

REPRESENTATIVE FOR PETITIONER: Katie Kotter, Attorney

REPRESENTATIVE FOR RESPONDENT: Marilyn S. Meighen, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Knox County Association for Remarkable Citizens, Inc.,)	Petition Nos.: 42-022-18-2-8-01002-18
)	42-022-19-2-8-00232-20
)	42-022-20-2-8-00591-20
Petitioner,)	
)	Parcel No.: 42-12-14-302-015.000-022
v.)	
)	County: Knox
Knox County Assessor,)	
)	Assessment Years: 2018, 2019, 2020
Respondent.)	

December 15, 2021

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. Knox County Association for Remarkable Citizens, Inc.¹ sought an exemption for real and personal property that it uses to operate a community center specifically built to serve disabled individuals and their families. Because KCARC proved that it owned and exclusively occupied and used the property for charitable and educational purposes during the relevant timeframes, we conclude it is entitled to a 100% exemption.

¹ In its Form 132 petitions, the Petitioner referred to itself as Knox County Association for Remarkable Citizens, Inc. However, in many of the other forms and documents in the record, the Petitioner is referred to as Knox County Association for Retarded Citizens, Inc. We infer that the two entities are one and the same, and for ease of reference, we will refer to both as “KCARC” hereinafter.

PROCEDURAL HISTORY

2. KCARC applied for real and personal property exemptions for the 2018, 2019, and 2020 assessment dates for property located at 711 Old Wheatland Road in Vincennes, claiming that the property was used for charitable and educational purposes. The Knox County Property Tax Assessment Board of Appeals (“PTABOA”) found the property to be 20% exempt and 80% taxable in 2018, failed to act on KCARC’s 2019 application, and found the property to be 100% taxable in 2020. KCARC timely appealed all three years to the Board.²
3. On March 24, 2021, David Smith, our designated administrative law judge (“ALJ”), held a telephonic hearing on KCARC’s petitions. Neither he nor the Board inspected the property. Kim Dodson, Mike Carney, and Nash Dunn testified under oath.
4. KCARC offered the following exhibits, all of which were admitted:

Petitioner Ex. 1:	Internal Revenue Service (“IRS”) Tax Exempt Determination
Petitioner Ex. 2:	KCARC Articles of Incorporation
Petitioner Ex. 3:	KCARC By-Laws
Petitioner Ex. 4:	KCARC Mission Statement
Petitioner Ex. 5:	1972 Property Record Card (“PRC”)
Petitioner Ex. 6:	1972 Building layout
Petitioner Ex. 7:	1972 Newspaper articles
Petitioner Ex. 8:	Photos of 1972 Center
Petitioner Ex. 9:	Excerpts from Indiana FSSA/DDRS Waiver Manual
Petitioner Ex. 10:	ADEC Gaining Grounds coffee shop articles
Petitioner Ex. 11:	2018 events calendar for 1972
Petitioner Ex. 12:	2019 events calendar for 1972
Petitioner Ex. 13:	2020 events calendar for 1972
Petitioner Ex. 14:	2018 Financial Statements for 1972
Petitioner Ex. 15:	2019 Financial Statements for 1972
Petitioner Ex. 16:	2020 Financial Statements for 1972

² KCARC elected to appeal its 2019 application directly to us. *See* Ind. Code § 6-1.1-11-7(d) (allowing taxpayers to appeal to the Board if the PTABOA fails to approve or disapprove an exemption application within 180 days after it is filed).

5. The Assessor offered the following exhibits, all of which were admitted:

Respondent Ex. A:	All-in One Community Fun Center & 1972-KCARC Family Fun Center
Respondent Ex. B:	1972 Floor plan
Respondent Ex. C:	Calendar of events (12/2017 - 12/2018)
Respondent Ex. E:	Calendar of events (1/2019 - 12/2019)
Respondent Ex. G:	Various invoices
Respondent Ex. H:	August 20, 2019 letter to Kelley Hopwood
Respondent Ex. I:	Calendar of events (1/2020 – 12/2020)
Respondent Ex. J:	Income& expense statements & trial balance
Respondent Ex. K:	2019 Medicaid revenue

