

REPRESENTATIVE FOR PETITIONER: Attorney Charles Zercher

REPRESENTATIVE FOR RESPONDENT: Attorney Beth Henkel

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

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| Nappanee Power From |) | Petition No.: | 20-021-20-2-8-00492-21 |
| The Past, Inc. |) | | |
| |) | Parcel No.: | 20-13-36-101-003.000-021 |
| Petitioner, |) | | |
| |) | County: | Elkhart |
| v. |) | | |
| |) | Assessment Year: | 2020 |
| Elkhart County Assessor, |) | | |
| |) | | |
| Respondent. |) | | |
| |) | | |

Date 10/6/2023

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. The parties dispute whether Nappanee Power from the Past (“Power”) used its almost 50-acre property and numerous buildings for charitable purposes within the meaning of Indiana’s general exemption statute (Ind. Code § 6-1.1-10-16(a)). We find that Power used the property to preserve and store antique farm implements and historic buildings, and that the four events it held at the property in 2019 were connected to festival and community endeavors to benefit the public. With the exception of a small area known as the Bank Barn, we find that Power owned, and exclusively occupied and used the property to provide a public benefit. We therefore find that the entire property, excluding the Bank Barn, is entitled to a 100% exemption.

II. PROCEDURAL HISTORY

2. In June 2020, Power filed an application seeking an exemption for its real property located on Arnett Street, in Nappanee. On the application form, Power indicated that it sought an exemption under Ind. Code § 6-1.1-10-16 based on charitable and educational purposes. The Elkhart County Property Tax Assessment Board of Appeals, (“PTABOA”) issued a Form 120 determination finding that the land and improvements were 100% taxable.
3. Power then filed a Form 132 petition, again seeking a 100% exemption for its real property under Ind. Code § 6-1.1-10-16. But it claimed only a charitable purpose. On April 25, 2023, our designated administrative law judge, Erik Jones (“ALJ”), held a hearing on Power’s petition.¹ Neither he nor the Board inspected the property. Delbert Borkholder, Jeff Kitson, and Cathy Searcy testified under oath.
4. The parties offered the following exhibits:

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| Petitioner’s Exhibit 1 | Form 136 for 2020, including 1023 and exemption letter, |
| Petitioner’s Exhibit 2 | Form 132, |
| Petitioner’s Exhibit 4 | IRS Form 1023, |
| Petitioner’s Exhibit 5 | IRS 501(c)(3) exemption letter, |
| Petitioner’s Exhibit 6 | Nappanee Power From the Past Articles of Incorporation, |
| Petitioner’s Exhibit 7 | Nappanee Power From the Past bylaws, |
| Petitioner’s Exhibit 8 | Corporate warranty deed between Amish Acres, LLC and Nappanee Power from the Past, |
| Petitioner’s Exhibit 9 | 2022 Property Record Card (“PRC”) for subject property, |
| Petitioner’s Exhibit 10 | Aerial photograph of subject property with explanatory markings, |
| Petitioner’s Exhibit 14 | Flyers and advertising materials for 2020 and 2021 events, |
| Petitioner’s Exhibit 17 | Photograph of Daddi house, |
| Petitioner’s Exhibit 18 | Photograph of Daddi house (additional), |
| Petitioner’s Exhibit 19 | Photograph of schoolhouse, |

¹ The hearing was held virtually through a video-conferencing service.

