

REPRESENTATIVE FOR PETITIONER: Mike Dorsey, Elder, Madison United Presbyterian Church

REPRESENTATIVE FOR RESPONDENT: Karen Mannix, Jefferson County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Madison United Presbyterian Church	)	Petition:	39-007-18-2-8-00615-18
	)		
Petitioner,	)	Parcel No.:	39-13-02-231-001.000-007
	)		
v.	)	County:	Jefferson
	)		
Randolph County Assessor,	)	Assessment Year:	2018
	)		
Respondent.	)		

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

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**February 26, 2019**

**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. Madison United Presbyterian Church (“Church”) appealed the denial of an exemption for the property it owns and rents to Southeastern Indiana Voices for Children, Inc. (“Voices”). Because there is no evidence that the subject property was used for an exempt purpose as of the January 1, 2018 assessment date, we find it to be 100% taxable.

## PROCEDURAL HISTORY

2. Madison United Presbyterian Church applied for a property tax exemption for the 2018 assessment year for a property located at 319 Second Street, Madison, Indiana 47250 claiming that the property was used for charitable purposes.
3. The Jefferson County Property Tax Assessment Board of Appeals (“PTABOA”) denied the application, finding the property was 100% taxable. The Church timely appealed this decision to the Indiana Board of Tax Review (“Board”).
4. On November 29, 2018, the Board’s designated Administrative Law Judge (“ALJ”), David Smith, held a hearing on the Church’s petition. Neither the Board nor the ALJ inspected the subject property. Mike Dorsey, Albert Huntington, and Tonya Ruble-Richter were sworn and testified under oath for the Petitioner. Jefferson County Assessor, Karen Mannix, and Jim Davis were sworn and testified on behalf of the Respondent.
5. The Petitioner offered no exhibits into evidence. The Respondent offered the following exhibits for the record, all of which were admitted without objection from the Petitioner:

Respondent’s Exhibit A:	2018 Property Record Card,
Respondent’s Exhibit B:	Form 136 application,
Respondent’s Exhibit C:	Documents provided by Voices for Children during PTABOA hearing,
Respondent’s Exhibit D:	Commercial Lease Agreement entered into on or about March 15, 2018,
Respondent’s Exhibit E:	Historic Tax Bill spreadsheet,
Respondent’s Exhibit F:	Copy of tax bills from 2008-2017,
Respondent’s Exhibit G:	Indiana Code § 6-1.1-10-16,
Respondent’s Exhibit H:	Indiana Code § 6-1.1-10-21,
Respondent’s Exhibit I:	<i>Converse Church of Christ v. Miami County Property Tax Assessment Board of Appeals</i> (IBTR August 7, 2006),
Respondent’s Exhibit J:	Transcript of April 16, 2018 PTABOA,
Respondent’s Exhibit K:	Recording of April 16, 2018 PTABOA,
Respondent’s Exhibit L:	Form 120 Notice of Action on Exemption Application,
Respondent’s Exhibit M:	Indiana Code § 6-1.1-10-16,

Respondent's Exhibit N: Articles of Incorporation,  
Respondent's Exhibit O: Unsigned summary of law.

6. The record also includes the following: (1) all pleadings, briefs and documents filed in the current appeals; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

#### FINDINGS OF FACT

7. The subject property is an approximately 4,125 sq. ft. building located at 319 Second Street in Madison. The Church leased the property to Voices for Children with an initial date of occupancy of May 1, 2018. The lease required Voices to pay the Church \$800 per month. The Church considered this rent to be a below market rate because before renting to Voices, the Church rented the property to Garden Insurance, Inc., for approximately \$1300/month. Tonya Ruble-Richter, the executive director for Voices, also testified that this rate was significantly lower than she had been able to find elsewhere in Madison. The Church considered this rent reduction to be a charitable donation. It was willing to provide this donation because of the valuable services Voices provides to the community. The Contract also provides that if property taxes are collected, Voices will pay an additional \$200 per month in rent. *Dorsey and Huntington testimony.*
8. The Church invested approximately \$50,000 from its capital fund towards repairs and renovations of the property, at least some of which were completed after Voices began using the property. The rent Voices pays is used first for repairs and maintenance of the property, and then to replenish the Church's capital fund. *Dorsey, Huntington and Ruble-Richter testimony; Resp. Ex. D.*
9. Voices is a 501(c)(3) organization, incorporated in the State of Indiana. It provides Court Appointed Special Advocate services and representation to children in Child In Need of Services cases in Jefferson and Ripley Counties. It receives some government funding, but also receives grant money and does other fundraising. Mannix admitted during the course of the hearing that Voices was a "great charity," that it "did good work," that it

was “charitable,” and that she did not dispute the charitable purpose of Voices. *Ruble-Richter, Mannix, and Huntington testimony; Resp. Ex. C.*

#### CONCLUSIONS OF LAW

10. 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). A taxpayer bears the burden of proving it is entitled to an exemption. *Oaken Bucket*, 938 N.E.2d at 657. Exemption statutes are strictly construed against the taxpayer. Every exemption case “stand[s] on its own facts,” and it is the Petitioner’s duty to walk the Board through the analysis. *Id.*
11. Indiana Code § 6-1.1-10-16(a) provides “All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious or charitable purposes.” The determination of whether a property should receive an exemption “for a particular assessment date must be based on the tangible property’s eligibility...on that assessment date.” Ind. Code § 6-1.1-11-1.5(b). The assessment date for 2018 was January 1, 2018. Ind. Code § 6-1.1-2-1.5(a)(2). In addition, Ind. Code § 6-1.1-10-36.3 provides that in order to qualify for an exemption a property must be predominantly used for exempt purposes in the year preceding the assessment date.
12. The Assessor focused her argument on the Church’s ownership of the subject property. She contended that that because the property was not being used for religious purposes, it could not receive a religious exemption. This argument, while correct, is misguided. A religious organization is not limited to claiming a religious exemption. Moreover, the Church was not seeking a religious exemption. Instead, it was seeking a charitable exemption as shown on its Form 136 application. If a property is owned, occupied, and used for charitable purposes as of the assessment date, it can receive a charitable exemption even if a church owns it.

13. The Church presented extensive evidence of Voices' charitable use of the property, as well as its own charitable intent in renting the property to Voices at a reduced rate. But the evidence also shows that Voices did not occupy the property until May 1, 2018, four months after the assessment date. It is not clear from the evidence whether or not the property was being used for exempt purposes, or was being used at all, as of January 1, 2018. In some cases, a taxpayer can be granted an exemption for an anticipated future use, if the owner has taken concrete steps toward that use. *See Trinity Episcopal Church N.E.2d 816 (Ind. Tax Court 1998)* (finding a building that was being renovated on the assessment date for future use as a mental health center qualified for an exemption). In this case, there was some evidence that the property was renovated for Voices' use. But the evidence did not show that those renovations had begun as of January 1, 2018. The only specific dates given for the renovations were from Ruble-Richter, who testified that some work was done after Voices occupied the property in May. Finally, there was no evidence showing whether or not the property was predominantly used for exempt purposes in the year proceeding the assessment date, 2017.
14. As discussed above, exemption statutes are strictly construed against the taxpayer. Thus, we are compelled to find that the subject property did not qualify for an exemption for the 2018 assessment year. We note that nothing in this determination prevents the Church from applying for an exemption for the 2019 assessment year.

### CONCLUSION

In accordance with the above findings of fact and conclusions of law we find the subject property is 100% taxable for the 2018 assessment year.

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Chairman, Indiana Board of Tax Review

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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>>.