

REPRESENTATIVE FOR PETITIONER: Marley Johnson, pro se

REPRESENTATIVE FOR RESPONDENT: Jess Reagan Gastineau, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Marley Johnson,)	Petition Nos.: 49-800-22-2-8-00265-23
)	49-800-22-2-8-00266-23
Petitioner,)	
)	Parcel Nos.: 8000887
v.)	8038625
)	
Marion County Assessor,)	County: Marion
)	
Respondent.)	Assessment Year: 2022

December 19, 2023

FINAL DETERMINATION

The Indiana Board of Tax Review (“Board”), having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Marley Johnson applied for a 100% exemption under the general exemption statute, Ind. Code § 6-1.1-10-16(a). However, he failed to prove that his property was owned, occupied, and used either exclusively or predominantly for exempt purposes during the relevant time period. We therefore find the property to be 100% taxable.

PROCEDURAL HISTORY

2. On October 8, 2021, Marley Johnson filed a Form 136 exemption application seeking both real and personal property tax exemptions for the January 1, 2021 assessment date for two parcels located at 1750 Oles Drive, Indianapolis, Indiana. On February 24, 2023, the Marion County Property Tax Assessment Board of Appeals (“PTABOA”) issued

Form 120 notices denying Johnson’s exemption applications for the January 1, 2022 assessment date.¹ It did not address Johnson’s claim for an exemption for personal property. Johnson then timely filed Form 132 petitions with the Board challenging the PTABOA’s determinations regarding the real property exemption for 2022.

3. On October 5, 2023, Tammy Sierp, our designated administrative law judge (“ALJ”), held a telephonic hearing on Johnson’s petitions. Neither she nor the Board inspected the property.
4. Johnson appeared pro se and testified under oath. Attorney Jess Reagan Gastineau appeared for the Assessor.
5. Johnson offered the following exhibits:

Petitioner Exhibit 1	Screenshots from Chastity Won Corp.’s website
Petitioner Exhibit 2	Lease agreement dated February 10, 2023
Petitioner Exhibit 3	Picture of oversized donation check from Walmart
Petitioner Exhibit 4	IRS 501(c)(3) Income Tax Exemption letter and Indiana Nonprofit Sales Tax Exemption Certificate

6. The Assessor did not offer any exhibits.
7. The official record for this matter also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

OBJECTIONS

8. During the hearing, our ALJ took objections to the admissibility of all four of Johnson’s exhibits under advisement. Among other reasons, the Assessor objected to the admission

¹Although Johnson applied for an exemption for the January 1, 2021 assessment date, it appears the PTABOA treated Johnson’s exemption application as an appeal of the 2022 assessment year because he missed the statutory deadline for 2021. *See* Ind. Code § 6-1.1-11-3(a) (requiring property owners to annually file exemption applications on or before April 1 of the year containing the assessment date).

of Johnson's four exhibits because Johnson did not exchange them until the night before the hearing. Our procedural rules require parties to exchange copies of their documentary evidence at least five business days before a hearing. 52 IAC 4-8-1(b)(1). This requirement allows parties to be better informed and to avoid surprises. It also promotes an organized, efficient, and fair consideration of the issues. Failure to comply with the exchange rule may serve as grounds to exclude the evidence. 52 IAC 4-8-1(f). Because Johnson failed to timely exchange Exhibits 1, 3, and 4, we sustain the Assessor's objections and exclude them on those grounds.

9. As the Assessor acknowledged, however, Johnson provided Exhibit 2 to the PTABOA, and our rules allow us to waive the exchange deadline for materials made part of the record at a PTABOA hearing. 52 IAC 4-8-1(d)(2). We therefore overrule the timeliness objection as to Exhibit 2. The Assessor further objected to Exhibit 2 based on the corporation's failure to properly sign the lease. However, because that objection goes to the weight we should give the exhibit rather than to its admissibility, we overrule it and admit Petitioner Exhibit 2.

FINDINGS OF FACT

10. The subject property consists of two contiguous parcels that include a 2,587 square foot, 5-bedroom residential house located at 1750 Oles Drive, Indianapolis, Indiana. Johnson owns the property and has leased it to Chastity Won Corp. d/b/a Net Zero Builds & Ag. Corp. ("Chastity Won") since 2016. Chastity Won uses four of the bedrooms as office and storage space and as a shelter for rescued animals, while Johnson subleases one bedroom from Chastity Won for use as his personal room. Although Johnson collects rent from Chastity Won, he donates the money back to the organization. He does not collect a paycheck from Chastity Won and everyone who works for the organization is a volunteer. *Johnson testimony; Pet'r Ex. 2.*

11. Chastity Won advocates for sustainable living, holds landscaping and entry level skilled trades classes, mentors at risk youth, and runs a food pantry and an animal rescue. It is not a church, but it does advocate for abstinence before marriage. After a recent fire at apartments across the street from the property, Chastity Won also helped displaced residents secure food. Its animal rescue fosters animals from Indiana Animal Care Services (“IACS”) to help alleviate the stress on the shelter caused by overpopulation. The animal rescue uses the property 24/7, and the cost of fostering animals for IACS exceeds the amount of property taxes imposed on the subject property. *Johnson testimony.*