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| Petitioner's Exhibit 20 | Photograph of main house, |
| Petitioner's Exhibit 22 | Photograph of mint still, |
| Petitioner's Exhibit 23 | Photograph of wagon / buggy shed, |
| Petitioner's Exhibit 24 | Photograph of smoke house, |
| Petitioner's Exhibit 25 | Photograph of brick oven, |
| Petitioner's Exhibit 26 | Photograph of pump house, |
| Petitioner's Exhibit 27 | Photograph of blacksmith shop, |
| Petitioner's Exhibit 28 | Photograph of broom shop, |
| Petitioner's Exhibit 29 | Photograph of railroad crossing guard shed, |
| Petitioner's Exhibit 30 | Photograph of icehouse, |
| Petitioner's Exhibit 31 | Photograph of sugar camp, |
| Petitioner's Exhibit 33 | Photograph of bank barn, |
| Petitioner's Exhibit 34 | Photograph of hog house, |
| Petitioner's Exhibit 35 | Photograph of Walnut Street house, |
| Petitioner's Exhibit 36 | Photograph of north display building, |
| Petitioner's Exhibit 37 | Photograph of middle display building, |
| Petitioner's Exhibit 39 | Photograph of south display building, |
| Petitioner's Exhibit 40 | Photograph of bathroom / shower building, |
| Petitioner's Exhibit 41 | Photograph of bleachers opposite of announcer tower, |
| Petitioner's Exhibit 42 | Photograph of announcer tower bleachers, |
| Petitioner's Exhibit 43 | Photograph of pavilion donated by Irv & Shirley Yoder, |
| Petitioner's Exhibit 44 | Photograph of gas station, |
| Petitioner's Exhibit 45 | Photograph of pavilion donated by Merlin & Dorothy Yoder, |
| Petitioner's Exhibit 46 | Photograph of announcer building, |
| Petitioner's Exhibit 47 | Photograph of "hoop" storage building, |
| Petitioner's Exhibit 48 | Photograph of model train building, |
| Petitioner's Exhibit 49 | Photograph of food drying building, |
| Petitioner's Exhibit 50 | Photograph of Ramer outhouse, |
| Respondent's Exhibit R-5 | 2021 Form 136, dated Mar. 31, 2021, |
| Respondent's Exhibit R-6 | 2021 Form 120, mailed May 12, 2021, |
| Respondent's Exhibit R-10 | Nappanee Power From the Past Balance Sheet and Profit & Loss statement for Dec. 31, 2019, |
| Respondent's Exhibit R-11 | Nappanee Power From the Past Balance Sheet and Profit & Loss statement for Dec. 31, 2020, |
| Respondent's Exhibit R-12 | Nappanee Power From the Past Balance Sheet and Profit & Loss statement for Dec. 31, 2021, |
| Respondent's Exhibit R-13 | 2019 Form 990 for Nappanee Power from the Past, Inc., |
| Respondent's Exhibit R-16 | 2019 Photos and documents showing subject property uses, |

5. The official record also includes the following: (1) all petitions, motions, and documents filed in this appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

III. FINDINGS OF FACT

6. In 2012, Power was organized as a domestic nonprofit corporation, and it is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code. Power has approximately 120 members, but anyone who is interested in participating in its organizational purposes is eligible to become a member. Its articles of incorporation identify the organization's primary purpose as preserving information and educating people about the invention and development of farm equipment and demonstrating how antique farm equipment was used:

The corporation shall have as its primary purpose the preservation of such information, documents, and artifacts as relate to the history of human endeavor in the invention, development, and use of farm tractors and related implements and/or equipment. The corporation shall also endeavor to educate present and future generations about the uses of (but not limited to) antique tractors, steam engines, trucks, trains, implements, and equipment (construction and industrial), and to show them at work. While the primary emphasis shall be initially on farm tractors and related equipment, the interests of the corporation shall also include (but not limited to): associated toys, books, pictures, articles, garden tractors, walk-behinds, and the like.

Power displays the documents and artifacts referenced in its articles of incorporation for its members. *Pet'r Exs. 5-7; Borkholder testimony.*

7. Power's bylaws also set forth various objectives:

The objectives of this Club shall be (1) to hold regular meetings; (2) discuss old tractors, engines, primitive equipment and to help others obtain parts, engines, and to solve problems; (3) to promote fellowship among members; (4) to hold shows of various old tractors, engines, and primitive equipment, and to be active in community events such as parades; (5) to work toward the preservation of engines, tractors, farm machinery and primitives; (6) to provide activities that will be oriented toward family participation and will encourage the interest of youth in historical preservation and the activities sponsored by the Club; and (7) to provide charitable contributions to the community.

