

REPRESENTATIVE FOR PETITIONER:

Robert Leirer Justice, Esq.

REPRESENTATIVES FOR RESPONDENT:

Sharon Campbell, Eel Township Deputy Assessor

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Centro Christiano Bethel	)	Petition Nos.: 09-009-02-3-5-00001
	)	09-009-02-3-5-00002
	)	09-009-02-3-5-00003
Petitioner,	)	09-009-02-3-5-00004
	)	09-009-02-3-5-00005
	)	09-009-03-3-5-00001
	)	09-009-03-3-5-00002
v.	)	09-009-03-3-5-00003
	)	09-009-03-3-5-00004
	)	09-009-03-3-5-00005
	)	
Eel Township Assessor and	)	Parcel Nos.: 02514139002
Cass County Property Tax	)	02514139005
Assessment Board of Appeals	)	02514139006
	)	02514139007
	)	02514139008
Respondent.	)	
	)	County: Cass
	)	Townships: Eel
	)	
	)	Assessment Year: 2002 and 2003

Appeal from the Final Determination of  
Lake County Property Tax Assessment Board of Appeals

**February 2, 2007**

**FINAL DETERMINATION**

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

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The issue presented for consideration by the Board is whether the subject properties should be granted a religious use exemption under Ind. Code § 6-1.1-10-16 despite the Petitioner's failure to timely file an exemption application.

### **Procedural History**

2. On January 25, 2005, Robert Leirer Justice filed Petitions for Correction of Error, Form 133, for five parcels with Cass County. The Cass County Property Tax Assessment Board of Appeals (PTABOA) issued its determinations denying the requests for exemption and finding that all of the parcels are 100% taxable on February 9, 2005. On March 1, 2005, pursuant to Ind. Code § 6-1.1-15-12, the Petitioner filed its Petitions for Correction of Error, Form 133s, petitioning the Board to conduct an administrative review of the properties' 2002 and 2003 assessment.

### **Hearing Facts and Other Matters of Record**

3. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, Carol S. Comer, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-3-3 and § 6-1.5-5-2 held a hearing on November 2, 2006, in Logansport, Indiana.
4. The following persons were sworn as witnesses at the hearing:

For the Petitioner:

Susan Kelley, Local Real Estate Agent  
Maria Perea, Pastor's Wife  
Gerardo Perea, Church Pastor  
Gabriela Osornio, Church Secretary

For the Respondent:

Judy Lewis, Cass County Assessor/PTABOA Member  
Sharon Campbell, Eel Township Deputy Assessor

5. The Petitioner submitted the following evidence:

Petitioner Exhibit 1 – Binder containing documents evidencing taxes paid in 2002, 2003, 2004, 2005 and 2006 and evidencing non-profit exemption granted for tax year 2004 effective 2005,  
Petitioner Exhibit 2 – Copy of Centro Christiano Bylaws.

6. The Respondent submitted no evidence.

7. The following additional items are officially recognized as part of the record of the proceedings and labeled Board Exhibits:

Board Exhibit A – Form 133 petitions with attachments,  
Board Exhibit B – Notices of Hearing on Petition,

8. The Board requested the parties submit post-hearing briefs within thirty days of the hearing. The Petitioner submitted its post-hearing brief dated November 30, 2006. The Respondent submitted its post hearing summary dated November 13, 2006.

9. The subject properties are five contiguous parcels and a church building located at 2000 Erie Avenue, Logansport, in Eel Township, Cass County.

10. The ALJ did not conduct an on-site visit of the property.

11. For 2002 and 2003, the Eel Township Assessor assessed the subject properties to be \$1,500 for the land for Parcel No. 09-009-02-3-5-00001 (Parcel 1); \$4,600 for the land for Parcel No. 09-009-02-3-5-00002 (Parcel 2); \$800 for the land for Parcel No. 09-009-02-3-5-00003 (Parcel 3); \$20,300 for the land and \$26,500 for the improvements, for a total of \$46,800 for Parcel No. 09-009-02-3-5-00004 (Parcel 4); and \$29,600 for the land and \$99,400 for the improvements, for a total of \$129,000 for Parcel No. 09-009-02-3-5-00005 (Parcel 5).

