

BEFORE THE IDAHO BOARD OF TAX APPEALS

CONFLUENCE INSTITUTE,)	
)	
Appellant,)	APPEAL NOS. 21-A-1001,
)	21-A-1002, 21-A-1003, and
v.)	21-A-1004
)	
CUSTER COUNTY,)	FINAL DECISION AND ORDER
)	
Respondent.)	
)	
_____)	

CHARITABLE EXEMPTION APPEALS

These appeals are taken from decisions of the Custer County Board of Equalization denying appeals of the valuation for taxing purposes on properties described by Parcel Nos. RP11N18E265401A, RP11N18E271801A, RP11N18E350602A, and RP11N18E279010A. The appeals concern the 2021 tax year.

These matters came on for telephonic hearing July 23, 2021, before Board Member Leland Heinrich. Attorney Laurence Lucas appeared at hearing for Appellant. Custer County Prosecutor Justin Oleson represented Respondent.

Board Members Leland Heinrich, David Kinghorn, and Kenneth Nuhn join in issuing this decision.

The issue on appeal concerns whether the subject properties qualify for an exemption from property taxation as property belonging to a charitable corporation pursuant to Idaho Code § 63-602C.

The decisions of the Custer County Board of Equalization are affirmed.

FINDINGS OF FACT

Parcel No. RP11N18E265401A (Appeal 21-A-1001)

The assessed land value is \$372,020, and the improvements' value is \$271,870, totaling \$643,890. Appellant contends the property is exempt from taxation as property belonging to a charitable corporation.

Parcel No. RP11N18E271801A (Appeal 21-A-1002)

The assessed land value is \$181,680, and the improvements' value is \$450,310, totaling \$631,990. Appellant contends the property is exempt from taxation as property belonging to a charitable corporation.

Parcel No. RP11N18E350602A (Appeal 21-A-1003)

The assessed land value is \$280,760, and the improvements' value is \$100, totaling \$280,860. Appellant contends the property is exempt from taxation as property belonging to a charitable corporation.

Parcel No. RP11N18E279010A (Appeal 21-A-1004)

The assessed land value of this vacant parcel is \$40,350. Appellant contends the property is exempt from taxation as property belonging to a charitable corporation.

The subject properties, totaling roughly 432 acres, are contiguous parcels stretching approximately 1.25 miles along the banks of the East Fork of the Salmon River outside of Challis, Idaho. Most of the acreage is specially assessed as dry grazing agricultural ground, though two (2) of the subject parcels' assessments also include improved one (1) acre homesites, each assessed at market value. One (1) of the homesites is improved with a two (2) story, 6,448 square foot residence constructed in 1987. This building is commonly referred to as The Lodge and sits unused except for limited free-of-charge use by other non-profit organizations to host executive and staff retreats. Attached to the other homesite parcel is a 3,060 square foot, three (3) story residence constructed in 2007. This residence is used to house the caretakers of the property.

Appellant provided some history concerning ownership and use of the subject properties. From 2000 to 2007, the subject properties were owned by Valley Sun, LLC, an Idaho limited liability company formed for the purpose of acquiring and holding title to the subject parcels. The subject properties were commonly referred to as the Greenfire Preserve. Valley Sun was in turn owned by Western Watersheds Project, an Idaho nonprofit corporation recognized by the IRS as a Section 501(c)(3) public charity. Western Watersheds was a nonprofit conservation organization based in Hailey, Idaho, and used the subject properties as its headquarters.

In 2007, Mr. Gordon Younger acquired ownership of Valley Sun and, by extension, the subject properties. For several years, Western Watersheds continued to manage the subject properties pursuant to a management agreement. From 2009 until 2019, Valley Sun managed the subject properties for environmental restoration and as a wildlife preserve. For each of those years, the subject properties were granted a wildlife habitat property tax exemption.