Pet'r Ex. 7.

8. Five of Power's board members or officers loaned Power money. At the end of 2019, those loans were reflected on Power's balance sheet as liabilities totaling \$652,000. There is little evidence about the purpose or terms of those loans. Borkholder, who was one of the lenders, testified that the balance sheet showed, among other things, what the "investors had in the building." The loan balances increased between 2019 and 2020. When asked whether that was because of interest charged, Borkholder testified "Okay. How do I want to – Yeah. It would be, but . . . we, we did, we put more money into the loan but paid the loan down more, basically. But we did. That make sense?" While we find that the loans included interest, there is no evidence showing what the rate was or that it was significant. Power did not report those loans on the portion of its federal tax return calling for it to list loans or other receivables from any officer or director. *Resp't Exs. 10-13; Borkholder testimony.*

9. Since its formation, Power either staged or participated in various events, some of which were connected to the Nappanee Apple Festival. The Apple Festival and the committee that stages it are funded by the Nappanee Chamber of Commerce and operate under its federal identification number. The festival brings thousands of visitors to Nappanee to celebrate the city's "rich history of the orchard." It is held the third weekend of September every year. *Kitson testimony.*

10. The festival occurs at various locations, including Callander Sportsplex, which the city of Nappanee owns. Before 2019, Power was involved in putting on a tractor show at the sportsplex during the festival. It also put on two truck- and tractor-pull contests at the sportsplex: a longstanding contest held the weekend before the Apple Festival that was considered the kickoff for the festival, and in more recent years, a contest at a newer event called the Spring Diesel Jamboree. Power put on those events in conjunction with the festival committee, and the Chamber of Commerce considered the events to be a vital part of the Apple Festival. *Resp't Ex. 16; Kitson testimony.*

11. In August 2018, Power bought the subject property from Amish Acres in order to give a permanent home to events, including the truck- and tractor pull contests and tractor show, that it had previously hosted or participated in at other sites. During 2019, Power hosted four events at the property:

- **Antique Car, Truck & Tractor Drive & Cruise-in Diesel Jamboree and Hot Air Balloon Festival.** This was held on June 15. It was a revised version of the Spring Diesel Jamboree. The parties did not offer much detail about what happened at this event. While there were hot air balloons, Power did not operate them. The event included a truck- and tractor-pull contest. And Power provided displays of antique cars, trucks, and tractors. Power charged a \$5 general admission fee. Owners of trucks and tractors in the pulling contests could buy a pit pass for \$15.
- **Harvest Day.** This event was held in July. Power used equipment that its members stored at the property to cut and shock wheat and harvest corn, which it then used at the Tractor Show. Power invited the public to view and assist with its Harvest Day activities.
- **Truck and Tractor Pull.** As in the years before Power bought the subject property, this event was held the weekend before the Apple Festival. It was open to the public.
- **Tractor Show.** This event was held during the Apple Festival. Power demonstrated historical equipment including tractors, farm equipment, and steam engines. In addition, Power also used the equipment for parades. It has a model train that it used to give children train rides. Like Harvest Day, Power also demonstrated historical wheat cutting and threshing methods and husking corn. The show was open to the public and there were food vendors.

Pet'r Exs. 1, 14, Resp't Ex. R-16; Borkholder testimony; Kitson testimony; Searcy testimony.

