

REPRESENTATIVE FOR PETITIONERS: *Pro Se*

REPRESENTATIVE FOR RESPONDENT: Bradley J. Adamsky, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Public Research Institute,)	Petition No.:	46-022-19-2-8-00540-20
)		
)	Parcel:	46-01-26-101-050.000-02
)		
Petitioner,)	County:	LaPorte
)		
v.)		
)		
LaPorte County Assessor,)	Assessment Year:	2019
)		
Respondent.)		

June 07, 2021

FINAL DETERMINATION

The Indiana Board of Tax Review, having reviewed the facts and evidence presented in the Parties' arguments, and having considered the issues, now finds and concludes the following:

Findings of Fact and Conclusions of Law

Introduction

1. Public Research Institute seeks an exemption for vacant land on which it plans to build an experimental solar home where some of its directors will live. Because the Institute did not show that the home and accompanying garage will be predominantly used for exempt charitable, educational, or scientific purposes—rather than for non-exempt purpose of providing its directors with a place to live—we find for the Assessor.

Procedural History

2. On September 17, 2019, the Institute applied for an exemption on its property located at 200 S. Karwick Road, in Michigan City. On August 14, 2020, the LaPorte County Property Tax Assessment Board of Appeals (“PTABOA”) determined that the property was 100% taxable for the 2019 assessment year.
3. The Institute disagreed and timely appealed to the Board. On March 9, 2021, our administrative law judge, Erik Jones (“ALJ”), held a telephonic hearing on the Institute’s petition. Neither he nor the Board inspected the property.
4. The Institute appeared by Dr. George Oprisko, its executive director. Bradley Adamsky appeared as counsel for the Assessor. Oprisko and LaPorte County Assessor Michael Schultz were sworn as witnesses, although only Oprisko testified.¹
5. The Institute submitted the following exhibits:²

Petitioner’s Exhibit A	Delaware Certificate of Incorporation for Public Research Institute,
Petitioner’s Exhibit B	By-laws of Public Research Institute,
Petitioner’s Exhibit C	Delaware Notice of Receipt of Certificate of Incorporation for Public Research Institute,
Petitioner’s Exhibit D	Annual Franchise Tax Reports for Tax Years 2017, 2018 and 2020,
Petitioner’s Exhibit F	Indiana Secretary of State Business Entity Report dated January 4, 2021,
Petitioner’s Exhibit G	Florida Business Certificate,
Petitioner’s Exhibit H	Indiana Secretary of State Business Entity Report and Foreign Registration Statement documents,
Petitioner’s Exhibit I	Google Search results for “Dr George W Oprisko” and “Public Research Institute,”
Petitioner’s Exhibit J	Dr. Oprisko’s statement to the PTABOA, including photographs and captions,
Petitioner’s Exhibit K	Article “‘A vast, ancient and intricate society’: the secret social network of old-growth forests,” by Ferris Jabr,
Petitioner’s Exhibit L	Diagrams and floorplan of proposed “Oprisko Garage” building,

¹ Oprisko made various factual statements in what was nominally the Institute’s opening statement. It appears he intended for those statements to also serve as testimony, and we treat them as such.

² The Assessor submitted no exhibits.

Petitioner’s Exhibit M	Architecture planning documents for “Oprisko Residence” at 200 S. Karwick Rd., dated March 2020,
Petitioner’s Exhibit N	Photographs (12) of waste dump removed by Public Research Institute,
Petitioner’s Exhibit O	Balance Sheets 2017-2021,
Petitioner’s Exhibit P	Plat of Survey,
Petitioner’s Exhibit Q	Michigan City Application for a Permit to Cut into a City Street or Alley dated April 2, 2019,
Petitioner’s Exhibit R	Form 136 Application for property tax exemption, filed Sept. 3, 2019,
Petitioner’s Exhibit S	Letter from Michigan City Planning Department granting Special Exception Use Variance dated December 12, 2019,
Petitioner’s Exhibit T	Documents related to approval of special use variance, including letter approving variance, certificate of variance approval, decision and findings of fact, December 10, 2019 PTABOA minutes, and petition,
Petitioner’s Exhibit U	Warranty deed with attached Exhibit A,
Petitioner’s Exhibit V	Soil Description Report prepared by Soil Solutions dated December 7-10, 2018,
Petitioner’s Exhibit W	Appraisal report,
Petitioner’s Exhibit X	Form 136 Application for property tax exemption, filed Sept. 3, 2019,
Petitioner’s Exhibit Y	Application for a permit to cut into a city street or alley.