Following the death of Mr. Younger in 2017, ownership of Valley Sun and the subject properties passed to Mr. Younger's two (2) adult children. In an effort to continue the wildlife habitat and environmental restoration work began by Mr. Younger, the children decided to donate the subject properties to Appellant (Confluence Institute, Inc.), which is an Idaho nonprofit corporation formed in February 2018. In December 2019, Appellant's Board of Directors approved receipt of gifts from Mr. Younger's children of their ownership interests in the subject properties. Title to the subject properties passed to Appellant on January 6, 2020. The properties are currently referred to as the White Clouds Preserve.

In January 2020, Appellant entered into a Management Agreement, as well as a Conservation Agreement with White Clouds Preserve, Inc., an Idaho nonprofit conservation corporation. White Clouds Preserve was formed by members of Mr. Younger's family in 2018 to serve as an IRS Section 501(c)(3) public charity. White Clouds Preserve was created for the purposes of "managing the [subject properties] for wildlife habitat and to support environmental protection and restoration, economic development, and research and education within the East Fork Salmon River watershed and surrounding areas, including the Boulder-White Cloud Mountains." White Clouds Preserve is responsible for the day-to-day management of the subject properties.

Since acquiring ownership of the subject properties in January 2020, Appellant and White Clouds Preserve, through the Management and Conservation Agreements, have supported other recognized nonprofit organizations by allowing temporary, non-commercial use of the Lodge, usually for staff or board retreats. Appellant has also funded several grants to other nonprofit organizations during the 2018 and 2019 tax years. Appellant maintained the subject properties have been used only to support the corporation's philanthropic purposes, and have not been used for any commercial or business purpose during 2020.

For the current tax year, Appellant timely filed the necessary applications to exempt the subject properties from taxation as properties belonging to a charitable corporation. The Custer County Board of Commissioners, sitting as a Board of Equalization, denied Appellant's applications for the exemptions in a letter dated April 14, 2021. Respondent argued Appellant is not a charitable corporation as contemplated by Idaho Code § 63-602C, and further that the subject properties were not used exclusively

for the purposes for which Appellant is organized. Appellant maintained it satisfies the definition of a charitable corporation and the properties were indeed used for Appellant's stated organizational purposes; therefore, the charitable exemption should be granted.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of market value in fee simple interest, or, as applicable, a property's exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence submitted by the parties, hereby enters the following.

The central issue in this appeal is whether the subject properties qualify for an exemption from taxation pursuant to Idaho Code § 63-602C, as property belonging to a charitable corporation. For the reasons below, we find the subject properties do not qualify for the charitable exemption.

Idaho Code § 63-602C provides in pertinent part,

The following property is exempt from taxation: property belonging to any fraternal, benevolent, or charitable limited liability company, corporation or society, the World War veteran organization buildings and memorials of this state, used exclusively for the purposes for which such limited liability company, corporation or society is organized

As the controlling statute makes clear, there are two (2) elements necessary for property to qualify for the charitable exemption: 1) the property belongs to a charitable organization and 2) the property is used exclusively for the purposes for which such charitable organization is organized. Respondent argued neither requirement has been satisfied in the instant appeal, and therefore the exemption should be denied. Appellant contended the necessary criteria to qualify for the claimed exemption were satisfied.

The analysis starts first with whether the property under examination belongs to a charitable organization. Appellant pointed to its Internal Revenue Service status as a section 501(c)(3) tax-exempt corporation as evidence it is a charitable corporation. While the record is clear Appellant is a tax-exempt corporation for purposes of federal income taxation, such is not determinative in the context of whether an organization is charitable for purposes of the Idaho charitable exemption at issue here. Rather, the Idaho Supreme Court has articulated an eight-factor test to determine whether an organization is considered charitable.