6. The record also includes the following: (1) all pleadings, briefs and documents filed in these appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

FINDINGS OF FACT

7. KCARC is an Indiana not-for-profit corporation that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. It was formed in 1972 for the following “charitable and educational” purposes:

- A. To promote the general welfare of the mentally retarded wherever they may be.
- B. To foster the development of programs in their behalf.
- C. To encourage research related to mental retardation.
- D. To advise and aid parents in the solution of their problems and to coordinate their efforts and activities.
- E. To develop a better understanding of the problems of mental retardation by the public.
- F. To cooperate with all public, private, and religious agencies and professional groups in the furtherance of these ends.
- G. To associate with and support financially the State and National Associations to promote the common cause.
- H. To serve locally as a clearinghouse for gathering and giving out information regarding the mentally retarded.
- I. To solicit and receive funds for the accomplishment of the above purpose.
- J. To utilize processing and manufacturing work as a related program activity.

Carney testimony; Pet'r Exs. 1, 2.

8. Much of the burden for serving the developmentally disabled shifted back to local communities when Indiana's network of state-run hospitals and institutions closed many years ago. Organizations like KCARC have taken on the responsibility of providing the services that were previously provided by the State system. *Carney testimony.*

9. KCARC's mission is to advocate and provide opportunities in a dignified and respectful manner for the total well-being of individuals and families with special needs. To accomplish its mission, KCARC offers residential programs in the form of group homes and waiver settings, and provides its clients with day programming, counseling services, Medicaid services, Special Olympics programs, and recreational activities. It also offers employment training and job opportunities through its manufacturing facilities. Additionally, KCARC operates the Civitan Children's Center, which is an integrated early childhood education program for children up to six years of age. *Carney testimony; Pet'r Ex. 4.*

10. As an approved Medicaid provider, KCARC is governed by the Centers for Medicare and Medicaid Services at the federal level and the Indiana Family and Social Services Administration ("FSSA") at the state level. The Bureau of Developmental Disabilities Services, a department within the FSSA's Division of Disability and Rehabilitative Services ("DDRS"), oversees the Medicaid waiver services that KCARC provides to its clients. *Dodson testimony; Pet'r Ex. 9.* The purpose of the Medicaid waiver programs is to provide services to individuals in community settings as an alternative to care in an institutional facility, which allows providers like KCARC to focus more on its clients' individual needs. *Dunn testimony; Pet'r Ex. 9.*

11. In 1987, KCARC purchased the real property at issue from a bank without any taxpayer support. KCARC employed its clients at the facility and used it to manufacture extreme cold weather clothing for the federal government until KCARC moved the operation to a different manufacturing facility in 2016. KCARC then decided to convert the property into a community center where the general public could interact with its clients. *Carney*

testimony.

12. At the time, Mike Carney, KCARC's President, felt that the organization was not doing enough to create integrated activities for its clients and their families. Although people with disabilities can be very good employees, their unemployment rate is around 69%. Having employers interact with people who have disabilities helps create job opportunities for KCARC's clients. Employers are able to see that the clients can follow directions and act almost totally independently at times, making it much easier to place people with disabilities in the workforce. The social interactions also help KCARC's clients learn the social skills necessary to remain employed. *Carney testimony.* Additionally, bringing people with and without disabilities together in an integrated setting helps remove the stigma associated with disabilities. *Dodson testimony.*
13. KCARC named the new community center "1972" to pay homage to the year KCARC was founded. The concept and design for 1972 was the result of many meetings with KCARC's board of directors and staff, the architect, parents of KCARC's clients, and schools. 1972 was designed by and for individuals and families that include members with intellectual and developmental disabilities. It has a regulation basketball court, two climbing walls, a commercial kitchen, a dining room, a food truck concession stand, an art and craft room, a computer and gaming room, a sensory cave, kick darts, a bouncy house, laser tag, human foosball, and a fully restored Volkswagen bus. *Carney testimony; Dunn testimony; Pet'r Ex. 8.*
14. The renovations to 1972 were completed during 2017 at a total cost of \$3.2 million. It opened for the first time in November of 2017, and KCARC's staff and clients began using it at that time. 2018 was the first full year 1972 was open. From January 2018 through March 2020, the facility was open to the general public Tuesday through Saturday, closed on Sundays, and open only to KCARC's clients on Mondays. The public operating hours are Tuesday through Thursday from 11:30 a.m. to 8:00 p.m., and Friday and Saturday from 11:30 a.m. to 9:00 p.m. The general public is charged an

admission fee of \$6-\$8 to help offset overhead costs. The facility is free to all of KCARC's clients and staff. *Carney testimony; Dunn testimony.*

