

BEFORE THE IDAHO BOARD OF TAX APPEALS

ROOTFOREST, LLC,	)	
	)	
Appellant,	)	APPEAL NO. 24-A-1001
	)	
v.	)	FINAL DECISION AND ORDER
	)	
LATAH COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

EDUCATIONAL EXEMPTION APPEAL

This appeal is taken from a decision of the Latah County Board of Equalization denying an application for property tax exemption on property described by Parcel No. RPM00010040040A. The appeal concerns the 2024 tax year.

This matter came on for hearing September 23, 2024, in Moscow, Idaho, before Board Member Kenneth Nuhn. Member Brenda Von Wandruszka appeared at hearing for Appellant. Latah County Deputy Prosecuting Attorney Stephen Kwiatkowski represented Respondent.

Board Members Leland Heinrich, Kenneth Nuhn, and Doug Wallis join in issuing this decision.

The issue on appeal concerns whether the subject property qualifies for an exemption from taxation pursuant to Idaho Code § 63-602E, as property used for school or educational purposes.

The decision of the Latah County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$139,700, and the improvements' value is \$637,500, totaling \$777,200. Appellant contends that roughly 82% of the subject property used for school or educational purposes is exempt from taxation.

Physical characteristics of the subject property were limited in the record, but the property is a two (2) story commercial building located within the Central Business Zoning District (CBZD) in downtown Moscow, Idaho. The building totals 8,156 square feet in size, with 4,918 square feet on the first floor and 3,238 square feet on the second. The first floor is comprised of 343 square feet of gift shop/retail space, with the remaining 4,575 square feet dedicated as art gallery space. The upper floor includes 1,804 square feet of additional gallery space and 1,434 square feet of office space.

The subject building has been used as an art gallery since the 1980s. The building was operated by the University of Idaho (U of I) and housed the Prichard Art Gallery. According to Respondent, U of I primarily used the building for non-credit-bearing educational activities, similar to a traditional art gallery. In 2021, the building transitioned to the Moscow Contemporary Art Gallery, and the gallery operations continued.

Upon expiration of the lease with Moscow Contemporary Art Gallery, a new tenant, New Saint Andrews College (NSA) took possession of the subject building on February 1, 2024. NSA's intention was to continue the art gallery and gift shop uses, but to also convert some of the area on the second floor to office space. In reviewing NSA's proposed use of the building as an art gallery, a retail space, and administrative offices, the City Zoning Administrator determined the art gallery and retail spaces were permitted uses within the CBZD so long they did not further the educational purposes of NSA and do not include credit-bearing academic activities.

The Zoning Administrator, however, concluded the proposed office space use was prohibited because the offices were to be occupied by administrative staff to provide support functions for NSA, such as finance, recruitment, fundraising, and marketing. The

Zoning Administrator found, “. . . administrative offices which are affiliated with NSA and support the college in its purpose of . . . granting degrees at baccalaureate or graduate levels, would be classified as Colleges, Universities, and Professional Schools.” In concluding the proposed office use was not permitted, the Zoning Administrator explained NSA’s proposed use of the office space would violate Ordinance No. 2019-17, passed by the City of Moscow in 2019, which prohibits additional or expanded universities and colleges in the CBZD.

Due to the Zoning Administrator’s decision, which was ultimately upheld on appeal to the Moscow City Council in September 2024, Appellant secured a new tenant to occupy the office space. The tenant was a newly created for-profit limited liability company unaffiliated with NSA, so the office space is no longer an expansion of NSA’s footprint. As it is occupied by a for-profit company, Appellant acknowledged the 1,434 square feet of office space on the second floor, or nearly 18% of the subject building, did not qualify for exemption under Idaho Code § 63-602E.

Appellant maintained, however, the gallery and retail spaces in the building are entitled to the exemption. Appellant contended NSA’s use of the gallery and retail spaces are a continuation of the same art gallery and educational meeting place uses as the prior tenants for roughly forty-four (44) years and for which the exemption was granted. Appellant argued NSA’s use of the building for educational purposes, even if at odds with Ordinance No. 2019-17, is a permitted nonconforming use because the property has been continuously used for such purposes for decades.