6. The record also includes (1) all petitions, briefs, and documents filed in the current appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) an audio recording of the hearing.

Objections

7. The Assessor objected to Exhibit I—several Google search results for the Institute—on relevance grounds. The Institute explained that it introduced the search results to show that it is a legitimate non-profit entity with a long history of charitable work. The ALJ took the objection under advisement. Because the documents are at least tangentially relevant to the subject matter raised in the Institute’s petition, we overrule this objection.
8. The Assessor also made a relevance objection to Exhibit K, an article about old-growth forests. The Institute explained that the article shows the importance of the old-growth

forest covering part of the property. Again, we find the documents marginally relevant to the Institute's claims and overrule the objection.

Contentions

A. The Institute's contentions

9. The Institute was organized as a Delaware non-profit corporation in 1980. *Oprisko testimony; Ex. A*. As explained in Section 4.2 of its by-laws, the Institute was organized for the following specific purposes:

- a. Scientific – The Institute will pursue its scientific purpose by conducting research in the basic and applied sciences.
- b. Educational – It will pursue it's [sic] educational purposes by promulgating results of its investigations, and other significant scientific works to the general public via journal articles, news releases, white papers, seminars, symposia, and other means.
- c. Charitable – It will pursue it's [sic] charitable purpose via the offer of research fellowships to promising scholars.

Research fields of interest include, but are not limited to the following: engineering, liminology, hydrology, oceanography, and medicine.

Ex. B at 1-2.

10. Ronald Stevenson, Jr. conveyed the property to the Institute by a January 11, 2019 warranty deed. According to the Institute's executive director, George Oprisko, the Institute bought the property because it was cheap, was on a bus line, and had city utilities. It contains roughly 6.5 acres. The property previously had a waste dump filled with debris from the construction of a neighboring church. The Institute worked with the church and city to clear the dump. *Oprisko testimony; Exs. J, N, U.*

11. Most of the property is wooded, although the Institute cleared an area in preparation for a solar field. The property has a single building site where the Institute plans to build a house and garage. The Institute intends to use most of the remaining property as a

“buffer zone” for the residence. It describes much of that area as an experimental forest as well as a “climax forest” due to the abundance of American beech trees. The forest has a rich, complete, and increasingly rare biota. The Institute plans to refrain from using herbicides and pesticides and to add trees and shrubs to increase the forest’s biodiversity. *Oprisko testimony; Exs. J, N, U.*

12. According to Oprisko, the house that the Institute plans to build will be the world’s first “masonry double-envelope passive solar house.” The Institute plans “to instrument” the building to study its thermodynamic properties as part of an ongoing experiment. It intends to use one room as an office and the other rooms as domiciles for two of its directors, Oprisko and his wife. The Institute will also use the house as a research center and continue advancing its medical and scientific research on subjects such as COVID-19. After obtaining a permit, the Institute installed a gravel driveway leading up to the home site. *Oprisko testimony; Exs. L, M, Q, S-T.*

13. Even if the Institute is not entitled to a scientific- or charitable-use exemption for the property, it believes it is entitled to what Oprisko referred to as a “home office exemption.” Because the bulk of the Institute’s research no longer requires laboratory testing, but rather research via the internet, the Institute disagrees with the notion that the proposed residence needs to be a traditional research facility. It argues that the Catholic Church commonly receives exemptions for priests’ residences that are adjacent to churches. *Oprisko testimony and argument; Exs. L, M.*

B. The Assessor’s contentions

14. The Assessor argues that none of the property is exempt. The Institute concedes that proposed building will used as a private residence rather than as a place of business. The blueprints confirm this: they show a home and garage with no indication that any portion will be used primarily for research. And Oprisko told the board of zoning appeals that while the property is owned by the Institute, the home would be a primary residence rather than a place of business. While Oprisko testified about research and other

activities the Institute engages in, it does not do any of those things at the property.