Before examining the eight (8) factors it is important to keep in mind that “. . . determination of a corporation’s charitable status for purposes of [Idaho Code § 63-602C] must be made on a case-by-case basis; it necessarily involves consideration of the particular circumstances of the organization seeking such status, and is not susceptible of the application of hard and fast rules or definitions.” *Coeur d’Alene Pub. Golf Club v. Kootenai Bd. of Equalization*, 106 Idaho 104, 105, 675 P.2d 819, 820 (1984). It is also well settled that the contemporary definition of the term charitable comprehends more than “almsgiving to the poor.” Indeed, to be classified as charitable, “. . . an organization need not provide monetary aid to the needy, it may provide any number of services of public benefit. The word ‘charitable,’ in a legal sense, includes every gift for general public use, whether it be for educational, religious, physical, or social benefit. *Canyon Cnty. Assessor v. Sunny Ridge Manor, Inc.*, 106 Idaho 98, 100, 675 P.2d 813, 815 (1984). For its uses to be considered charitable, a corporation must provide some sort of general public benefit. To aid in this consideration, the Court identified the below factors, however emphasized, “[t]hese factors do not constitute a formal checklist for deciding if a

corporation is 'charitable'; rather they serve only as guidelines for the court's application of the definition of 'charitable' as to a particular corporation." *Coeur d'Alene Pub. Golf Club* at 106 Idaho at 106, 675 P. 2d at 821.

The eight (8) factors, commonly referred to as the *Sunny Ridge* factors, are as follows:

(1) the stated purpose of the corporation or organization's undertaking, (2) whether its functions are charitable (in the sense just discussed), (3) whether it is supported by donations, (4) whether the recipients of its services are required to pay for the assistance they receive, (5) whether there is general public benefit, (6) whether the income received produces a profit, (7) to whom the assets would go upon dissolution of the corporation, and (8) whether the "charity" provided is based on need.

Sunny Ridge, 106 Idaho at 100, 675 P.2d at 815 (citation omitted).

The Board will examine each *Sunny Ridge* factor in turn to determine whether Appellant is a charitable corporation for purposes of Idaho Code § 63-602C.

1. The stated purpose of [Appellant's] undertaking.

Article IV of Appellant's Articles of Incorporation, filed with the Idaho Secretary of State in February 2018, states the following purposes of the corporation,

The Corporation is organized exclusively for charitable, religious, literary, scientific and educational purposes as set forth in Section 501(c)(3) of the Internal Revenue Code . . . including, but not limited to, the creation of a foundation for making scholarships and grants or any other charitable purposes, and the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of such Code, and the transaction of any lawful activity.

Though somewhat generic and broad in scope, Appellant's stated purposes are clearly charitable. It is also worth noting that in its first two (2) years of existence, Appellant has indeed made donations to other nonprofit organizations consistent with the purposes expressed in its Articles of Incorporation. Specifically, Appellant donated a total of

\$27,500 to five (5) different exempt entities in 2018, and \$130,000 to an exempt Idaho entity in 2019. This first *Sunny Ridge* factor favors Appellant.

2. Whether [Appellant's] functions are charitable.

Appellant's primary function is to fund grants which are then awarded to other nonprofit organizations engaged in various charitable or public service-like activities. For example, Appellant awarded grants to Idaho Rivers United, The Hunger Coalition, and Blaine County Education Fund, which are three (3) different Idaho nonprofit organizations focused on varying issues for the benefit of Idahoans. In the Board's view, Appellant's functions are charitable as contemplated by this factor.

3. Whether [Appellant] is supported by donations.

From the record, it is evident Appellant is supported by donations. To begin, the subject properties were donated to Appellant on January 6, 2020. And, according to Appellant's 2018 and 2019 federal tax returns, Appellant also received "Contributions, gifts, grants, etc." in the amounts of \$807,500 and \$500,000, respectively. This factor weighs favorably for Appellant.

4. Whether recipients of [Appellant's] services are required to pay for services received.

This is where the instant appeal differs somewhat from the case law involving charitable exemptions. Appellant is not a "traditional" charity in which its "services" are broadly distributed to those in need. Rather, Appellant is a private charitable foundation which provides grants to other nonprofit organizations, who in turn provide a more direct benefit to the broader public. Though details were not provided concerning the process by which Appellant issues grants to recipients, nothing in the record suggests the recipients were required to pay for those services (grants) received. Indeed, it would be

antithetical to Appellant's stated organizational purpose of funding grants for the benefit of other nonprofit organizations if such nonprofit organizations were required to pay for the funding. This factor is favorable to Appellant.