12. The Petitioner contends that the parcels should be 100% tax-exempt.

## **Jurisdictional Framework**

13. The Indiana Board is charged with conducting an impartial review of all appeals concerning the assessed valuation of tangible property, property tax deductions, and property tax exemptions that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

## **Administrative Review and Petitioner's Burden**

14. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
15. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
16. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.; Meridian Towers*, 805 N.E.2d at 479.

### **Basis of Exemption and Burden**

17. The General Assembly may exempt property used for municipal, educational, literary, scientific, religious, or charitable purposes from property taxation. Ind. Const., Art. 10, § 1. This provision is not self-enacting. The General Assembly must enact legislation granting an exemption.
18. All property receives protection, security, and services from the government, such as fire and police protection, and public schools. These governmental services carry with them a corresponding obligation of pecuniary support in the form of taxation. When property is exempt from taxation, the effect is to shift the amount of taxes it would have paid to other parcels that are not exempt. *See generally, National Association of Miniature Enthusiasts v. State Board of Tax Commissioners*, 671 N.E.2d 218 (Ind. Tax Ct. 1996).
19. Worthwhile activity or noble purpose alone is not enough. An exemption is justified because it helps accomplish some public purpose. *Miniature Enthusiasts*, 671 N.E.2d 220 (citing *Foursquare Tabernacle Church of God in Christ v. State Board of Tax Commissioners*, 550 N.E.2d 850, 854 (Ind. Tax Ct. 1990)).
20. 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 statutory authority for the exemption. *Indianapolis Osteopathic Hospital, Inc. v. Department of Local Government Finance*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004); *Monarch Steel v. State Board of Tax Commissioners*, 611 N.E.2d 708, 714 (Ind. Tax Ct. 1993); *Indiana Association of Seventh Day Adventists v. State Board of Tax Commissioners*, 512 N.E.2d 936, 938 (Ind. Tax Ct. 1987).

### **Petitioner's Contentions**

21. The Petitioner contends that the five properties at issue are exempt under Ind. Code § 6-1.1-10-16 because the parcels are used for religious purposes. *Justice argument.*

According to the Petitioner, there is no question that Centro Christiana Bethel is entitled to a charitable exemption and was entitled at the time of the assessment. *Id.* The subject properties are church property where services are being conducted and church activities in the building are occurring.

22. The Petitioner admits that it failed to file a Form 136 application for exemption until 2004, but argues that it was led to believe it had properly applied for an exemption when the wife of the minister, Maria Perea, and the real estate agent that had assisted the Petitioner with the purchase of the church property, Susan Kelley, went to the auditor's office in 2001 to apply for a homestead exemption for the minister and his wife and inquired about a charitable exemption for the church property. *Justice argument.*
23. Ms. Kelley testified that she and Ms. Perea went to the Cass County Auditor's office with the intention of applying for a charitable exemption around June 4, 2001. *Kelley testimony.* At that time, the auditor's staff asked detailed questions regarding the property. *Id.* According to Ms. Kelley, when she and Ms. Perea left the Auditor's office they believed that they had obtained an exemption for the properties. *Id.*
24. Ms. Perea similarly testified that while she and Susan Kelley were in the Auditor's office, Ms. Kelley asked if the church had a charitable exemption. *M. Perea testimony.* According to Ms. Perea, an employee of the Auditor reviewed the files and determined that the properties did not have an exemption at that time.<sup>1</sup> *Id.* Ms. Perea further testified that the Auditor's staff then asked a series of questions regarding the properties which she answered. *Id.* According to Ms. Perea, at no time did the staff person ever suggest that a form needed to be filed. *Id.* Nor did the staff person ever provide a form for applying for the exemption. *Id.* Ms. Perea testified that she and Ms. Kelley left the auditor's office after about a half hour believing that they had obtained the exemption. *Id.*