15. During 2018 and 2019, a group of approximately 15 to 20 of KCARC's clients attended 1972 for community-based habilitation or pre-vocational services Monday through Friday from 8:00 a.m. to 4:00 p.m. *Dunn testimony.*

16. Community-based habilitation services “are services provided outside the participant’s home that support learning and assistance in the areas of self-care, sensory/motor development, socialization, daily living skills, communication, community living, and social skills. Community-based activities are intended to build relationships and natural supports.” Reimbursable activities include:
 - Monitoring, training, education, demonstration, or support to assist with the acquisition and retention of skills in the following areas:
 - Leisure activities and community/public events (for example, integrated camp settings)
 - Educational activities
 - Hobbies
 - Unpaid work experiences (for example, volunteer opportunities)
 - Maintaining contact with family and friends
 - Training and education in self-direction designed to help participants achieve one or more of the following outcomes:
 - Develop self-advocacy skills
 - Exercise civil rights
 - Acquire skills that enable self-control and responsibility for services and supports received or needed
 - Acquire skills that enable the participant to become more independent, integrated, or productive in the community

Dunn testimony; Pet'r Ex. 9.

17. Under DDRS's regulations, community-based habilitation services must be provided in nonresidential, integrated settings. An integrated setting is one where disabled people receive services in a setting alongside nondisabled people. Disabled people must be able to freely interact with people who are not receiving Medicaid services. 1972 is the first

building owned by KCARC that meets the definition of an integrated setting, and the State of Indiana has authorized KCARC to provide community-based habilitation services at the facility. Those services help KCARC's clients acquire and retain skills such as climbing a rock wall or attending community events, and assists them with hobbies, unpaid work experiences, and volunteer opportunities. *Dunn testimony; Pet'r Ex. 9.*

18. Prevocational services “prepare a participant for paid or unpaid employment. Prevocational Services include teaching concepts, such as compliance, attendance, task completion, problem-solving, and safety. Services are not job-task oriented, but instead, aimed at generalized results. Services are habilitative in nature and not explicit employment objectives.” Reimbursable activities include:

- Monitoring, training, education, demonstration, or support provided to assist with the acquisition and retention of skills in the following areas:
 - Paid and unpaid training compensated at less than 50% of the federal minimum wage
 - Generalized and transferrable employment skills acquisition

At 1972, KCARC's clients work on soft skills such as learning proper social interactions and gross motor skills to help them gain employment. *Dunn testimony; Pet'r Ex. 9.*

19. KCARC also provided Medicaid-waiver day-programming services to approximately 150 clients. The clients visited 1972 on multiple occasions during 2018 and 2019 for residential services, recreation, Special Olympics, and community events. *Dunn testimony.*

20. KCARC has struggled to change the public's perception that 1972 exists only to provide services for individuals with disabilities. It therefore encourages the public to hold meetings and community events at 1972 in an effort to draw the community in and help foster integration with its clients. Between December 2017 and March 2020, KCARC used 1972 to host community events and recreational activities including: meetings for

the Chamber of Commerce, Kiwanis, Boy Scouts, United Way, and local schools; an integrated summer camp; Special Olympics games, practices, and activities; field trips for local schools and the Civitan Children's Center; church events; school basketball games; movie nights; dodge ball and gaming tournaments; Mommy & Me yoga; bingo nights; parent's night out; and holiday parties. The community events were open to the public and KCARC's clients. KCARC did not charge the public an admission fee for attending events such as the Chamber of Commerce's quarterly meetings. *Dunn testimony; Pet'r Exs. 11, 12, 13; Resp't Ex. C.*