12. One of Chastity Won’s goals is to construct a four-season greenhouse to help it supplement its food pantry with fresh organic produce and to serve as a place to host classes on how to engineer aquaponic systems in an urban environment. Chastity Won is also working with Ivy Tech on a scholarship program for “members” who want to start a career in the skilled trades. Walmart recognized Chastity Won’s impact on the local community and rewarded it with a donation. Chastity Won has good intentions and its Board is focused on trying to help the local Indianapolis community. *Johnson testimony.*

CONCLUSIONS OF LAW

13. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cnty. Prop. Tax Assessment Bd. of App. v. Oaken Bucket Partners, LLC*, 938 N.E.2d 654, 657 (Ind. 2010). Because exemptions relieve properties from bearing their fair share of the cost of government services, they are strictly construed against the taxpayer. A taxpayer therefore bears the burden of proving that its property qualifies for an exemption. *Indianapolis Osteopathic Hospital, Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004).

14. All or part of a building is exempt from taxation if it is owned, and exclusively or predominantly used or occupied for educational, literary, scientific, religious, or charitable purposes. I.C. § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c). The exemption extends to a tract of land on which an exempt building is situated, as well as to parking lots and other structures that serve the exempt building. I.C. § 6-1.1-10-16 (c)(1)-(2). A property need not be owned, occupied, and used by the same entity to be exempt, but where the owner and the occupant or user are different entities, each must possess its own exempt purpose. *Oaken Bucket*, 938 N.E.2d at 659.

15. Property is predominantly used for one or more stated purpose if it is used for those purposes during more than 50% of the time that it is used in the year that ends on the assessment date. I.C. § 6-1.1-10-36.3. A property is 100% exempt if it is exclusively used or occupied for exempt purposes or if it is predominantly used for exempt purposes by a church, religious society, or nonprofit school. I.C. § 6-1.1-10-36.3(c)(1)-(2). Otherwise, a property qualifies only for an exemption that “bears the same proportion to the total assessment” as the amount of time the property’s exempt use bears to its total use. I.C. § 6-1.1-10-36.3(c)(3). Where a property is not used exclusively for exempt purposes, a taxpayer must offer evidence comparing the relative distribution of time between exempt and non-exempt uses. *See Hamilton Cnty. Ass’r v. Duke*, 69 N.E.3d 567, 572 (Ind. Tax Ct. 2017) (“[F]ailure to provide the Indiana Board with a comparison of the relative amounts of time that a property was used for exempt and non-exempt purposes is fatal to a claim of exemption under Indiana Code § 6-1.1-10-36.3.”).

16. Here, Johnson claims the subject property should receive a 100% exemption because Chastity Won uses it for charitable, educational, and religious purposes. However, Johnson failed to satisfy his burden of proof. His evidence regarding Chastity Won’s various activities was simply too vague to prove that it has a charitable, educational, or religious purpose. It was also insufficient to show that Chastity Won actually used the subject property for any exempt purposes during the year preceding the January 1, 2022 assessment date. For example, although Johnson testified that Chastity Won holds

landscaping and entry level skilled trades classes, he failed to demonstrate that it actually held any classes at the subject property during 2021.

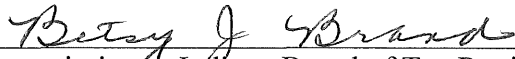
17. Additionally, although Johnson testified about the various purposes for which Chastity Won uses the property, none of the evidence he offered demonstrates that he owns the property for an exempt purpose. Again, where the owner and the occupant or user are different entities, each must possess its own exempt purpose. *Oaken Bucket*, 938 N.E.2d at 659. Here, however, the only evidence Johnson submitted that addresses his reason for owning the property is his testimony that he subleases a bedroom from Chastity Won for use as his personal room, which weighs against finding that he owns it for an exempt purpose.
18. Even without the significant problems we have already discussed, Johnson's claim would still fail. Johnson's personal use of the subject property precludes any claim that Chastity Won exclusively used it for exempt purposes. Thus, to receive an exemption, Johnson needed to offer a time log, facility usage report, or some other form of evidence quantifying the amount of time Johnson used the property for his personal needs versus the time Chastity Won used it for charitable, educational, or religious purposes. *Duke*, 69 N.E.3d at 572. His failure to provide a comparison of the time it was used for exempt and non-exempt activities is therefore fatal to his exemption claim.
19. Because Johnson did not demonstrate that the subject property was owned, occupied, and used for charitable, educational, or religious purposes in the year preceding the January 1, 2022 assessment date, it is not entitled to an exemption under Indiana Code § 6-1.1-10-16(a).

CONCLUSION

20. For the reasons discussed above, we find Johnson's parcels to be 100% taxable for the 2022 assessment year.

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


Chairman, Indiana Board of Tax Review


Commissioner, Indiana Board of Tax Review


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 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 of 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>.