Respondent disagreed the retail and gallery spaces are entitled to the exemption. Respondent argued the retail space does not qualify for the exemption because running

a retail space in support of a gallery operation is not an educational purpose. Regarding the gallery space, Respondent argued NSA cannot use the space for educational purposes as required to qualify for the exemption because such use would violate Ordinance No. 2019-17 prohibiting expansion or addition of colleges and universities in the CBZD. In Respondent's view, none of the subject property qualifies for the educational exemption, so the entirety must be assessed at market value.

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 parties agreed the 1,434 square feet on the second floor dedicated to office space does not qualify for exemption. The Board concurs. Therefore, the unresolved issue is whether the remainder of the building is entitled to the educational exemption provided in Idaho Code § 63-602E. Based on the following, the Board finds the subject property does not qualify for the educational exemption for 2024.

Idaho Code § 63-602E reads in relevant part,

(1) The following property is exempt from taxation: all property used exclusively for nonprofit school or educational purposes, property used for charter school purposes, and all property from which no profit is derived and which is held or used exclusively for endowment, building or maintenance purposes of schools or educational institutions.

(2) If property is used primarily for nonprofit school purposes or charter school purposes and for business purposes from which a revenue is derived, which revenue is not related to the educational purposes for which the nonprofit school or charter school exists, the assessor shall determine

the value of the entire property, of the part used for nonprofit school purposes or charter school purposes, and of the part used for such unrelated business purposes. The portion of the building used for nonprofit school purposes or charter school purposes and for business and administration of the nonprofit school or charter school shall be exempt from taxation.

Whether U of I's use of the subject building included credit-bearing academic activities is uncertain in the record, but even if such nonconforming educational use did occur, it ended when the property transitioned to the Moscow Contemporary Art Gallery because MCAG is not a college or university. As such, Appellant's position the current use is simply a continuation of the previous nonconforming use and therefore the property is entitled to the educational exemption does not hold because MCAG is not an educational entity, nor was it demonstrated MCAG used the property exclusively or primarily for educational purposes, so MCAG could not satisfy the educational use requirement of the statute. In other words, any qualifying educational use of the subject property for purposes of the exemption ceased when U of I vacated the building in 2021, and the Zoning Code does not allow a nonconforming use to continue when such nonconforming use is abandoned for six (6) consecutive months. Here, any potential nonconforming educational use of the subject property by U of I ended in 2021, roughly three (3) years prior to NSA's tenancy. As such, NSA must satisfy the educational use requirement on its own to qualify under the exemption statute.

NSA is certainly a college or university so could satisfy the requirements of the statute if NSA were to use the subject property exclusively or primarily for educational purposes. The problem, however, is that Ordinance 2019-17 explicitly prohibits "additional or expanded universities and colleges in the CBZD." So, while NSA is the type of nonprofit

educational institution contemplated by the statute, NSA cannot satisfy the educational use requirement, as such use by NSA is prohibited within the CBZD.

Even without the ordinance, it is questionable whether the property would qualify for the exemption. This is particularly the case with respect to the retail space on the first floor. Appellant explained all revenue generated from the retail space is used to support the art gallery. The statute does allow a property to be used for both educational and business purposes; however, the exemption does not extend to the revenue-generating portion of the property if such revenue is not related to the educational purpose for which the nonprofit school exists. According to NSA's Articles of Incorporation, "This corporation is organized exclusively for charitable, religious, educational, and scientific purposes. To facilitate these purposes, this corporation is organized to provide Christian college level instruction" It is difficult to accept that running a retail space in support of a gallery operation is an educational purpose, let alone that such activity furthers NSA's stated purpose of providing Christian college level instruction.

In appeals to this Board, Appellant bears the burden of establishing the board of equalization erred in its decision to deny the educational exemption for the subject property. Idaho Code § 63-511. The Board did not find the burden of proof satisfied. Based on the circumstances presented here, particularly the CBZD use restrictions imposed by Ordinance 2019-17, the Board must conclude the subject property does not qualify for the exemption provided in Idaho Code § 63-602E.

The decision of the Latah County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Latah County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 5th day of December, 2024.