

REPRESENTATIVE FOR PETITIONERS: *Pro se*

REPRESENTATIVE FOR RESPONDENT: Michelle Schouten, Starke County Assessor

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Todd and Sarah Lawrence,)	Petition No.: 75-003-20-2-8-00670-20
)	
Petitioner,)	Parcel No.: 75-06-35-101-036.000-003
)	
v.)	County: Starke
)	
Starke County Assessor,)	Assessment Year: 2020
)	
Respondent.)	

March, 19, 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:

Issue

1. Petitioners Todd and Sarah Lawrence were denied an exemption for a property they bought for their church to use for worship services and related activities. Because the Lawrences proved that they owned the property for religious purposes and that their church and congregation occupied and used the property exclusively for those purposes, we find that it is 100% exempt from taxation.

Procedural History

2. The Lawrences applied for an exemption on their property located at 4190 E. 216 S in Knox. The property consisted of two parcels: 75-06-35-101-036.000-003 (“parcel 36”) and 75-06-35-102-017.000-003 (“parcel 17”).

3. On October 12, 2020, the Starke County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Form 120 determination denying an exemption for parcel 36 and finding that it was 100% taxable. The record is silent as to whether the PTABOA issued a determination for parcel 17. The parties did not submit a property record card (“PRC”) for parcel 36, but the Form 120 determination indicates that it encompasses .444 acres. As shown by its PRC, parcel 17 contains 3.33 acres and improvements. In our discussion, we will refer to the larger property comprised of parcels 36 and 17 as the “subject property.” But as explained below, we determine only the appeal before us, which is for parcel 36.
4. The Lawrences timely filed a Form 132 petition for parcel 36 with the Board. On January 20, 2021, our administrative Law Judge, Erik Jones (“ALJ”), held a telephonic hearing on the Lawrences’ petition. Neither he nor the Board inspected the property.
5. The Lawrences appeared *pro se*. Michelle Schouten appeared for the Starke County Assessor. All three were sworn as witnesses.
6. The Lawrences offered the following exhibits, all of which were admitted:

Petitioners’ Exhibit 1	Form 136 Application for Exemption,
Petitioners’ Exhibit 2	Form 120 Notice of Action on Exemption Application,
Petitioners’ Exhibit 3	2019 Property Record Card,
Petitioners’ Exhibit 4	Official Statement of Beliefs, Our Living Church of God,
Petitioners’ Exhibit 5	Amended Bylaws for Our Living Church of God Property,
Petitioners’ Exhibit 6	Ordination Identification Card for Todd Lawrence,
Petitioners’ Exhibit 7	Color Photos of Property, Church Members, and Activities.
7. The Assessor did not offer any exhibits.
8. The record also includes the following:
 - (1) all petitions and other documents filed in this appeal;
 - (2) all orders and notices issued by the Board or our ALJ; and
 - (3) an audio recording of the hearing.

Contentions

A. The Lawrences' Contentions

9. The Lawrences are members of Our Living Church of God of Knox ("the Church"). Todd Lawrence is an ordained minister and Church elder. Before the Lawrences bought the subject property, the Church held its services in rented space at a local community center. Periodic scheduling conflicts, such as weddings, sometimes left the congregation without a place to worship. *T. Lawrence testimony; Pet'r Ex. 6.*
10. The Lawrences bought the subject property, including the church building, from a congregation of Jehovah's Witnesses. The Lawrences' congregation believed the property "fit [the Church's] needs perfectly." The Lawrences felt "blessed to be in a position" to buy the property in their own name as an offering to the Church. They pay the property's utility bills and other expenses. Tithes are sent to the Church's headquarters. According to the Lawrences, private individuals own at least four other churches in Starke county, and none of those properties have lost their exemptions. *T. Lawrence testimony.*
11. Regardless, the Lawrences believe that their documents speak for themselves and that those documents show the subject property is used as a church. The Church's Statement of Fundamental Beliefs outlines both its organizational structure and its biblical and doctrinal foundations. And photographs show religious activities at the property. Since the Lawrences bought the property, their congregation has used it for regular worship services, bible study, and related events. *See Pet'r Exs. 4-5; T. Lawrence testimony and argument.*
12. In response to the Assessor's statement that the PTABOA was troubled by the lack of documents with the Lawrences' application, Todd Lawrence explained that the process was new to the Lawrences and they did not know what they needed to submit. As for the PTABOA's apparent concern that Church membership was not open to the public, he

explained that while membership is restricted to those who profess belief in God, anyone is free to attend services. *T. Lawrence testimony.*

