARD OF APPEALS,	)	
	)	
Respondent.	)	

**Findings of Fact and Conclusions of Law**

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

**Issue**

Whether the land and improvements owned by Springhill Christian Ministries (Springhill) qualify for property tax exemption pursuant to Ind. Code § 6-1.1-10-16 for charitable and religious purposes.

**Findings of Fact**

1. If appropriate, any finding of fact made herein shall also be considered a conclusion of law. Also, if appropriate, any conclusion of law made herein shall be considered a finding of fact.
  
2. The property under review is a group of apartments owned by Springhill. The apartments are located at 703 – 725 State Road 144, Mooresville, Indiana

(Morgan County, Brown Township). The apartments are currently used as residences, with varying amounts of rent collected from each tenant. Petitioner's Ex. 1.

3. Springhill states that four of the twelve apartments are rented at a reduced rate or are rented for no rent at all. Petitioner's Ex. 1. However, Springhill did not submit information concerning the typical amount of rent in the general geographic area.
4. On May 15, 2000, Springhill filed an application for property tax exemption with the Morgan County Property Tax Assessment Board of Appeals (PTABOA) pursuant to Ind. Code § 6-1.1-11-3. Board Ex. A. The PTABOA denied the application on November 6, 2000. *Id.*
5. Pursuant to Ind. Code § 6-1.1-11-7, Springhill filed a Form 132 petition seeking a review of the PTABOA action by the Appeals Division. The Form 132 petition was filed December 8, 2000. Board Ex. A.
6. Pursuant to Ind. Code § 6-1.1-15-4, a hearing was held on June 6, 2001 before Hearing Officer Alyson Kunack. Testimony and exhibits were received into evidence. Jerry Thomas and Mark Wright represented Springhill. Brenda Brittain, Morgan County Assessor, represented the PTABOA.
7. At the hearing, the subject Form 132 petition and attachments were made part of the record and labeled Board Exhibit A. The Notice of Hearing on Petition was labeled Board Exhibit B. In addition, the following items were received into evidence:

Petitioner's Exhibit 1 – pages from the annual report and statement of case;  
Petitioner's Exhibit 2 – Copy of Ind. Code § 6-1.1-10-16.

Respondent's Exhibit 1 – property record card (PRC) for the property under review.

8. The Hearing Officer did not view the property.

### **Conclusions of Law**

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

#### **A. Burden In General**

2. The courts have long recognized that in the administrative review process, the State Board is clothed with quasi-judicial power and the actions of the State Board are judicial in nature. *Biggs v. Board of Commissioners of Lake County*, 7 Ind. App. 142, 34 N.E. 500 (1893). The State Board has the ability to decide the administrative appeal based upon the evidence presented and to limit its review to the issues the taxpayer presents. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113, 1118 (Ind. Tax 1998) (citing *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765, 769 (Ind. Tax 1997)).
3. In reviewing the actions of the PTABOA, the State Board is entitled to presume that its actions are correct. “Indeed, if administrative agencies were not entitled to presume that the actions of other administrative agencies were in accordance with Indiana law, there would be a wasteful duplication of effort in the work assigned to agencies.” *Bell v. State Board of Tax Commissioners*, 651 N.E. 2d 816, 820 (Ind. Tax 1995). The taxpayer must overcome that presumption of correctness to prevail in the appeal.

4. It is a fundamental principle of administrative law that the burden of proof is on the person petitioning the agency for relief. 2 Charles H. Koch, Jr., *Administrative Law and Practice*, § 5.51; 73 C.J.S. Public Administrative Law and Procedure, § 128. See also Ind. Code § 4-21.5-2-4(a)(10) (Though the State Board is exempted from the Indiana Administrative Orders & Procedures Act, it is cited for the proposition that Indiana follows the customary common law rule regarding burden).
5. Taxpayers are expected to make factual presentations to the State Board regarding alleged errors. *Whitley*, 704 N.E. 2d at 1119. These presentations should both outline the alleged errors and support the allegations with evidence. "Allegations, unsupported by factual evidence, remain mere allegations." *Id* (citing *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d. 890, 893 (Ind. Tax 1995)). The State Board is not required to give weight to evidence that is not probative of the errors the taxpayer alleges. *Whitley*, 704 N.E. 2d at 1119 (citing *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1239, n. 13 (Ind. Tax 1998)).
6. The taxpayer is required to meet his burden of proof at the State administrative level for two reasons. First, the State Board is an impartial adjudicator, and relieving the taxpayer of his burden of proof would place the State Board in the untenable position of making the taxpayer's case for him. Second, requiring the taxpayer to meet his burden in the administrative adjudication conserves resources.
7. In the event the taxpayer sustains his burden, the burden then shifts to the local taxing officials to rebut the taxpayer's evidence and justify its decision with substantial evidence.

