

REPRESENTATIVE FOR PETITIONER:  
Chris Norris, Treasurer, Converse Church of Christ

REPRESENTATIVES FOR RESPONDENT:  
Nancy Hardwick-Gates, Miami County Assessor  
Jerry Butler, Member, Property Tax Assessment Board of Appeals  
Frederick J. Wouster, Member, Property Tax Assessment Board of Appeals

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

CONVERSE CHURCH	)	Petition No.:	52-011-05-2-8-00001
OF CHRIST	)	Parcel:	011-19217-00
	)		
Petitioner,	)		
	)		
v.	)	County:	Miami
	)	Township:	Jackson
MIAMI COUNTY	)		
PROPERTY TAX ASSESSMENT	)		
BOARD OF APPEALS,	)	Assessment Year:	2005
	)		
Respondent.	)		

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Appeal from the Final Determination of  
Miami Property Tax Assessment Board of Appeals

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**August 7, 2006**

**FINAL DETERMINATION**

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

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issue

*Whether the subject property qualifies for an exemption under Ind. Code § 6-1.1-10-16 based on religious or charitable purposes?*

### Procedural History

1. Pursuant to Ind. Code § 6-1.1-11-7, Chris Norris, on behalf of Converse Church of Christ (Petitioner) filed a Form 132 Petition for Review of Exemption on August 22, 2005, petitioning the Board to conduct an administrative review of the above petition. The determination of the Miami County Property Tax Assessment Board of Appeals (PTABOA) was issued on July 29, 2005.

### Hearing Facts and Other Matters of Record

2. Pursuant to Ind. Code § 6-1.1-15-4 and § 6-1.5-4-1, a hearing was held on June 13, 2006, in Peru, Indiana, before the duly designated Administrative Law Judge (the ALJ) Dalene McMillen, authorized by the Board under Ind. Code § 6-1.5-3-3 and § 6-1.5-5-2.
3. The following persons were sworn as witnesses and presented testimony at the hearing:

For the Petitioner:

Chris Norris, Treasurer, Converse Church of Christ

For the Respondent:

Nancy Hardwick-Gates, Miami County Assessor  
Jerry Butler, PTABOA Member  
Frederick J. Wouster, PTABOA Member

4. Neither party submitted exhibits for review.
5. The following additional items are officially recognized as part of the record of the proceedings and labeled Board Exhibits:

Board Exhibit A – Form 132 petition with attachments,

Board Exhibit B – Notice of Hearing on Petition,  
Board Exhibit C – Order Regarding Conduct of Exemption Hearing,  
Board Exhibit D – Hearing sign-in sheet.

6. The subject property is a 1,568 square foot single family residence with a 576 square foot detached garage on a 66 foot by 132 foot lot, located at 106 North Washington Street, Converse, Jackson Township, Miami County.
7. The ALJ did not conduct an on-site inspection of the subject property.
8. For 2005, the PTABOA denied the Petitioner’s request for an exemption and determined both the land and the improvements on the subject property to be 100% taxable.
9. For 2005, the Petitioner is requesting a 100% exemption for the land and improvements on the property.

#### **Jurisdictional Framework**

10. The Indiana Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; and (3) 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.

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

11. 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.

12. 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).
13. Worthwhile activity or noble purpose alone is not enough. An exemption is justified because it helps accomplish some public purpose. *Miniature Enthusiast*, 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)).
14. 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).

### **Discussion of Issue**

*Whether the property qualifies for an exemption under Ind. Code § 6-1.1-10-16 based on religious or charitable purposes?*

15. The Petitioner contends that the land and improvements at issue should be 100% exempt from property taxation because the property was purchased for future use by the church. *Norris testimony*. According to the Petitioner, the church is recognized as exempt from taxation under Section 501 of the Internal Revenue Code. *Id.* The Petitioner testified that, although the church has no definite plans for the use of the subject property at this time, some possible uses in the future might be classrooms for Sunday school, a

parsonage, or tearing down the existing improvements in order to expand, and thus furthering the activities of the church. *Id.* In the meantime, the Petitioner testified, the property was rented to the church janitor for use as temporary housing from June 2005 through April 2006, for \$300 per month. *Id.*

21. The Respondent testified that it denied the exemption because, even though the Petitioner had checked off that it was religious and a religious exemption, an employee of the church that was not part of the pastoral staff was living in the house in exchange for doing work for the church. *Butler testimony.*

### **Analysis of the Issue**

22. The Petitioner is seeking an exemption under Ind. Code § 6-1.1-10-16 for religious or charitable purposes. *Norris testimony; Board Exhibit A.* Indiana Code § 6-1.1-10-16 states that “All or part of a building is exempt from property taxation if it is owned, occupied, and used by person for educational, literary, scientific, religious, or charitable purposes.” Further, pursuant to Indiana Code § 6-1.1-10-21, a “building that is used for religious worship”; the “pews and furniture contained within a building that is used for religious worship”; and the “tract of land upon which a building that is used for worship is situated” is exempt from property taxation if it is owned by or held in trust for the use of, a church or religious society. Ind. Code § 6-1.1-10-21(a). In addition, “a building that is used as a parsonage” and the “tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated” is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society. Ind. Code § 6-1.1-10-21(b).
23. Here, while the property was owned by the Petitioner, it was not occupied or used for religious purposes by the Petitioner as of the date of the application for exemption.

*Norris testimony*.<sup>1</sup> More importantly, the Petitioner testified that the church has no definite plans as to how the property will be used in the future. *Id.* We find the fact that the property may be used as a parsonage or to hold Sunday school classes in the future to be insufficient to support an exemption. Mere ownership by a church is insufficient to exempt the property from taxation, there must be an intent to use the property for an exempt purpose and that “intent ... must be more than a mere dream.” *Trinity Episcopal Church v. State Bd. of Tax Comm'rs*, 694 N.E.2d 816, 818 (Ind. Tax Ct. 1998) (internal citations omitted). *See also, Foursquare Tabernacle Church of God in Christ v. State Bd. of Tax Review*, 550 N.E.2d 850, (Ind. Tax Ct. 1990) (“Generally, exemptions are granted when there is an expectation of a benefit which will inure to the public by reason of the exemption. ... It would not serve any purpose to grant an exemption for property merely owned by a church, with no reasonable expectation of the property ever being used for its intended purpose. The public does not derive any benefit from property which is not being used or taxed”).

24. In the case at bar, the taxpayer bears the responsibility of proving that the property is entitled to an exemption status by showing that the property falls specifically within the statute under which the exemption is being claimed. *Indianapolis Osteopathic Hospital, Inc.*, 818 N.E.2d 1009 (Ind. Tax Ct. 2004). Though the Petitioner sought exemption status under Ind. Code § 6-1.1-10-16, the Petitioner failed to show that the property was owned, occupied and used for religious or charitable purposes. Thus, the Petitioners failed to meet the required burden.

25. Where the Petitioner has not supported his claim with probative evidence, the Respondent’s duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Industries v. Department of Local Government Finance*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

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<sup>1</sup> Further, the property was not being rented to the church’s janitor at the assessment date. To the extent that renting the property to an employee of the church can be considered a charitable purpose, however, the Petitioner did not testify that providing housing assists the church in its maintenance or cleaning requirements or that the money the employee paid to the church was used to further church purposes.

### **Summary of Final Determination**

26. The Petitioner failed to establish a prima facie case showing that the subject property qualifies for exemption status. The Board finds in favor of the Respondent. Therefore, the subject property is determined to be 100% taxable as of March 1, 2005.

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>.**