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<sup>1</sup> In its brief, the Petitioner explains that, while the property had formerly been the Christian Heritage Church of God, the property was sold to Harmon Hirschberg in 2001. *Petitioner Centro Christiano Bethel's Post-Hearing Brief* (Pet'r. Brief) at 2. Mr. Hirschberg sold the property to the Petitioner on March 12, 2001. *Id.* Because the property had been church property and exempt in 2000, however, no taxes were due in 2001. *Id.*

25. The Petitioner contends that the church had no notice that it did not, in fact, obtain an exemption until it received the 2002 and 2003 tax bills in 2004. *Kelley testimony*; *M. Perea testimony*. According to the Petitioner's secretary/treasurer, Gabriela Osornio, the Petitioner paid \$9,393.03 in taxes prior to obtaining its exempt status. *Osornio testimony*.
26. In its brief, the Petitioner argues that Indiana's property tax law and procedures changed drastically in the period from 1998 to 2002. *Petitioner Centro Christiano Bethel's Post-Hearing Brief* (Pet'r. Brief) at 2. Consequently, according to the Petitioner, even public officials were confused and uncertain as to procedures, forms and regulations. *Id.* Because no Form 136 was provided by the Deputy Auditor for signature, no form was filed and, therefore, no exemption was granted. Pet'r. Brief at 3. The Petitioner argues that this is an "error of omission" by the Auditor and that such an error requires correction pursuant to Ind. Code § 6-1.1-15-12. *Id.*
27. The Petitioner further contends that Cass County and Eel Township are estopped from denying the exemption because of incorrect information given to the Petitioner. Pet'r. Brief at 4. The Petitioner argues that "where the taxpayers were unfamiliar both with the requirements of real estate ownership and the language the officials spoke and where recent changes in the law and procedures had created considerable confusion, estoppel is appropriate."<sup>2</sup> *Id.*; (citing *Equicor Development, Inc. v. Westfield-Washington Township Planning Commission*, 758 N.E. 2d 34, 39 (Ind. 2001)).
28. Finally, the Petitioner argues that PL 228-2005 provides that if a religious institution files an application under Ind. Code § 6-1.1-11 before May 11, 2005, for exemption from taxes due in 2001 and 2002, the exemption is retroactive. Pet'r. Brief at 5. According to the Petitioner, to qualify, a property must have been acquired after December 31, 1998, and must have been exempt from taxes payable in 2000. *Id.* Here, the Petitioner argues that the properties were purchased in 2001, an application for exemption was filed on

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<sup>2</sup> The Petitioner contends that, because English is a second language for Mr. and Ms. Perea, estoppel should be applied. To the extent that unfamiliarity with the English language could ever excuse a Petitioner's failure to properly file for an exemption, however, we note that any language barrier was remedied by the presence of Ms. Kelley at the Auditor's office.

March 28, 2004 (and refiled February 10, 2005), and the properties were exempt from taxes payable in 2000 because the properties had been a church in 1999. *Id.*

### **Respondent's Contentions**

29. The Respondent contends that the properties lost their religious exemption when the properties were sold to Mr. Hirschberg. *Lewis testimony*. According to Ms. Lewis, the Petitioner failed to file for an exemption for its church and, therefore, the properties continued to be assessed as non-exempt properties. *Id.* The Respondent contends that it followed the law when it denied the Petitioner's Petition for Correction of Error. *Id.*

### **Analysis of the Issue**

30. The parties agree that the five parcels under appeal are owned, occupied and used for an exempt purpose. In fact, the properties are presently exempt. The parties also agree, however, that no Form 136 applications for exemption were timely filed on the properties for the 2002 and 2003 assessment years. Thus, the issue for the Board is whether a taxpayer that believes it has applied for an exemption by answering the detailed questions of a member of the Auditor's staff can be excused from a timely filing of its application for exemption.
31. "Generally, reliance on misinformation provided by a government employee is not a basis for estoppel because the government could be precluded from functioning if it were bound by its employees' unauthorized representations." *Nat'l. Salvage & Service Corp. v. Ind. Dep't. of Env. Mgmt.*, 571 N.E.2d 548, 556 (Ind. Ct. App. 1991). This is especially the case "where the unauthorized acts of public officials somehow implicate government spending powers." *Cablevision of Chicago v. Colby Cable Corp.*, 417 N.E.2d 348, 354 (Ind. 1981).