## **B. Constitutional and Statutory Basis for Exemption**

8. The General Assembly may exempt from property taxation any property being used for municipal, educational, literary, scientific, religious, or charitable purposes. Article 10, Section 1, of the Constitution of Indiana.
9. Article 10, Section 1, of the State Constitution is not self-enacting. The General Assembly must enact legislation granting the exemption. In this appeal, exemption is claimed under Ind. Code § 6-1.1-10-16 which provides that all or part of a building is exempt from property taxes if it is owned, occupied, and used for educational or religious purposes.
10. In Indiana, the fact that a nonprofit entity owns the property under examination does not establish any inherent right to exemption. The grant of federal or state income tax exemption does not entitle a taxpayer to property tax exemption because income tax exemption does not depend so much on how property is used but on how money is spent. *Raintree Friends Housing, Inc. v. Indiana Department of Revenue*, 667 N.E. 2d 810 (Ind. Tax 1996)(501(c)(3) status does not entitle a taxpayer to tax exemption). For property tax exemption, the property must be predominantly used or occupied for the exempt purpose. Ind. Code § 6-1.1-10-36.3.

## **C. Basis of Exemption and Burden**

11. In Indiana, the general rule is that all property in the State is subject to property taxation. Ind. Code § 6-1.1-2-1.
12. The courts of some states construe constitutional and statutory tax exemptions liberally, some strictly. Indiana courts have been committed to a strict construction from an early date. *Orr v. Baker* (1853) 4 Ind. 86; *Monarch Steel Co., Inc. v. State Board of Tax Commissioners*, 669 N.E. 2d 199 (Ind. Tax 1996).

13. Strict construction construes exemption from the concept of the taxpayer citizen. All property receives protection, security and services from the government, e.g., fire and police protection and public schools. This security, protection, and other services always carry with them a corresponding obligation of pecuniary support - - taxation. When property is exempted from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E. 2d 218 (Ind. Tax 1996). Non-exempt property picks up a portion of taxes that the exempt property would otherwise have paid, and this should never be seen as an inconsequential shift.
14. This is why worthwhile activities or noble purpose is not enough for tax exemption. Exemption is justified and upheld on the basis of the accomplishment of a public purpose. *National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E. 2d at 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E. 2d 850, 854 (Ind. Tax 1990)).
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 statute under which the exemption is being claimed. *Monarch Steel*, 611 N.E. 2d at 714; *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E. 2d 936, 938 (Ind. Tax 1987).
16. Indiana Courts broadly define “charitable” as the relief of human want and suffering in a manner different from the everyday purposes and activities of man in general. *National Association of Miniature Enthusiasts, supra*.
17. Charging fees for the use of institution alone does not disqualify an organization from charitable exemption when fees are used to pay expenses and the proprietors of the institution do not derive a profit from the fees. *State Board of*

*Tax Commissioners v. Methodist Home for the Aged*, 241 N.E. 2d 84 (Ind. App. 1968).

18. With regard to religious purpose, the term “religious” generally refers to man’s relationship and belief in a supernatural or superhuman being that exercises power over human beings by imposing rules of conduct with future rewards and punishments. See *City Chapel Evangelical Free Inc. v. City of South Bend*, 744 N.E. 2d 443 (Ind. 2001) (“worship” is the act of paying divine honors to the Supreme Being); *Grutka v. Clifford*, 445 N.E. 2d 1015 (Ind. App. 1983) (ecclesiastical matters are those which concern doctrine, creed, or form of worship of the church); *Minersville School District v. Gobitis*, 108 F. 2d 683 (3d Cir. 1939); *McMasters v. State of Oklahoma*, 21 Okla. Crim. 318, 207 P. 566 (Okla. Crim. App. 1922).

#### **D. Conclusions Regarding Exemption Claim**

19. Springhill seeks exemption based upon religious and charitable grounds. To qualify for exemption, Springhill must demonstrate that the apartments are used or occupied for the exempt purpose more than 50% of the time. Ind. Code § 6-1.1-10-36.3.
20. The basis for Springhill’s charitable claim is that four out of twelve apartments are rented at a reduced rate or are rented for no rent at all. Of the four apartments claimed to be used for charitable purpose, Springhill claims that three of them are also used for religious purpose.
21. Springhill did not submit information concerning the typical amount of rent in the general geographic area. Instead, Springhill states that one-third (4 out of 12) of the apartments are occupied by residents who pay either reduced or no rent at all. This information is insufficient to demonstrate “charity.” Further, assuming that the amount of rent is atypical for the location, and assuming that such activities constitute charity, Springhill’s claim for charitable purpose will still fail.

Only one third of the available space is being used for what Springhill says is a charitable purpose.<sup>1</sup> Use of one third of the available space does not fall within the parameters of predominant use required by Ind. Code § 6-1.1-10-36.3.

22. Springhill also claims religious exemption saying that three of the four apartments claimed to be used for charitable purpose are also used for religious purposes. One apartment is rented to a missionary (not a pastor of Springhill) and his family and two apartments are rented to people in the New Hope Program, an outreach of Springhill that helps the needy and homeless. Petitioner's Ex. 1. The use of these apartments might be noble, but there is no evidence to support the claim that the use is religious. Even if it were, the statute still requires predominant use for religious exemption. Springhill claims that only one fourth (three out of twelve apartments) of the property is used for religious purpose. This situation does not meet the predominant use test.
23. For all of the reasons above, Springhill did not meet its burden of proving that the property is entitled to the exemption by showing that the property falls specifically within the statute, Ind. Code § 6-1.1-10-16. The exemption petition is denied.

---

<sup>1</sup> The Appeals Division understands that the size of each apartment could play a part in determining whether the apartments meet the predominant use test. However, this information was not provided. Consequently, the Division relies upon the number of units. This applies to both the religious and charitable claims.