

REPRESENTATIVE FOR PETITIONER: Frank Agostino, Attorney

REPRESENTATIVE FOR RESPONDENT: Beth Henkel, Law Office of Beth Henkel, LLC

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

SLSC, Inc.,	)	
	)	Petition Nos.: 20-026-21-2-8-00493-21
Petitioner,	)	20-026-22-2-8-00441-22
	)	
v.	)	Parcel No.: 20-02-15-126-004.000-026
	)	
Elkhart County Assessor,	)	
	)	Assessment Years: 2021 & 2022
Respondent.	)	
	)	

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**FINAL DETERMINATION**

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

**I. INTRODUCTION**

1. SLSC, Inc. seeks charitable- and educational-purpose exemptions for its property under the general exemption statute (Ind. Code § 6-1.1-10-16(a)). But SLSC failed to prove that it used the property to offer education that was the substantial equivalent of instruction offered by tax-supported educational institutions, as is required for an educational purpose exemption. SLSC similarly failed to prove that its use of the property was predominantly charitable as opposed to social and recreational. We therefore find that the property was 100% taxable for the years under appeal.

## II. PROCEDURAL HISTORY

2. SLSC filed exemption applications with the Elkhart County Property Tax Assessment Board of Appeals (“PTABOA”) for the 2021 and 2022 assessment years. The PTABOA denied the applications and found that the subject property was 100% taxable for both years.
3. SLSC responded by timely filing Form 132 petitions with the Board. On January 24, 2023, our designated administrative law judge, Erik Jones (“ALJ”), held a telephonic hearing on the appeals. Neither he nor the Board inspected the property.
4. David Miller and Tylan Miller were sworn as witnesses and testified.
5. The parties offered the following exhibits:

Petitioner Exhibit 1	Screenshot of Publication 78 data for SLSC,
Petitioner Exhibit 2	2021 Form 990-EZ,
Petitioner Exhibit 3	2020 Form 990-EZ,
Petitioner Exhibit 4	2019 Form 990-EZ,
Petitioner Exhibit 5	2017 Form 990-EZ,
Petitioner Exhibit 6	2018 Form 990-EZ,
Petitioner Exhibit 7	Certificate and Articles of Incorporation for SLSC, Inc.,
Petitioner Exhibit 8	SLSC, Inc. Bylaws,
Petitioner Exhibit 9	Advertisement for Friend’s Kids Fishing Contest,
Petitioner Exhibit 10	Fish stocking permit, dated July 2021,
Petitioner Exhibit 11	Report of Fish Stocked, dated October 2021 with envelope scan,
Petitioner Exhibit 12	2022 property record card (“PRC”) for subject property. <sup>1</sup>
Exhibit R-1	2022 PRC for subject property,
Exhibit R-2	Photographs and advertisements for SLSC Hall Rental web page,
Exhibit R-3	SLSC newsletter and event calendar, dated February 2019,
Exhibit R-4	Simonton Lake Harvest Classic Charity Golf Outing registration form,
Exhibit R-5	Simonton Lake Sportsmen’s Club 5 <sup>th</sup> Annual Fall Ball advertisement and ticket images,
Exhibit R-6	2021 events calendar, posted on SLSC web page,
Exhibit R-7	2022 Firecracker Open Golf Outing advertisement,

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<sup>1</sup> SLSC provided an identical set of exhibits for each year under appeal.

Exhibit R-8      2019 Form 990-EZ,  
Exhibit R-9      Simonton Lake Preservation Trust Form 136 exemption  
                                 application for 2019 tax year.

6. The official record also includes (1) all documents filed by the parties, (2) all orders and notices issued by the Board or ALJ, (3) an audio recording of the hearing, and (4) the parties' post-hearing briefs.

### III. FINDINGS OF FACT

7. The subject property is located in Elkhart near Simonton Lake. It covers approximately 18.20 acres and has four buildings: a main hall, a detached garage, and two small barns or sheds. *D. Miller testimony; Pet'r Ex. 12.*

8. SLSC, Inc., (a/k/a Simonton Lake Sportsman's Club), a public benefit corporation organized under the Indiana Nonprofit Corporation Act of 1991, owns the property. SLSC is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. According to its articles of incorporation, SLSC was organized

exclusively for the following charitable and educational purposes, including, for such purposes, the making of the distribution to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code . . .

(a) To promote and encourage the understanding that proper management of Simonton Lake and its watershed ecosystem must be maintained and to promote sportsmanlike attitudes in concert with understanding and concern for the environment and wildlife.