32. The Petitioner cites to *Equicor Development, Inc. v. The Westfield-Washington Township Plan Commission*, 758 N.E.2d 34 (Ind. 2001) to argue that “where the taxpayers were unfamiliar both with the requirements of real estate ownership and the language the officials spoke and where recent changes in the law and procedures had created considerable confusion, estoppel is appropriate.” In that case, the plaintiff sought to have a plat approved by the planning commission. 758 N.E.2d at 39. Although the planning commission suggested other changes in the plat, it failed to raise any issue with the plat’s parking. *Id.* Approval was later denied by the planning commission due to the plaintiff’s failure to designate proper parking. *Id.* The Supreme Court overturned the decision to deny approval on the basis that the defect was a “formal defect.” *Id.* According to the Court, “[r]aising a formal defect such as failure to designate these visible, if undesignated, spaces at the last moment permits agencies to fumble endlessly with proposals that are entirely lawful.” *Id.* The Court determined that “[u]nder these circumstances, the Plan Commission’s failure to object to the undesignated spaces resulted in Equicor’s detrimental reliance thereon and, therefore, estoppel is appropriate in this case.” *Id.*
33. We believe the better case is *Middleton Motors, Inc. v. Ind. Dep’t. of State Revenue*, 380 N.E.2d 79 (Ind. 1978). In that case the plaintiff was informed by the deputy director of the revenue department that it had two years from the payment of a tax to file to reclaim any excess assessment. 380 N.E.2d at 80. Ind. Code § 6-2-1-19 at that time, however, precluded the taxpayer from a judicial forum if the taxpayer failed to comply with a three month filing requirement. *Id.* The Court held that “[w]hen the legislature enacts procedures and timetables which act as a precedent to the exercise of some right or remedy, those procedures cannot be circumvented by the unauthorized acts and statements of officers, agents or staff of the various departments of our state government.” *Id.* at 81. The Court found that Middleton’s reliance upon the deputy director’s representation was unjustified and, therefore, the trial court properly dismissed the case for lack of jurisdiction. *Id.* See also *Turner Transportation, Inc. v. Ind. Employment Security Bd.*, 448 N.E.2d 300 (Ind. Ct. App. 1983) (citing *Boswell v. Abex*

*Corp.* 317 So.2d 317 (Ala. 1975)(“Taxpayers have no vested right to rely upon an erroneous interpretation of the statute exempting them from taxation ... The reason for this rule is that in the assessment and collection of taxes, the State is acting in its governmental capacity and it cannot be estopped with reference to the enforcement of taxes, even when the taxpayer was advised that it was not responsible for a tax. Were this not the rule the taxing officials could waive most of the State’s revenue.”)

34. Here, in order for the properties to be exempt from taxation, the Petitioner was required to file an application for exemption before May 15<sup>th</sup> of the assessment year. *See* Ind. Code § 6-1.1-11-3(a) (2002) (“The owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the auditor of the county in which the property is located. The application must be filed annually on or before May 15 on forms prescribed by the state board of tax commissioners.”) Witnesses for the Petitioner testified that they inquired about filing for a property tax exemption for the properties and were asked a series of questions by a member of the Auditor’s staff. According to the witnesses, they left the office under the impression that an exemption had been obtained.
35. In its Brief, the Petitioner claims that the Auditor’s office made an affirmative representation. Pet’r. Brief at 4 (“here there was an *affirmative representation* that nothing else remained to be done”) (emphasis in original). The Brief characterizes that “affirmative representation” as “it is as though a taxpayer comes to the Auditor’s office and asks for the Form 136 to obtain a charitable exemption and is told in no uncertain terms that *no form is required.*” *Id.* The Brief, however, never states that the Petitioner or its representatives were, in fact, told “no form is required.” Further, the testimony of the Petitioner’s witnesses clearly indicates that at no time was any such representation made by the Auditor’s staff. In the hearing, Mr. Justice asked Ms. Kelley “Was information taken by the Auditor’s staff about the property on Erie Avenue?” and she replied “Yes there was.” He further inquired “Was it entered into a computer or something?” to which she responded “I don’t know. They usually just stand there and