12. The property contains 45.17 acres.² It has parking areas and a track for truck- and tractor-pull contests. The property also has several structures that Power used directly in one or more of its events or to maintain the grounds: bleachers, pavilions, an announcing

² The parties identified the property's size differently throughout the appeal. We rely on the property record card, which lists the property at 45.17 acres. *Pet'r Ex. 9.*

stand, three display buildings, a wagon shed, a model-train building, and a bathroom-and-shower building. The wagon shed houses wagons that Power uses for its Harvest Day event. People who maintain the property also temporarily park their buggies there. The three display buildings, which Borkholder identified as the North, Middle, and South buildings, store equipment owned by Power's members or officers. The North building holds a few tractors, as well as other equipment, such as thresh machines, a bailer, and a binder that Power uses in the events. The Middle building contains a few tractors, garden tractors, and similar equipment that Power uses on the grounds. The tractors are also used in the Tractor Show. The South building contains tractors and equipment used on the grounds. The building containing bathrooms and showers is used during the Fall Truck and Tractor Pull and the Tractor Show. The model-train building houses the train that Power uses during the Tractor show. *Pet'r Exs. 10, 23, 36-37, 39-43; Borkholder testimony.*

13. The property also has various historic buildings and structures. Amish Acres was included in the National Register of Historic Places in 1990 and was a tourist destination. Borkholder testified that one of the buildings, which he called "Daddi House," was used for "exhibits and demonstrations of historical living, farming practices, and related activities." But he did little to explain how or when Daddi House or any of the other buildings were used for those purposes. At most he testified that members "would basically show us" what they "bring in their own." There is no evidence that the buildings were generally open to the public. In fact, the property as a whole is rarely open to the public—visitors are usually limited to Saturdays "if somebody is there," or during Power's organized events. *Pet'r Exs. 1, 3, 17-37, 39-50; Borkholder testimony.*
14. Nonetheless, Power welcomed the public to walk around and view the exteriors of almost all the buildings on the property during the Truck and Tractor Pull and the Tractor Show. Several of the older buildings have plaques in front of them, including buildings that Borkholder identified as the schoolhouse, the icehouse, Walnut Street House, and Ramer outhouse. We infer that those plaques contain information about the buildings. Other

buildings have identifying signs. And some structures, such as a brick oven, are open, so visitors can view the structure's interior from the outside. Power's exemption application for 2020 indicates that in the future, the Barns at Nappanee, might use the historic buildings over several weekends each year. But it had not yet done so. It appears that the Barnes at Nappanee refers to an adjacent property owned by Marlin Stutzman, which includes a restaurant and theater. *Pet'r Exs. 17-37, 39-50; Borkholder testimony; Searcy testimony.*

15. Finally, Stutzman uses a building on the subject property known as the "Bank Barn," to house his horses and cattle. The Bank Barn sits on an approximately 0.6-acre fenced-in site. *Pet'r Exs. 10, 33, Borkholder testimony; Kitson testimony.*

IV. CONCLUSIONS OF LAW AND ANALYSIS

A. The fact that Power does not qualify for an exemption under Ind. Code § 6-1.1-10-26 has no bearing on its claim for a charitable-purpose exemption.

16. In addition to addressing Power's claim for a charitable-purpose exemption on its merits, the Assessor argues that Ind. Code § 6-1.1-10-26, which provides an exemption for up to 80 acres of land and accompanying improvements owned by county or district agricultural associations, limits exemptions for properties associated with agriculture to only those properties that qualify under that statute. And Power has not shown that it is a qualifying organization under Ind. Code § 6-1.1-10-26.
17. We disagree. Power neither claimed to be a county or district agricultural association nor applied for an exemption under Ind. Code § 6-1.1-10-26. And nothing in that statute reveals a legislative intent to limit what uses might qualify for exemption under the general exemption statute (Ind. Code § 6-1.1-10-16(a)). Nor would granting Power an exemption under the general exemption statute somehow conflict with Ind. Code § 6-1.1-10-26 or render it meaningless. To the contrary, the two statutes have entirely different provisions. *See Lincoln Hills Dev. Corp. v. Indiana State Bd. of Tax Comm'rs*, 521

N.E.2d 1360, 1361-62 (Ind. Tax Ct. 1988) (rejecting argument that Ind. Code § 6-1.1-10-18.5 was a limitation on granting exemptions under Ind. Code § 6-1.1-10-16(a)).