Adamsky argument; Exs. L, M, T.

15. Finally, the Institute's claim of entitlement to a home office exemption and its reference to exemptions for clergymen are irrelevant. Even if the Institute were somehow entitled to those benefits, it did not claim them on its exemption application. *Adamsky argument.*

Analysis

16. We begin by observing that although the Institute left blank the space on the exemption application for specifying the assessment date, both the Form 132 petition it filed with us and the attached Form 120 notice from the PTABOA list 2019 as the assessment year at issue. The Institute, however, did not offer any evidence to show that it owned the property on January 1, 2019. To the contrary, the warranty deed it submitted was not executed until January 11, 2019. Exemption awards must be based on a property's eligibility on the assessment date; changes in use or ownership following the assessment date do not affect its eligibility. I.C. § 6-1.1-11-1.5(b). There is nothing in the record to show the previous owner's purposes in owning the property or the uses to which he devoted it.
17. Similarly, where a property has not previously been granted an exemption, the owner must apply for exemption by April 1 of the assessment year for which it seeks the exemption. I.C. § 6-1.1-11-3. The Institute did not file its exemption application until September 26, 2019—several months past the deadline for claiming an exemption for 2019.
18. The Assessor, however, did not raise those issues. We need not speculate why. Instead, we will address the underlying merits of the Institute's claims.
19. The legislature has exercised its constitutional authority to exempt certain types of property from taxation. *Indianapolis Osteopathic Hospital, Inc. v. Dep't of Local Gov't*

Fin., 818 N.E.2d 1009, 1014 (Ind. Tax Ct. 2004). A taxpayer bears the burden of proving its property qualifies for an exemption. *Id.* 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 Cnty. Ass’r*, 914 N.E.2d 13, 15 (Ind. Tax Ct. 2009).

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., 818 N.E.2d at 1014. Worthwhile activities or noble purposes alone do not suffice. Instead, a taxpayer must show that the property is being used to provide a public benefit justifying the loss of tax revenue. *See, e.g., Dep’t of Local Gov’t Fin. v. Roller Skating Rink Operators Ass’n*, 853 N.E.2d 1262, 1265 (Ind. 2006).

20. The Institute claims an exemption under Indiana Code § 6-1.1-10-16. Subsection (a) of that statute provides an exemption for all or part of a building that is owned, and exclusively or predominantly used or 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*, 914 N.E.2d at 15. A property is predominantly used or occupied for exempt purposes if it is used or occupied for those purposes more than 50% of the time that it is used or occupied in the year ending on the assessment date. I.C. § 6-1.1-10-36.3(a). The exemption extends to land on which an exempt building is situated. It also extends to land on which a parking lot or other structure serving an exempt building is located. I.C. § 6-1.1-10-16(c)(1)-(2).

21. The property under appeal does not have an exempt building on it. Nor does it have a parking lot or other improvement serving an exempt building. Chapter 16, however, contains three subsections creating exemptions for vacant land under specified circumstances. At best, the Institute’s exemption application and appeal raise only one of those: subsection (d). That subsection exempts land if (1) it is “purchased for the purpose of erecting a building that is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a),” and (2) not more than four years after

buying the property, and for each year thereafter, the owner shows substantial progress and active pursuit toward that end. I.C. § 6-1.1-10-16(d).