write things down.” Later Mr. Justice asked “If you would have thought there were things that needed to be done, forms that needed to be filled out, information that needed to be given to get that charitable exemption would you have left without doing it?” Ms. Kelley answered, “No, I would not and I would have helped her, assisted her in doing that.” Similarly, when Mr. Justice asked Ms. Perea about the exemption, Ms. Perea testified that “Susan Kelley brought it up and she asked the lady if we get the exemption and then she went to the files and looked at it and she said no they didn’t, so she started asking questions.” Mr. Justice again asked “Did you answer all of the questions?” and “Did you do everything that she asked you to do?” Ms. Perea responded yes to both questions. Finally, Mr. Justice asked “did she ever tell you that you needed to file a form?” and Ms. Perea answered “No, she didn’t give us any paper to file.” Thus, it is clear that no affirmative representation was made that no form was required to file for an exemption or that the Petitioner had successfully applied for an exemption.

36. Even if the Auditor’s staff had affirmatively told the Petitioner that “no Form 136 needed to be filed to obtain the exemption,” it still would not bind the state. “The government could scarcely function if it were bound by its employees’ unauthorized representations.” *Glaser v. Ind. St. Dep’t. of Public Welfare*, 512 N.E.2d 1128, 1131 (Ind. Ct. App. 1987) (“Even detrimental reliance on misinformation obtained from a seemingly authorized government agent will not excuse a failure to qualify for the benefits under the relevant statutes and regulations.”) (citing *Gressley v. California*, 609 F.2d 1265 (7<sup>th</sup> Cir. 1979)). In *Middleton Motors*, the plaintiff was affirmatively given misinformation regarding its filing and the Indiana Supreme Court declined to apply the doctrine of estoppel in that case. Here, the Petitioner was given no such misinformation. The Petitioner’s situation is an unfortunate misunderstanding and, while we sympathize with the Petitioner, we cannot simply ignore the filing requirements on the basis of an undocumented conversation with a member of the Auditor’s staff. See *Nat’l. Salvage & Service Corp. v. Ind. Dep’t. of Env. Mgmt.*, 571 N.E. 2d 548, 556 (Ind. Ct. App. 1991) (Where a witness for National Salvage testified regarding an “unmemorialized, unwitnessed conversation” with an IDEM employee, the Court of Appeals found that “[I]n Indiana, uncontroverted

evidence is not necessarily binding on the trier of fact. It may be disbelieved and given no weight.”)

