

REPRESENTATIVE FOR PETITIONER: Jeffery Davis, *Pro Se*  
REPRESENTATIVE FOR RESPONDENT: Brian Cusimano, Attorney

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Jeffery Davis,	)	Petition No.: 48-003-22-2-8-00824-22
	)	
Petitioner,	)	Parcel No.: 48-11-13-203-174.000-003
	)	
v.	)	County: Madison
	)	
Madison County Assessor,	)	Assessment: 2022
	)	
Respondent.	)	

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March <sup>4<sup>th</sup></sup>, 2023

**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. Jeffery Davis sought a charitable exemption for a building and associated land in Anderson. We find the subject property to be 100% taxable because his application was untimely and he failed to show the subject property was owned, occupied, and used for charitable purposes during the relevant time period.

**PROCEDURAL HISTORY**

2. On August 1, 2022, Jeffery Davis filed a Form 136 exemption application for the 2022 assessment year seeking a 100% charitable exemption for property located at 1604 South Madison Avenue in Anderson. The Madison County Property Tax Assessment Board of Appeals (“PTABOA”) found the property to be 100% taxable.

3. Disagreeing with that determination, Davis timely appealed to the Board. A hearing was held on September 5, 2023, at which Davis failed to appear. We issued an order dismissing his appeal on September 22, 2023. Davis filed a request to vacate that dismissal. On October 24, 2023, we granted that request pursuant to 52 IAC 4-9-4. On December 6, 2023, Natasha Marie Ivancevich, the Board's Administrative Law Judge ("ALJ"), held another telephonic hearing. At that hearing, Jeffery Davis and Janelle Davis both testified under oath. Neither the Board nor the ALJ inspected the subject property.
4. Neither party offered any exhibits.
5. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

#### **FINDINGS OF FACT**

6. The subject property consists of a building and associated land in Anderson. The Davis's have a 501(c)(3) non-profit corporation called the DREAM Foundation. They intend to use the subject property through the DREAM Foundation to provide resources and help to the community. As of January 1, 2022, a beautician rented space in the building.  
*Jeffery and Janelle Davis testimony.*

#### **ANALYSIS**

7. Although tangible property in Indiana is generally taxable, the legislature has exercised its constitutional power to exempt certain types of property. *Hamilton County 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 share of the cost of government services, they are strictly construed against taxpayers and in favor of the State. *Indianapolis Osteopathic Hosp, Inc. v. Dep't of Local Gov'r Fin*, 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). For a property to obtain an exemption, the owner must file a certified application for exemption by April 1 of the assessment year. Indiana Code § 6-1.1-11-3(a). If the owner does not comply with the statutory procedures for obtaining

the exemption, the privilege of property tax exemption is waived, and the property is subject to taxation. I.C. § 6-1.1-11-1.

8. The Assessor argues that Davis failed to timely file the application. We agree with the Assessor. Davis applied for the exemption on August 1, 2022, four months after the statutory deadline. Thus, the application is untimely, and Davis has waived his claim to an exemption for that year.
9. Moreover, even if Davis had timely filed for an exemption, he failed to show that he owned, occupied, or used the subject property for exempt purposes. 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(c); *Jamestown Homes of Mishawaka, Inc. v St. Joseph Cnty. Ass'r*, 909 N.E.2d 1138, 1141 (Ind. Tax Ct. 2009) *reh'g. den.* 914 N.E.2d 13 (Ind. Tax Ct. 2009). The term “charitable purpose” must be understood in its broadest constitutional sense. *Knox Cnty. Property Tax Assessment Board of Appeals v Grandview Care, Inc.*, 826 N.E.2d 177, 182 (Ind. Tax Ct. 2005). Courts will generally find a charitable purpose 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.*
10. In addition, I.C. § 6-1.1-10-36.3, the predominant use statute, requires that a property must be used or occupied for exempt purposes during more than 50% of the time it is used or occupied in the year that ends on the assessment date. When 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 Cty. 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 I.C. § 6-1.1-10-36.3.”)

11. In this case, the only evidence about the use of the property is that a beautician was renting space as of the assessment date. Thus, Davis has failed to show the property was owned and predominantly used for exempt purposes. While there was some testimony about a potential future use of the subject property, there were no specifics shown and no evidence of any concrete steps taken toward that use. For these reasons we find the subject property fails to qualify for any exemption for the 2022 assessment year.

#### CONCLUSION

12. Davis failed to timely file for an exemption. In addition, he made no showing that the subject property was owned, occupied, or used for an exempt purpose. Therefore, we find the subject property to be 100% taxable for the 2022 assessment year.

  
Chairman, Indiana Board of Tax Review

  
Commissioner, Indiana Board of Tax Review

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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>.