21. In order to promote integration with its clients, KCARC also used 1972 to host numerous birthday parties and family parties between December 2017 and March 2020. Parties with a minimum of eight people got a discounted rate and cupcakes. Attendees did not have exclusive access to any part of 1972 during the parties—KCARC's clients and the general public were still using the facility while the parties were being held. *Dunn testimony; Pet'r Exs. 11, 12, 13; Resp't Ex. C.*
22. KCARC uses 1972's commercial kitchen to prep and cater meals served at its Civitan Children's Center, group homes, and day programming buildings—all of which are exempt from property taxes. 1972 purchases all the food and supplies, and KCARC's fiscal department bills its other facilities internally to reimburse 1972. The kitchen also provides the meals served in 1972's cafeteria and catering services for events like the Chamber of Commerce's quarterly meetings. *Dunn testimony.*
23. While 1972 received donations and charged for public passes, food/concessions, birthday parties and other gatherings, its revenue did not cover its annual operating expenses in either 2018 or 2019. In 2018 and 2019, 1972 had net losses of \$373,022 and \$704,616, respectively. KCARC covered those losses to keep the facility operating. *Dunn testimony; Pet'r Exs. 14, 15.*

24. Because 1972 does not produce enough revenue to cover expenses, KCARC also rents the facility to businesses and other local organizations for a limited number of exclusive events. KCARC tries to build relationships with these organizations as they are the types of employers that might employ KCARC's clients. *Dunn testimony; Pet'r Exs. 11, 12, 13; Resp't Ex. C.*

25. During 2017, KCARC rented out 1972 for exclusive events on two occasions:

- a private Christmas party of unknown duration beginning at 8:30 a.m. (and ending by 6 p.m. at the latest due to another event) on Thursday, December 21st; and
- a company Christmas party of unknown duration beginning at 6 p.m. (and presumably ending by 8 p.m., 1972's normal closing time) on Wednesday, December 27th.

Resp't Ex. C.

26. During 2018, KCARC rented out 1972 for exclusive events on four occasions:

- a private event from 8 a.m. to 12 p.m. on Saturday, February 3rd;
- a company party for Burkhart Insurance Agency from 9 a.m. to 12 p.m. on Saturday, February 10th;
- an after-prom lock-in for Red Hill High School for an unknown duration beginning at 12:30 a.m. on Sunday, April 29th; and
- a staff party for Win Energy from 11:30 a.m. to 4:30 p.m. on Saturday, August 18th.

Dunn testimony; Pet'r Ex. 11.

27. During 2019, KCARC rented out 1972 for exclusive events on two occasions:

- an exclusive party from 3 p.m. to 5 p.m. on Sunday, January 20th; and
- a staff party for Win Energy from 11:30 a.m. to 4:30 p.m. on Saturday, August 17th.

Dunn testimony; Pet'r Ex. 12.

28. KCARC does not limit the number of people without disabilities who can visit 1972. Nor does it track the number of nondisabled people who use 1972 in any given period.

Although KCARC does not count the number of people visiting the facility or maintain

records of total visitors or passes sold, it did complete a count of the public passes it sold in 2018 in response to a request from the PTABOA. The count showed a total of 1,745 public passes sold in calendar year 2018, with each public pass representing admission for one person for one day. The total pass count did not include people who attended meetings such as the Chamber of Commerce, where no admission fee is charged. During 2018, 1972 was open to the public 5 days per week, or 260 days. Thus, on any given day, approximately seven members of the general public purchased a public pass. *Dunn testimony; Resp. Ex. H.*

CONCLUSIONS OF LAW

A. BASES FOR EXEMPTION

29. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cnty. Property Tax Assessment Bd. of Appeals 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).
30. 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). It also applies to personal property that is owned and used in a manner that would make it exempt if it were a building. I.C. § 6-1.1-10-16(e).
31. 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.”).

32. The term “charitable” must be defined and understood in its broadest constitutional sense. *Knox Cnty. Prop. Tax Assessment Bd. of Appeals v. Grandview Care, Inc.*, 826 N.E.2d 177, 182 (Ind. Tax Ct. 2005). A charitable purpose will generally be found 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. *Id.*
33. To receive an educational-purpose exemption, a taxpayer must show that it provides a public benefit through educational instruction 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 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 School of Natural Health v. Kosciusko Cnty. Prop. Tax Assessment Bd. of Appeals*, 799 N.E.2d 1234, 1238 (Ind. Tax

Ct. 2003)). And the taxpayer need only relieve the state's burden of providing public education to "some limited extent." *Id.* (quoting *Trinity School*, 799 N.E.2d at 1238).