(b) To perform any purpose for which nonprofit corporations are authorized under the Nonprofit Corporation Act of 1991 ("the Act").

*Pet'r Ex. 7.*

9. SLSC coordinates with representatives from the Department of Natural Resources ("DNR") to balance the lake's fish population. Every two years, SLSC applies for a fish restocking license and stocks the lake in line with the DNR's recommendations. SLSC also monitors the lake, which involves (1) making sure that the proper buoys are out and

that people are “behaving properly,” and (2) picking up trash if asked. *D. Miller testimony; Pet’r Exs. 10-11.*

10. In addition to its work with the DNR and its lake-monitoring activities, SLSC sponsors various other events and activities throughout the year. Those events include:

- Spring and Fall “Turkey Shoots,”
- “Casino Night” gaming events,
- a “Poker Run,”
- a fireworks display,
- a “Fall Ball,”
- two golf scrambles,
- a Christmas party,
- a semi-annual Friend’s Kids Fishing Contest that SLSC’s flyer advertises as “Helping Children Discover the Fun in Fishing,”
- an event where members sit outside a local supermarket and solicit donations to the Oslo Township food pantry, and
- an annual clean-up day where members clean up the subject property.

*D. Miller testimony; Pet’r Ex. 9; Exs. R-2-R-7.*

11. Several of the identified events are fundraisers, mostly for SLSC. In its February 2019 newsletter, SLSC explained that it largely raises funds through events such as the Turkey Shoot, the Poker Run, the Casino Nights, and golf outings. The newsletter further explained that those events contribute to SLSC having sufficient funds for its annual fireworks show, the financing of which is one of SLSC’s “biggest jobs.” Fireworks were by far the largest program-service expense that SLSC listed on its 2019 Form 990-EZ returns and schedules—the only year for which the record includes a breakdown of expenses for SLSC’s program services. *Pet’r Exs. 2-6; Exs. 3, 8.*

12. SLSC also contributes to other charities. It supports the Oslo Township food bank through (1) an event where its members solicit funds outside a local supermarket, (2) the Fall Ball, where it accepts food donations, (3) the Simonton Lake Harvest Charity Golf Outing, where it accepts food donations as well as raises funds for the food bank and the Friend’s Kids fishing contests, and (4) a \$1,000 check in 2019. SLSC also supports the

“Oslo EMS” with food donations from the Fall Ball. *D. Miller testimony; Pet’r Exs. 2-6; Exs. R-4, R-8.*

13. Although SLSC’s president, David Miller, vaguely testified that expenses associated with gaming and fundraising activities listed on SLSC’s federal tax returns included donations to charities, he acknowledged that he did not know how those expenses were broken down. There is no evidence of any specific charitable contributions aside from the food collection at the Fall Ball and the check to the food bank in 2019. But SLSC has previously donated to an organization called Basher Home and to “a couple of other charitable organizations.” It also “occasionally will do a scholarship.” *D. Miller testimony; Pet’r Exs. 2-6; Exs. R-4, R-8.*
  
14. Several of the events and activities that SLSC sponsors, such as the golf outings, the fireworks display, the Poker Run, and the food solicitations outside the local grocery store take place off premises. SLSC hosts the Casino Nights, Christmas party, Fall Ball, and Turkey Shoot at the subject property. The semi-annual Friend’s Kids Fishing Contests start at the property, where SLSC’s members talk to the participants about Lake Simonton’s ecosystem. The contests then move to the lake. SLSC also advertises its hall for reunions, weddings, and corporate events, touting its stage, projector, and big screen. SLSC hosts no more than six of those events per year. Usually, those rentals are to SLSC members or their families. SLSC also uses the property for monthly membership meetings, where members plan the organization’s fundraising events. Finally, members visit the property weekly to check on the building. *D. Miller Testimony; Pet’r Ex. 2; Ex. 3.*

#### IV. CONCLUSIONS OF LAW AND ANALYSIS

**A. SLSC failed to meet its burden of proving that the property was owned, and was predominantly occupied or used, for exempt purposes.**

15. 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). 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). Every exemption appeal “stand[s] on its own facts,” and it is the taxpayer’s duty to walk us through the analysis. *Jamestown Homes of Mishawaka, Inc. v. St. Joseph Cnty. Ass’r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009). Because exemptions relieve properties from bearing their share of the cost of government services, they are strictly construed against taxpayers and in favor of the State. *Indiana Osteopathic Hosp., Inc. v. Dep’t of Local Gov’t Fin.*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). Worthwhile activities or noble purposes alone do not suffice. Rather, a taxpayer must show that the property is being used to provide a benefit that justifies the loss of tax revenue. *See, e.g., Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1265 (Ind. 2006).