37. Further, courts are “hesitant to allow an estoppel in those cases where the party claiming to have been ignorant of the facts had access to the correct information.” *Cablevision of Chicago*, 417 N.E. 2d at 355. Even if we were to find that the conversation between Ms. Perea and the Auditor’s staff was sufficient to form the basis of justifiable reliance, the Indiana Code provisions applicable to the exemption filing contradict that understanding. During the time period relevant to this appeal, Ind. Code § 6-1.1-11-3(a), required that an exemption application be filed “on forms prescribed by the state board of tax commissioners.” Similarly, in subsection b, signature on that application was required by the owner of the property or a person with an executed power of attorney. *See also* Ind. Code §(c) (“An exemption application which is required under this chapter shall contain the following information: (1) A description of the property claimed to be exempt in sufficient detail to afford identification. (2) A statement showing the ownership, possession, and use of the property. (3) The grounds for claiming the exemption. (4) The full name and address of the applicant. (5) Any additional information which the state board of tax commissioners may require.”) Thus, there is no question that a paper application with a party’s signature was required under the applicable statute. Nothing in the statute would allow filing by merely answering questions verbally. The Petitioner is charged with knowledge of the statute’s content and requirements. *See Simon v. Auburn, Bd. of Zoning Appeals*, 519 N.E.2d 205, 215 (Ind. Ct. App. 1988) (plaintiff is charged with knowledge of the law, so laches barred attack on zoning ordinance).
38. Thus, the Petitioner’s estoppel argument is insufficient to raise a prima facie case that it is entitled to an exemption on the subject properties. To hold otherwise would allow an entity that failed to timely file an application and waived its exemption to reclaim that exemption years later by merely alleging that it asked the Auditor about filing for an exemption. *See Gulf Stream Coach, Inc. v. State Bd. of Tax Comm’rs*, 519 N.E.2d 238, 242 (Ind. Tax Ct. 1988) (A taxpayer who otherwise qualifies for an exemption can waive

it by failing to follow proper procedure to obtain the exemption). Local units of government require a more secure method of funding their budgets than the Petitioner's proposal would allow.

39. The Petitioner also argues that remedial legislation applies to retroactively allow the exemption based upon the Petitioner's later application for exemption. According to the Petitioner, P.L. 228-2005 provides that if a religious institution files an application under Ind. Code § 6-1.1-11 before May 11, 2005, for exemption from taxes due in 2001 and 2002, the exemption is retroactive. Pet'r. Brief at 5. According to the Petitioner, to qualify, a property must have been acquired after December 31, 1998, and must have been exempt from taxes payable in 2000. *Id.* Here, the Petitioner argues, the property was purchased in 2001, an application for exemption was filed on March 28, 2004, (and refiled February 10, 2005), and the property was exempt from taxes payable in 2000 because the properties had been a church in 1999. *Id.* The Petitioner's reliance on Section 36 of P.L. 228-2005 is misplaced. On its face, that legislation addresses "taxes first due and payable in 2001 and 2002." Thus, the remedial legislation only addresses the 2000 and 2001 assessment years. *See* Ind. Code § 6-1.1-22.9(a) ("...property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.") Here, the Petitioner seeks an exemption for 2002 and 2003.
40. The Petitioner also cites to Section 37 of P.L. 228-2005 which provides that "where property is acquired after December 31, 1999, and was exempt from taxes payable after December 31, 1999, it is exempt from taxes payable in 2004 and 2005."<sup>3</sup> Pet'r. Brief at 5. Here, we note that the property had lost its exemption when the Christian Heritage Church of God sold the property to Harmon Hirschberg. Thus, while the properties may have been exempt from taxes payable in 2000, the properties thereafter lost that exemption. To adopt the Petitioner's argument would be to interpret the legislation to

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<sup>3</sup> Typically, taxes are due and payable in the year following the assessment year. *See* Ind. Code § 6-1.1-22.9(a). Thus, on its face, this statute would apply to the 2003 and 2004 assessment years. Here, however, the undisputed testimony is that the Petitioner received a tax bill in 2004 for both the 2002 and 2003 assessment years. Therefore, the Act arguably applies to both the assessment years at issue in this appeal.

allow a property that had no exempt use prior to the Petitioner's ownership to regain its exemption without proper application. This, however, provides no fair notice to the Auditor that an exemption may be warranted on a property and puts too great a burden on that office to anticipate a property's future use. This we decline to do. As we noted above, local units of government require a more secure method of funding their budgets than the Petitioner's proposal would allow.

### **Summary of Final Determination**

41. The Petitioner failed to raise a prima facie case that the subject properties are entitled to an exemption. The Board finds for the Respondent.

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

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Commissioner, Indiana Board of Tax Review

## **IMPORTANT NOTICE**

### **- APPEAL RIGHTS-**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.**