B. Analysis

1. KCARC owned the real and personal property for charitable and educational purposes

34. KCARC is a not-for-profit corporation that was formed to promote the general welfare of the developmentally disabled. Its mission is to advocate and provide opportunities in a dignified and respectful manner for the total well-being of individuals and families with special needs. KCARC has taken on the responsibility of providing services to the developmentally disabled community that were previously provided by a network of government hospitals and institutions, relieving human want.

35. KCARC has owned the real property at issue since 1987. Around 2016, KCARC decided to convert the property into a community center called 1972. KCARC created 1972 to provide a place where the general public could interact with KCARC's clients in an integrated setting with the goal of helping the clients learn the social skills necessary to get hired and remain employed in the community. Bringing people with and without disabilities together in an integrated setting also helps remove the stigma associated with disabilities. Additionally, 1972 lets KCARC provide its clients with access to recreational activities, Special Olympics programs, and Medicaid services in a setting specifically designed for individuals and families with intellectual and developmental disabilities. And it is KCARC's first building that meets DDRS's definition of an integrated setting, allowing KCARC to provide its clients with community-based habilitation services at the facility.

36. Because KCARC designed and built 1972 to further the charitable and educational purposes for which it was established, we conclude that it owned both the real property and the personal property associated with 1972 for exempt purposes.

2. KCARC occupied and used the real and personal property exclusively for charitable and educational purposes

37. The Assessor claims that KCARC is not entitled to a charitable-purpose or an educational-purpose exemption because it did not use the property for exempt purposes. She argues KCARC failed to prove: 1) that it used 1972 to provide charitable acts different from the everyday acts of man, or that its use of 1972 relieved a government burden to a sufficient extent; 2) that it offered educational courses related to public-school offerings at 1972, or that its use of 1972 significantly relieved the government's educational burden; and 3) that it exclusively or predominantly used 1972 for charitable or educational purposes during the years at issue. We address each issue in turn.

a. KCARC proved it occupied and used 1972 for charitable purposes

38. The Assessor first asserts that KCARC failed to prove that it used 1972 to provide charitable acts different from the everyday acts of man. She argues that because the Americans with Disability Act of 1990 (42 U.S. Code §§12181-12189) and Indiana's Civil Rights Law (Ind. Code § 22-9-1) prohibit places of public accommodation from discriminating against people with disabilities, 1972 is no different than other public establishments offering social and recreational activities such as hotels, restaurants, bars, movie theaters, bowling alleys, zoos, parks, and daycare centers.
39. We disagree. Unlike the majority of the Assessor's examples, KCARC does not use 1972 as a for-profit enterprise. There is also a fundamental difference between requiring public establishments to provide access for people with disabilities and providing them with services and training. Again, KCARC's primary motivation in creating 1972 was to provide a place where its clients could interact with the general public in an integrated setting in order to learn the social skills necessary for employment.
40. The Assessor claims that this integration entails unexceptional, everyday interactions between disabled and nondisabled people. But it is the fact that KCARC specifically uses 1972 to address the *lack of everyday interactions* between KCARC's clients and the

general public that sets the facility apart. And the fact that integration is a requirement for KCARC to be reimbursed for the community-based habilitation services it provides at 1972 does not change our conclusion that KCARC's use of the facility was relieving human want through charitable acts different from the everyday purposes and activities of man in general.

41. The Assessor also claims that KCARC's use of 1972 did not relieve a government burden to a sufficient extent. The Assessor concedes that KCARC need not show that it has taken on all the services previously provided through the State's defunct network of hospitals and institutions. However, she argues that KCARC relied solely on conclusory statements relating its integration efforts to practices at the former government facilities to show that a government burden even existed. But that is simply not the case. KCARC established that it is an approved Medicaid provider that uses 1972 to provide its clients with a variety of Medicaid waiver services for which it is reimbursed by the government. And as the Assessor correctly anticipated, we conclude that the mere existence of the Medicaid waiver program is enough evidence to demonstrate that a government burden exists with respect to serving the developmentally disabled.