B. Because Power owned, and exclusively occupied and used, all of the subject property other than the Bank Barn for charitable purposes, everything except the Bank Barn qualifies for a 100% exemption.

18. Although tangible property in Indiana is generally taxable, the Legislature has exercised its constitutional power to exempt certain types of property. *Hamilton Cty. 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 Cty. Ass'r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009).
19. Power seeks 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. I.C. § 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). Under the predominant-use test, a property must be occupied or used for exempt purposes more than 50% of the time that it is used or occupied during the year that ends on the assessment date. I.C. § 6-1.1-10-36.3. With certain exceptions for properties used as a church, religious society, or not-for-profit school, 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 during the year that ends on the assessment date. I.C. § 6-1.1-10-36(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 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 Indiana Code § 6-1.1-10-36.3.”).

19. Although Power originally claimed both educational- and charitable-purpose exemptions, it now relies solely on a claim that it owned, occupied, and used the property for charitable purposes. We must consider the term “charitable purpose” in its broadest constitutional sense. *Starke Cty. Ass’r v. Porter-Starke Servs., Inc.*, 88 N.E.3d 814, 817 (Ind. Tax Ct. 2017). A charitable purpose generally exists 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. When a private entity “takes on a task that would otherwise fall to the government, this provides a benefit to the community as a whole because it allows the government to direct its funds and attention to other community needs.” *College Corner, L.P. v. Dep’t of Loc. Gov’t Fin.*, 840 N.E.2d 905, 910 (Ind. Tax Ct. 2006). The Legislature has not expressly exempted properties used for historic preservation or to operate a museum from taxation. But the Tax court has considered exemption claims for properties used for those purposes under the umbrella of charitable use. See, *McClain Museum, Inc. v. Madison Cty. Ass’r*, 134 N.E. 3d 1096 (Ind. Tax Ct. 2019); *College Corner, supra*; *National Ass’n of Miniature Enthusiasts v. State Bd. of Tax Commr’s*, 671 N.E.2d 218 (Ind. Tax Ct. 1996).
20. Power argues that it used the property to convey a charitable gift to the public. According to Power, it did so by hosting events that were connected to the Apple Festival, by preserving and providing access to historical buildings, and by preserving and providing access to past farming methods and practices and historical living. Power argues that its activities at the property mirror those of the taxpayer in *McClain Museum*, where the Tax Court found that portions of a property that were operated as a museum honoring the United States’ military were entitled to an exemption.

21. The Assessor disagrees. She argues that, outside of four events, Power did not show how the subject property was used. In any case, she characterizes those events as recreational activities for which Power charged admission fees. While the events drew families and tourists to Nappanee, the Assessor argues that there is no precedent recognizing an exemption for such activities. Instead, she describes Power’s activities at the property as being predominantly for fun and amusement with “a modicum of historical interest thrown in.” *Assessor’s Post-Hearing Brief at 8*. She also points to the undisclosed loans from Power’s officers and directors to Power, which she argues raises concerns about whether those officers and directors have an exempt purpose.
1. Without more, the mere fact that Power’s officers loaned money to Power does not show that either they or Power had a commercial, rather than charitable, purpose.
22. Before turning to the central question—Power’s purpose in owning, occupying, and using the subject property—we briefly address the Assessor’s claim that the loans from Power’s directors, and Power’s failure to report those loans on its federal tax returns, somehow shows that Power lacks an exempt purpose. According to the Assessor, those undisclosed loans raise concerns whether Power was being managed competently and whether the directors were using Power as an investment vehicle.
23. As for the Assessor’s first point, our task is not to police how well Power’s directors and managers operate the organization, but rather to determine whether Power owned, occupied, and used the subject property for charitable purposes. The loans, however, do arguably raise at least some doubt about whether Power was operated with a commercial, rather than a charitable, motive. But given the weight of the evidence about the altruistic motives behind Power’s formation and operation, and the lack of specific evidence about the terms of the loans, we find that Power did not have a commercial motive for its operations in general, or its use of the subject property in particular.³