B. The Assessor's contentions

13. The Assessor focused on why the PTABOA denied the exemption, explaining that the Lawrences originally did not provide any documents with their Form 136 application. When the PTABOA asked for documents to support the Lawrences' claim, they provided the property's by-laws¹ as well as copies of personal checks through which they paid its utility bills. Those by-laws were different from the amended by-laws the Lawrences offered at our hearing. The original by-laws indicated that a person had to profess belief in God to be a member of the Church and that membership was not open to the public. *Schouten testimony.*

14. The PTABOA was concerned that the property apparently was not open to the public. It was also concerned that the Church was not its own entity because the Lawrences paid the utility bills, and the PTABOA did not know where any collection money went. Unfortunately, the Lawrences did not appear at the PTABOA's hearing to address those concerns. Although the Assessor acknowledged that some exempt church buildings are held in the names of private individuals, she did not know if the churches themselves also had title. In any case, she explained that the PTABOA looks more closely at applications where a property is privately held. In fact, because granting exemptions shifts the tax burden, the PTABOA looks closely at all exemption applications. Ultimately, the PTABOA felt the Lawrences failed to meet their burden of showing that the property qualified for exemption. *Schouten testimony.*

15. Having heard Todd Lawrence's testimony and seen the exhibits offered at our hearing, the Assessor believed that many of the PTABOA's concerns may have been answered,

¹ Although the document is styled as "by-laws," it does not purport to govern the structure or operation of an organization. The document does refer to the Church and its membership, but it is signed by the Lawrences in their individual capacities and mainly addresses how the property will be used and maintained.

although she could not say whether the PTABOA would have ruled differently had the Lawrences given it that information. *Schouten testimony*.

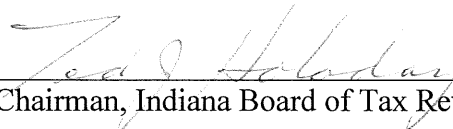
Analysis

16. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cty. Property Tax Assessment Bd. of Appeals v. Oaken Bucket Partners, LLC*, 938 N.E.2d. 654, 657 (Ind. 2010). A taxpayer bears the burden of proving it is entitled to an exemption. *State Bd. of Tax Comm'rs v. New Castle Lodge #147, Loyal Order of Moose, Inc.*, 765 N.E.2d 1257, 1259 (Ind. 2002).
17. Indiana Code § 6-1.1-10-16(a) provides an exemption for all or part of a building that is owned, and exclusively or predominantly used and 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(a), (c). The exemption extends to the land on which the building is situated and to personal property owned and used in such a manner that it would be exempt if it were a building. I.C. § 6-1.1-10-16(c), (e). Unity of ownership, occupancy, and use by a single entity is not required. But each entity must have its own exempt purpose. *Oaken Bucket*, 938 N.E.2d at 657. Once these three elements are met, regardless of by whom, the property is entitled to exemption. *Id.*
18. The Lawrences have shown that they owned the subject property for religious purposes and that the Church and congregation occupied and used it exclusively for those purposes. Todd Lawrence testified that the Lawrences bought the property so the Church could hold worship services and related activities there. There is nothing to show that the Lawrences had any other motive. They did not charge the Church for using the property. To the contrary, they paid utilities and other costs of maintaining the property as an offering to the Church. Similarly, Todd Lawrence's testimony and photographs of Church members using the facility show that the property was used exclusively for worship services and related activities.

19. The Assessor did not dispute those points. Nor did she argue that the Lawrences should be denied an exemption. Instead, she simply explained why the PTABOA denied the exemption on the information it had before it, while acknowledging that the Lawrences' evidence at our hearing might address the PTABOA's concerns. In any case, our hearings are *de novo*. We decide appeals based on the evidence offered before us, not on what was offered below. We therefore find that the parcel under appeal (parcel 36) is 100% exempt from taxation. See I.C. § 6-1.1-10-36.3(c)(1) ("Property that is exclusively used or occupied for one (1) or more of the stated purposes is totally exempt under that section.").

Conclusion

20. The Lawrences proved that the subject property was owned, occupied, and used exclusively for religious purposes. We therefore find that the parcel under appeal (75-06-35-101-036.000-003), which is part of the subject property, is 100% exempt.


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>.