42. That leads us to the second part of the Assessor's argument—that KCARC failed to prove that its use of 1972 relieves the government's burden beyond the extent of Medicaid reimbursement. The problem with her argument is that KCARC used 1972 for more than just providing reimbursable Medicaid waiver services to its developmentally disabled clients. KCARC's clients also visited 1972 for the many recreational activities, Special Olympics events, community events, movie nights, dodge ball and gaming tournaments, Mommy & Me yoga, bingo nights, parent's night out, and holiday parties held at the facility throughout 2017, 2018, and 2019. 1972's integrated setting also helps improve the general public's understanding of the people with developmental disabilities who live in their community. Thus, regardless of the amount of KCARC's Medicaid reimbursements that are directly attributable to services offered at 1972, we conclude that KCARC's use of the facility relieved the government's burden of serving the

developmentally disabled beyond the extent of reimbursement.

b. KCARC proved it occupied and used 1972 for educational purposes

43. We now turn to KCARC's educational purpose exemption claim. The Assessor argues that KCARC relied on "non-particulars" to prove that its use of 1972 is educational within the meaning of the exemption statute. She claims that KCARC's descriptions of the community-based habilitation and prevocational services it provides were too vague and general to be probative.

44. Although the services KCARC offers are not identical to courses taught in public schools, we conclude that they are similar enough to qualify as educational instruction. KCARC established that it uses 1972 to provide community-based habilitation and prevocational services to a group of 15 to 20 of its clients 5 days per week, for 8 hours per day. Community-based habilitation services support learning and assistance in the areas of self-care, sensory/motor development, socialization, daily living skills, communication, community living, and social skills, while prevocational services consist of teaching concepts such as compliance, attendance, task completion, problem-solving, and safety. KCARC explained that its community-based habilitation services involve having its clients participate in activities such as climbing rock walls and attending community events at the facility. The clients also receive assistance with hobbies, unpaid work experiences, and volunteer opportunities. KCARC's prevocational services are focused on teaching its clients soft skills such as learning proper social interactions and gross motor skills to help them gain employment.

45. While some of the activities included in the community-based habilitation and prevocational services may not be included in traditional educational programs, KCARC is not educating traditional students—it is attempting to teach basic skills to a group of developmentally disabled clients to help them find and retain employment. We agree that KCARC could have provided more details, such as a curriculum or a lesson plan. However, we ultimately find the descriptions KCARC offered are sufficient to show that

it provides educational instruction that relieves a significant portion of the government's burden of providing public education to its clients. Accordingly, we conclude that KCARC occupied and used 1972 for educational purposes.

c. KCARC proved it exclusively occupied and used 1972 for exempt purposes

46. Finally, the Assessor claims that KCARC failed to show that it exclusively or predominantly used 1972 for charitable or educational purposes during the years at issue. According to the Assessor, "there is no way around the fact that social and recreational activities take place in 1972," making KCARC's alleged failure to provide a comparison of the time it was used for exempt and non-exempt activities fatal to its exemption claim.
47. But context is key. Unlike the social and recreational activities the Assessor points to in *Fraternal Order of Eagles # 3988, Inc. v. Morgan Cnty. Property Tax Assessment Bd. of Appeals*, 5 N.E. 3d 1195 (Ind. Tax Ct. 2014) (gambling, drinking, dancing, karaoke, pool/dart tournaments, and general relaxation), we conclude that the activities taking place at 1972 are part and parcel of KCARC's charitable and educational purposes. Again, KCARC's primary motivation in creating 1972 was to provide an integrated setting where its developmentally disabled clients could interact with the general public to help them learn the social skills necessary to get hired and remain employed. The community events, recreational activities, birthday parties, and family parties occurring at 1972 are therefore not simply social or recreational—they are intended to help KCARC fulfill the charitable and educational purposes for which it was formed. And they happen in a setting KCARC specifically designed for individuals and families with intellectual and developmental disabilities.
48. We recognize that KCARC rented out 1972 for several exclusive events during 2017, 2018, and 2019 that were non-exempt activities. However, we conclude that the amount of time KCARC used 1972 to host those events was de minimis when compared to the total hours it used 1972 for exempt purposes during the year preceding each assessment date under appeal.