³ We must make our decisions based on evidence, not innuendo. Moreover, the Tax Court reversed our determination in *McClain Museum*, where we rejected a charitable-purpose exemption out of concerns that it was a vehicle to support a developer’s personal collection. *See also, Hebron Vision, LLC v. Porter Cty. Ass’r*, 134 N.E.2d 1077 (Ind. Tax Ct. 2019) (reversing our determination denying a charitable-purpose exemption where we had based our decision partly on the fact that a private developer operated the property at a profit).

2. Three of the four events Power hosted at the property were connected with the Apple Festival, which relieved a government burden by promoting tourism to the city and celebrating its agricultural heritage.
24. We now turn to the central question before us. And we find that, with the exception of the Bank Barn and its 0.6-acre site, Power showed that it owned, and exclusively occupied and used, the subject property for charitable purposes during 2019 (the year leading up to the January 2020 assessment date).
25. Three of the four events Power hosted at the property during that year were connected to the Nappanee Apple Festival. While only the Tractor Show occurred during the festival, the Fall Truck and Tractor Pull was the unofficial kickoff to the festival and the Spring Jamboree was organized in conjunction with the festival committee. The festival is sponsored by the local chamber of commerce and is designed to promote the city and increase tourism. By using the property in conjunction with the festival, Power relieved a government burden.
26. Excluding the Bank Barn and its 0.6-acre site, all of the buildings, other structures, and land were used either in connection with those festival-related events or to store equipment necessary for maintaining the property, which itself was a necessary activity for hosting the events. That includes the various historical buildings, which were available for the public to view during some of the events.
27. The Assessor argues that the events were not charitable because they centered around recreational and social activities, like balloon rides, truck-and-tractor pulls, and parades. Had those activities occurred during events that were not connected to the Apple Festival, we might agree. But as we have already explained, they were the vehicle through which Power and the local chamber of commerce promoted the city, which is a charitable endeavor. We similarly disagree with the Assessor's argument that Power charging admission fees to at least one of the events somehow prevents us from finding that the events were charitable. As the Tax Court has long recognized, charitable does not

necessarily mean free, particularly where any fees charged are no more than what is necessary to cover expenses. *Knox Cty. Prop. Tax Assessment Bd. of App. v. Grandview Care, Inc.*, 826 N.E.2d 177, 184 (Ind. Tax Ct. 2005). There is nothing to indicate that the admission fees Power charged were any more than what was necessary to help defray costs, or that Power had a commercial motive in holding the events.

3. The fourth event, as well as Power’s use of the property for the preserving historical buildings and storing antique farming implements, furthered the charitable purposes of historic preservation and of educating the public about the area’s agricultural heritage.
28. The other event that Power hosted at the property—Harvest Day—involved demonstrations of how historical farm equipment was used. Again, the event was open to the public, and at least one building was used to store equipment that Power used for the event. And Power used the property year-round to preserve historical buildings and store antique farm implements.
29. The parties offer competing lenses through which to view both the Harvest Day activities and Power’s use of the property for viewing and preserving of historical buildings and farm implements. Power views those things through the lens of *McClain Museum*, while the Assessor prefers *Miniature Enthusiasts*.
30. In *McClain Museum*, the Tax Court found that portions of a property used to collect, restore, and display military artifacts qualified for a charitable-purpose exemption. *McClain Museum*, 134 N.E.3d at 1103-06. The founder and other local veterans donated many of the displayed items, and the United States Army recognized the museum as a historic preservation site for military equipment. The museum was open for a limited schedule during the week, but it was also open on request. It offered guided tours for a minimal fee, which it sometimes waived for those who could not afford the fee. *Id.* at 1100. 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 the

museum's activities "enhance[d] the public's knowledge and understanding of a part of the American experience." *Id.* at 1104.