5. Whether there is a general public benefit.

The Idaho Supreme Court, in *Housing Southwest, Inc. v. Washington Cnty.*, provided the following with respect to the general public benefit factor,

For a corporation's uses to be considered charitable it is essential that they provide some sort of general public benefit. [citation omitted]. If the general public does not receive a direct benefit from a corporation's donations, then the question presented by the "general public benefit" factor is whether the corporation fulfills a need which the government might otherwise be required to fill. [citations omitted]. While the requirement that a corporation lessen the burden of government is but one factor to be considered in determining tax exempt status, it is nevertheless an important one. [citation omitted].

128 Idaho 335, 339, 913 P.2d 68, 72 (1996).

As a private charitable foundation which funds grants for a somewhat limited number of other nonprofit organizations, it is difficult to conclude Appellant directly provides a general public benefit. The question therefore becomes whether Appellant fulfills a need which the government might otherwise be required to fill.

Consistent with its own stated purposes, the Management Agreement between Appellant and White Clouds Preserve, Inc. states the subject properties have been managed since 2000 to protect and promote riparian and uplands wildlife habitat and restoration, which goals and activities have expanded since Appellant's creation in 2018 to include providing monetary support for nonprofit organizations through grants. The Management Agreement further states Appellant "has established additional goals of using the [subject properties] as a vehicle to promote broader watershed restoration,

research and education, and rural economic development within the East Fork Salmon River watershed and White Clouds Mountains region of central Idaho.”

The Conservation Agreement details much of the same with respect to the goals and activities of both organizations, and also identifies numerous species which are present on the subject properties, some of which are federally-listed threatened species. According to the Conservation Agreement, species found on the subject properties include chinook salmon, steelhead trout, bull trout, eastslope cutthroat trout, as well as native and migratory waterfowl, native upland bird species, native raptor species, native ungulate species, native riparian and upland plant species, and native amphibians, reptiles, insects, and annelida. Appellant also noted it has a partnership with the Shoshone Bannock tribes for the maintenance of a fish trap on the river to monitor fish species up and down the East Fork of the Salmon River, and Appellant further announced future plans to install a research facility on the property.

In a general sense, it is difficult to imagine that the environmental and restoration efforts endeavored by Appellant would not otherwise be an obligation of the government if not for Appellant funding such work through its partnership with White Clouds Preserve. As the subject properties consume more than one (1) mile of riverfront, it is reasonable to conclude Appellant’s conservation and restoration efforts would likely have positive effects up and down the river, resulting in a broader public benefit. The Board finds this factor in favor of Appellant.

6. Whether the income received produces a profit.

According to Appellant’s 2018 and 2019 federal income tax returns, the only income reported was interest income of \$899 for 2018 and \$10,899 for 2019. The other

monies received were in the form of donations: \$807,500 for 2018 and \$500,000 for 2019.

This is consistent with Appellant's testimony that it does not charge fees for use of facilities on the subject properties, nor does the company otherwise generate revenue.

This factor weighs in favor of Appellant.

7. To whom [Appellant's] assets would go upon dissolution.

Article IX of Appellant's Articles of Incorporation titled "Dissolution" reads in relevant part,

Upon dissolution of the Corporation, the Board of Directors shall, after paying or making provisions for the payment of all liabilities of the Corporation, distribute all the assets of the Corporation consistent with the purposes of the Corporation to such organization or organizations as shall at that time qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended from time to time, in such manner as the Board of Directors shall determine

As the above article unequivocally directs Appellant's assets be distributed to other Section 501(c)(3) organizations upon dissolution, this factor is resolved in favor of Appellant.

8. Whether the "charity" provided is based on need.

This is another area in which the record was somewhat thin. It was not clear how the grants Appellant funds are chosen. Presumably, the nonprofit recipients are in "need" of Appellant's grants, but without more details it is unclear. This again is where the facts of this particular case differ from other charitable exemption cases reviewed by the courts. As a private charitable foundation, Appellant is different from a more traditional public charity in which a recipient's income is often a critical factor in determining whether services or benefits are awarded. Though it is likely Appellant does satisfy this *Sunny*

Ridge factor, without more details concerning Appellant's grant process, the Board is reluctant to make a determinative finding on this factor.