49. We start with the 2018 assessment year. The Tax Court has held that a taxpayer's actions in preparing a building to be used for exempt purposes in the future may qualify the building for property tax exemption under Ind. Code § 6-1.1-10-16(a). *Trinity Episcopal Church v. State Bd. of Tax Comm'rs*, 694 N.E.2d 816, 818-19 (Ind. Tax Ct. 1998). In *Trinity*, the church agreed to invest in the property and renovations had been undertaken, but the building remained vacant on the assessment date. *Id.* The Tax Court found that the actions taken by the church at its own expense to prepare it for an exempt use supported the grant of exempt status. *Id.*
50. Here, KCARC went further. It not only invested \$3.2 million into renovating its facility to create a community center where it could provide charitable and educational services to its clients, it completed the renovations and fully-occupied 1972 in November 2017—two months before the January 1, 2018 assessment date. Because KCARC constructively occupied 1972 throughout the year leading up to the assessment date as it worked to renovate 1972, and because that occupancy furthered KCARC's charitable and educational purposes, we conclude that KCARC occupied 1972 exclusively for exempt purposes during the first 10 months of 2017.
51. KCARC's staff and clients also exclusively used 1972 for exempt purposes during the month of November 2017. In December 2017, KCARC hosted a few birthday parties and other gatherings at 1972, including two non-exempt events—private Christmas parties lasting 11.5 hours at most. We have little trouble concluding that those 11.5 hours represent an inconsequential amount of time in comparison to the 11 months KCARC exclusively used 1972 for exempt purposes.
52. Turning to the 2019 assessment year, we start with a calculation of 1972's total hours of operation during 2018. 2018 was the first full year 1972 was open. 1972's public operating hours were Tuesday through Thursday from 11:30 a.m. to 8:00 p.m., and Friday and Saturday from 11:30 a.m. to 9:00 p.m. Additionally, KCARC's clients

attended 1972 Monday through Friday from 8:00 a.m. to 4:00 p.m. On paper, 1972 was therefore open approximately 66.5 hours per week, or 3,458 hours per year. That figure must be reduced by the 6 hours that the non-exempt events held at 1972 prevented KCARC from opening to the public (0.5 hours on 2/3/2018, 0.5 hours on 2/10/2018, and 5 hours on 8/18/2018), resulting in 3,452 total hours of exempt use.

53. On the other side of the equation, KCARC rented out 1972 for non-exempt events on four occasions in 2018—a 4-hour event on February 3rd, a 3-hour party on February 10th, an after-prom of unknown duration on April 29th (a Sunday), and a 5-hour party on August 18th. Unless the after prom continued for more than 22 hours (making total non-exempt usage exceed 34 hours), the number of hours KCARC used 1972 for non-exempt events during 2018 was less than 1% of the 3,452 hours it used 1972 to fulfill its charitable and educational purposes.
54. Analyzing the 2020 assessment year produces similar results. On paper, 1972's total hours of operation during 2019 were the same as 2018—3,458. Reducing that figure by 5 hours for the single non-exempt event that conflicted with 1972's public operating hours results in 3,453 total hours of exempt use. During 2019, KCARC rented out 1972 for exclusive events on two occasions—a 2-hour party on January 20th (a Sunday) and a 5-hour party on August 17th. Thus, the number of hours KCARC used 1972 for non-exempt events during 2019 was approximately 0.002% of the 3,453 hours it used 1972 to accomplish its charitable and educational purposes.
55. Because the amount of time KCARC used 1972 to host non-exempt events was de minimis when compared to the total hours it used 1972 for exempt purposes during the year preceding each assessment date under appeal, we conclude that KCARC exclusively occupied and used 1972 for charitable and educational purposes for the 2018, 2019, and 2020 assessment years.

CONCLUSION

56. Because KCARC proved that it owned and exclusively occupied and used its real property and personal property for charitable and educational purposes during the relevant timeframes, we conclude that it is entitled to a 100% exemption for 2018, 2019, and 2020.

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