16. SLSC claims an exemption under Indiana Code § 6-1.1-10-16(a), which provides an exemption for all or part of a building that is owned, and is exclusively or predominantly occupied and used, for educational, literary, scientific, religious, or charitable purposes. Ind. Code § 6-1.1-10-16(a); I.C. § 6-1.1-10-36.3(c); *Jamestown Homes*, 914 N.E.2d at 15. That 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).
  
17. Under the predominant-use test, a taxpayer must use or occupy a property for exempt purposes during more than 50% of the time that it is used or occupied in the year that ends on the assessment date. I.C. § 6-1.1-10-36.3. 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.”).

18. SLSC claims that it used its property for charitable and educational purposes. We begin with its educational-purpose claim.
  1. SLSC did not show that it used the property to offer education that was the substantial equivalent of instruction offered by tax-supported educational institutions.
19. To qualify for an educational-purpose exemption, a taxpayer must show that it provides a public benefit through educational instruction that is the “substantial equivalent” to that offered by 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 a taxpayer’s activities are to traditional public-school programs, the more obvious the public benefit. But a taxpayer need not offer courses that are directly analogous to such public-school courses; rather, the taxpayer’s offerings simply need to be related to public-school offerings. *Id.* (citing *Trinity School of Natural Health v. Kosciusko Cnty. Prop. Tax Assessment Bd. of App.*, 799 N.E.2d 1234, 1238 (Ind. Tax Ct. 2003)). The taxpayer need only relieve the state’s public education burden to “some limited extent.” *Id.*
20. SLSC failed to meet its burden of proof. Of its numerous activities and events, SLSC identified just four (two for each year) where any education took place: its semi-annual Friend’s Kids Fishing Contests. But SLSC offered no evidence to show that those events were related to public school offerings. It did not offer curricula, outlines, lesson descriptions, or the like; instead, David Miller vaguely testified that SLSC talked to the participants about the lake’s ecosystem, and SLSC offered a flyer that advertised the events as a recreational experience. Even if we were to find that the fishing contests qualified as educational (which we do not), they are dwarfed by the property’s other, non-educational uses.

2. SLSC failed to show that it used the property predominantly for charitable, rather than social or recreational, purposes.
21. Turning to SLSC's charitable-purpose claim, the term "charitable purpose" must be understood in its broadest constitutional sense. *Knox Cnty. Prop. Tax Assessment Bd. of App. 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 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.* at 182.
22. With the exception of renting the hall out to members and their families for weddings and similar events, SLSC claims that everything it does at the subject property or elsewhere qualifies as charitable. We disagree. In the abstract, SLSC's articles of incorporation identify what might qualify as charitable purposes: (1) promoting proper management and maintenance of Simonton Lake and its watershed ecosystem as well as a concern for the environment and wildlife, and (2) donating to other charitable organizations. But few of the specific activities that SLSC identified directly further those purposes. At most, only part of the semi-annual kids' fishing contests, SLSC's bi-annual fish stocking activities, and its members monitoring the lake to pick up trash even arguably further the first stated purpose. As for the second purpose, while SLSC claims that most of its activities amount to charitable fundraising, it identified only three events that were directly connected to raising funds or donations for other charitable entities: the Fall Ball, where SLSC collected food donations for the Oslo EMS and the Oslo Township food bank, one of the golf outings where SLSC raised money and accepted food donations for the food bank, and an event where members solicited contributions to the food bank outside a local grocery store.
23. Indeed, most of the events SLSC identified were designed to raise funds for SLSC's own activities. Although SLSC argues that all of its fundraisers benefit other charities, the evidence it offered does not support that claim. To the contrary, SLSC identified only



one concrete donation: a \$1,000 check to the Oslo Township food bank in 2019. The only other evidence of donations was David Miller's testimony about unspecified donations to Basher Home and to "a couple of other charitable organizations," as well as his testimony that SLSC "occasionally will do a scholarship."