To stress again, as the Idaho Supreme Court highlighted in *Coeur d'Alene Pub. Golf Club*, the above eight (8) factors do not constitute a formal checklist. This means not every factor must be satisfied in order to fit the definition of "charitable" in the context of Idaho Code § 63-602C. Rather, the factors serve as more of a guide for examining whether a particular organization is charitable based on its specific circumstances. In the case at bar, the factors guided the Board to the clear conclusion Appellant is a charitable corporation and therefore satisfies the ownership element of the statute.

Having found Appellant is a charitable corporation, the inquiry now turns to whether the subject properties were used exclusively for the charitable purposes for which Appellant is organized. Two (2) of the subject properties under appeal here are improved: one (1) with a large multipurpose building referred to as the Lodge, which is used to host executive and staff retreats for other nonprofit organizations, and the other parcel is improved with a multi-level residence used to house the co-executive directors of White Clouds Preserve who serve as the day-to-day caretakers of the subject properties. This is problematic because *Sunny Ridge* requires that the use of an organization's property provides a general public benefit.

"[Charitable exemptions] are said to be justified . . . by an offsetting benefit to the community. Hence has arisen the test that an institution may be entitled to an exemption where it performs a function which might otherwise be an obligation of government. Where there is no assistance to individuals which might normally require governmental funds . . . the institution must meet a stricter test: it must provide benefits to the community at large." [citations omitted].

Corp. of the Presiding Bishop of the Church of Jesus Christ Latter-Day Saints v. Ada Cnty. 123 Idaho 410,424, 849 P.2d 83 (1993).

In *Presiding Bishop*, the Idaho Supreme Court denied the church's request for a charitable exemption for the Mission House used to house the president of the Idaho Boise Mission and his wife, finding that "[t]he [church] has not shown that its use of the Mission Home Supplants a function 'which might otherwise be an obligation of government.'" *Id.* Similar to *Presiding Bishop*, Appellant has not demonstrated how its use of the Lodge and the caretaker's residence supplants an obligation which might otherwise be the obligation of the government. The Lodge is used to host retreats for other nonprofit organizations and the caretaker's residence is used to house the caretakers of the subject properties, neither of which are obligations the government would otherwise need to fulfill. Moreover, Appellant has failed to demonstrate how use of these properties meets the more stringent test that it provides benefits to the community at large.

"A claim of exemption from tax must be justified, if at all, by the terms of the statute." *Roeder Holdings v. Bd. of Equalization*, 136 Idaho 809, 813, 41 P.3d 237, 241 (2001). "Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption. An alleged grant of exemption will be strictly construed. It must be in terms so specific and certain as to leave no room for doubt. An exemption claim cannot be sustained unless it is shown to be within the spirit as well as the letter of the law." *Bistline v. Bassett*, 47 Idaho 66, 71, 272 P. 696, 698 (1928). The statute requires that to qualify for the charitable exemption, the property at issue must be used *exclusively* for the purposes for which the charitable organization is organized. While the subject properties are primarily used in furtherance of Appellant's charitable ambitions, they are not used exclusively for such purposes. And therefore, the logical conclusion is that the subject properties do not qualify for the charitable exemption.

As the subject properties do not qualify for the charitable exemption, they must be assessed for purposes of property taxation. “All property within the jurisdiction of this state, not expressly exempted, is subject to appraisal, assessment and property taxation. Idaho Code § 63-203. Further, “All [property] subject to property taxation must be assessed annually at market value for assessment purposes” Idaho Code § 63-205. Appellant did not challenge Respondent’s market value determinations concerning the subject properties. As such, the Board will accept the respective assessed values for the subject properties.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decisions of the Custer County Board of Equalization concerning the subject parcels be, and the same hereby are, AFFIRMED.

DATED this 22nd day of October, 2021.

IDAHO BOARD OF TAX APPEALS