31. In *Miniature Enthusiasts*, the Tax Court denied an exemption to a trade association for people interested in miniatures. The association owned a property that contained a museum and library relating to miniatures. *Miniature Enthusiasts*, 671 N.E.2d at 220. Among other things, the association used the property to house a permanent collection of miniatures, plan and present house parties, publish a quarterly periodical, promote local miniature clubs, and conduct workshops on miniatures. *Id.* The Court concluded that the taxpayer was not entitled to a charitable-purpose exemption because "[o]perating a museum for the public and enhancing the public's knowledge about miniatures, while a noble endeavor, does not relieve human want and suffering." *Id.* at 221.
32. We believe *McClain Museum* is a better analog for Power's use of the subject property than is *Miniature Enthusiasts*. There were elements of hobbyist activities in the taxpayers' uses of all three properties. But the taxpayer in *McClain Museum* and Power both used their properties to educate the public about topics central to a part of the "American experience." In *McClain Museum*, it was our military's role in preserving our freedoms. Here it was the area's agricultural heritage. Those activities contrast with the trade association's more purely hobbyist activities in *Miniature Enthusiasts*. In addition, as the Tax Court recognized in *College Corner*, "there is an inherent benefit to the community in preserving historic buildings and areas." *College Corner*, 840 N.E.2d at 910 (citing, e.g., *City of Houston v. River Oaks Garden Club*, 360 S.W.2d 855, 857 (Tex. Civ. App. 1962)). While Power did not detail what, if any, steps it took to maintain the subject property's historical buildings, its efforts to display those buildings and its use of the property to store antique farm implements may be viewed as a form of historic preservation.
33. The Assessor seeks to distinguish Power's activities from *McClain Museum* by pointing to Borkholder's testimony that Power did not provide guides for viewing the historical

buildings, but rather simply allowed the public to walk around them. She argues that while “it is possible that this Club may go on to develop the Property into a museum similar to such venues as Connor Prairie or the RV Hall of Fame,” Power did not offer sufficiently detailed information to show how its “current endeavors” constitute a charitable purpose.

34. None of those things change our analysis. We acknowledge that Power ran a more limited operation at the subject property than the museum at issue in *McClain Museum*. But it is not for us to decide how efficiently Power used the property to educate the public about the area’s agricultural heritage, just whether such education is the purpose for which it used the property. And we find that through its Harvest Day activities and its maintenance of the historical buildings and farm implements for viewing by the public and by its broad membership, Power used the property for a charitable purpose.
35. Between the events related to the Apple Festival and Power’s Harvest Day activities, we find that the subject property (excluding the Bank Barn and its 0.6-acre site) was used for charitable purposes. And there is no evidence to show that the property was used for any other purposes during 2019. Our decision, however, addresses 2019 only. We make no findings about the property’s eligibility for exemption in later years when Power (1) contemplated allowing the Barnes at Nappanee to use the property on some weekends and (2) hosted additional events at the property.

4. The Bank Barn and site were used for private purposes and do not qualify for exemption.

36. Finally, we find that the Bank Barn and its 0.6-acre site do not qualify for an exemption. That area was used solely by Marlin Stutzman for his own private purposes: to house his cattle and horses.

V. CONCLUSION

37. With the exception of a 0.6-acre portion of the property and accompanying improvements known as the Bank Barn, Nappanee Power from the Past owned, and exclusively

occupied and used, the subject property for charitable purposes. We therefore find that all of the property except the Bank Barn land and improvements is entitled to a 100% exemption. The Bank Barn land and improvements are not entitled to any exemption.



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>.