24. If SLSC exclusively or predominantly engaged in activities that qualified as charitable within the meaning of the exemption statute, its argument that the fundraisers themselves were charitable activities might have merit. But SLSC offered little to show how its activities relieve human want or provide a benefit inuring to the general public sufficient to justify the loss of tax revenue. To the contrary, several of SLSC's activities, including the Christmas party and the fireworks display, the financing of which is one of SLSC's "biggest jobs," are primarily social and recreational. While providing those services to the public may be a noble endeavor, it is not charitable within the meaning of the exemption statute. Without far more detailed evidence, we cannot find that SLSC's few charitable activities predominated over the non-exempt ones and that its fundraisers were therefore predominantly charitable.
  
25. Thus, of the events that SLSC identified as having occurred at the subject property during each year at issue, only three had a component that might qualify as charitable under the exemption statute: the Fall Ball and the semi-annual fishing contests. The remaining activities at the property—SLSC's own fundraising events, its Christmas party, and the rentals to members and their families—do not qualify as charitable. SLSC also hosted monthly membership meetings at the property. It did not describe what those meetings involved, other than that members used them to plan SLSC's fundraisers. But as explained above, most of those fundraisers were to finance SLSC's own operations, which were not predominantly charitable. SLSC therefore failed to show that its monthly membership meetings qualified as a charitable use. And the remaining "uses" of the property that SLSC identified—members cleaning up the property and checking on the building—simply involve maintaining the property. They do not qualify as uses at all, much less charitable ones.

26. SLSC disagrees, analogizing its use of the subject property to *McClain Museum, Inc. v. Madison Cnty. Ass'r* 134 N.E.3d 1096 (Ind. Tax Ct. 2019), where the Tax Court found that portions of a property used, among other things, to collect, restore, and display military artifacts qualified for a charitable-purpose exemption. *McClain Museum*, 134 N.E.3d 1096, 1103-06 (Ind. Tax Ct. 2019). The Court found that those portions of the property qualified for an exemption because they provided a “place where members of the general public can learn about our country’s military history and heritage as well as pay homage to its veterans and their families for the sacrifices they made in defending our freedoms,” and because its activities “enhance[d] the public’s knowledge and understanding of a part of the American experience.” *Id.* at 1104. The Court, however, held that the taxpayer failed to show that other portions of the property, including those that the taxpayer rented out for boat storage or social events, were used predominantly for charitable purposes. *Id.* at 1105.
27. SLSC’s activities differ fundamentally from the taxpayer in *McClain Museum’s* efforts to preserve our country’s military history. Instead, the evidence before us shows that SLSC operates more like a lodge or club that provides social and recreational activities but that also engages in some limited charitable fundraising. Indiana courts have rejected exemption claims from those types of organizations where the organizations did not show that the charitable activities at their properties predominated over social and recreational ones. *See, e.g., Whitelick Ind. Aerie 3702 Fraternal Order of Eagles, Inc. v. Hendricks Cnty. Prop. Tax Assessment Bd. of App.*, 82 N.E.3d 940, 950-51 (Ind. Tax Ct. 2017); *Fraternal Order of Eagles #3988, Inc. v. Morgan Cnty. Prop. Tax Assessment Bd. of App.*, 5 N.E.3d 1195, 1202 (Ind. Tax Ct. 2014).
28. We recognize that SLSC was granted an exemption from federal income taxation under section 501(c)(3) of the Internal Revenue Code. By itself, however, that fact does little to show that SLSC used the property predominantly for charitable purposes. Neither the Legislature nor Indiana’s courts have adopted the Internal Revenue Service’s guidelines for determining whether an organization qualifies for exemption under section 501(c)(3)

as the test for determining an organization's charitable status for state tax purposes. *See Raintree Friends Housing, Inc. v. Ind. Dep't of State Revenue*, 667 N.E.2d 810, 816 n. 8 (rejecting the Indiana Department of Revenue's argument that IRS guidelines represented the appropriate test for determining whether taxpayer was a charitable organization for state income tax purposes); *see also, NAME*, 671 N.E.2d. at 220-222 (denying taxpayer a charitable-purposes exemption despite the fact that it was exempt under 501(c)(3)).

29. Thus, based on the evidence as a whole, SLSC failed to prove that the subject property was owned, and was predominantly used or occupied, for charitable purposes.

#### V. CONCLUSION

30. Because SLSC failed to prove that its property was owned, and predominantly used or occupied, for charitable or educational purposes, we find that it is not entitled to an exemption. The property is therefore 100% taxable for each year under appeal.

Date: MAY 23, 2023

  
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>.