22. Although the Institute bought the property with the intent of building a home and garage, it did not show that those buildings will be owned, occupied, and used in a manner that would qualify them for exemption under subsection (a). To do so, the Institute needed to show that the proposed buildings will be predominantly used or occupied for an exempt purpose. The Institute was formed for scientific, charitable, and educational purposes, and it offered evidence that it generally engages in activities to further those purposes. But it did not show that the proposed home and garage will be predominantly used for those purposes. To the contrary, it plans for Oprisko and his wife to use the home as their domicile. There is nothing to show that the directors' use of the home as their domicile is reasonably necessary for the proposed ongoing study of its thermodynamic properties. Similarly, vague references to "instrument[ing]" the home, to using an unspecified room as an office, or to conducting computer-based research do not suffice to show the home or garage will be predominantly used for exempt purposes.
23. The Institute argues that the mere fact its directors will live in the home should not disqualify the property from exemption, analogizing the situation to a church receiving an exemption for its priests' quarters. As the Assessor correctly points out, however, churches receive those exemptions under a specific statute that exempts parsonages. *See* I.C. § 6-1.1-10-21(b)-(c). In any case, we do not find that the Institute's plan for its directors to live in the home *automatically* disqualifies the property from exemption. But it was the Institute's burden to show that the property will be predominantly used for charitable, scientific, or educational purposes, not for the private benefit of its directors. Based on the limited, vague information the Institute provided, we find that it failed to meet that burden.
24. The Institute's application did not even arguably raise claims under the other two provisions for exempting vacant land: subsection (c)(3), which exempts land owned by a

nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics; and subsection (i), which exempts, among other things, certain land acquired to build single-family homes for low-income individuals. *See* I.C. § 6-1.1-10-16(c)(3), (i).

25. Even if the Institute had claimed an exemption under subsection (c)(3), the evidence it offered at the hearing did not suffice to show that it qualified. The Institute offered evidence of its efforts in cleaning up the existing dump as well as evidence of its intent to maintain what it referred to as an experimental forest at the property and to increase the forest's biodiversity. But subsection (c)(3) focuses on the purposes for which the owner was established. And the Institute offered no evidence to show that it was established for the purposes of retaining and preserving land and water for their natural characteristics. The Institute's organizational documents do not mention either of those purposes, although its bylaws list several others, all of which focus on science, charity, and education through research. The fact that some of the identified areas for research include the study of water does not, without further explanation, amount to a foundational purpose of preserving water for its natural characteristics.

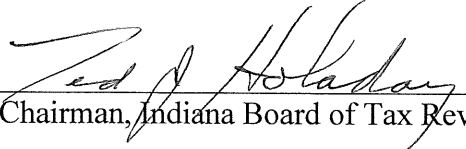
26. Nor can the Institute rely on its actual or intended activities with the experimental forest. Even if an entity's actual or intended activities at a single property could suffice to show the purposes for which the entity was established, the evidence here is conflicting. Oprisko testified that the Institute bought the property because it was cheap, was located on a bus line, and had city utilities. He also testified that the Institute intended to build a home on the property and to use the area beyond the homesite as a buffer. *See Marineland Gardens Cmty. Ass'n v. Kosciusko Cnty. Ass'r*, 26 N.E.3d 1087, 1090 (Ind. Tax Ct. 2015) ("Even if evidence of a property's current or long-standing use could prove why an organization was established, much of the evidence that Marineland presented is contradictory.").

27. Finally, the Institute argues that it is entitled to a “home office exemption.” But it does not identify any statute providing for such an exemption. To the extent such an exemption might exist, the Institute did not apply for it. Nor did the Institute reference that supposed exemption in its Form 132 petition.

Conclusion

28. Because the Institute did not show that the buildings it plans to erect on its currently vacant property will be predominantly used for exempt charitable, educational, or scientific purposes, we find for the Assessor. The Institute is not entitled to an exemption for 2019.

We issue this this Final Determination on the date first listed above.


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>.