

BEFORE THE IDAHO BOARD OF TAX APPEALS

HISPANIC CULTURAL CENTER OF IDAHO,	)	
	)	
Appellant,	)	APPEAL NO. 16-A-1081
	)	
v.	)	FINAL DECISION
	)	AND ORDER
CANYON COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**CHARITABLE EXEMPTION APPEAL**

This appeal is taken from a decision of the Canyon County Board of Equalization partially denying a claim for property tax exemption concerning property described by Parcel No. 673401000. The appeal concerns the 2016 tax year.

This matter came on for hearing November 30, 2016 in Caldwell, Idaho before Board Member Leland Heinrich. Attorney Ralph Jordan represented Appellant at hearing. Chief Deputy Assessor Joe Cox represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns whether the subject property qualifies for a full tax exemption pursuant to Idaho Code § 63-602C.**

**The decision of the Canyon County Board of Equalization is reversed.**

FINDINGS OF FACT

The non-exempted value of the improvements is \$124,900. The improvements are situated on leased land, so there is no land value associated with this parcel. Appellant contends subject qualifies for a full property tax exemption as property belonging to a charitable organization.

Appellant is a charitable tax-exempt organization pursuant to I.R.C. section 501(c)(3). Appellant’s organization was formed in 1997 with the following express purpose:

“[t]o recognize, celebrate and preserve Hispanic heritage in Idaho by preserving the arts and cultural traditions of the Hispanic population of Idaho; by exposing both the Hispanic and non-Hispanic communities in Idaho to the cultural heritage of the Hispanic population; by nurturing the Hispanic arts community in Idaho, and particularly encouraging the development of younger Hispanic artists; and by teaching Hispanic youth about their cultural heritage through classes, performances, exhibitions and outreach programs.” See Appellant’s Articles of Incorporation, Article V, Section A.

Article V, Section B expands the organization's purposes to include charitable, religious, educational, and scientific pursuits.

In 2003, construction was completed on a 30,000 square foot building on land Appellant leased from the City of Nampa. In addition to meeting rooms and event halls, the subject building includes a commercial-grade kitchen, which Appellant noted was one (1) of only two (2) such kitchens in the county owned by a nonprofit organization. The other kitchen is owned by the University of Idaho. In connection with the new building, Appellant’s governing board refined the organization’s mission and purpose to reflect how the facility could be used to advance the charitable objectives of the organization. The revised mission statement reads, “The Hispanic Cultural Center of Idaho develops pride and leadership while breaking down barriers, fostering appreciation of the Hispanic family, community and cultural values.” Appellant pursues accomplishment of the organization’s mission by using the subject facility to offer programs related to education, business training and support, leadership development, and performing and visual arts.

Appellant explained since the subject building was opened, it has been made available to the public, both for free and for a fee. In Appellant’s estimation, roughly 85% of the building’s use to date has been at no charge to the user. The remaining 15% of the use did have rental

fees attached. For 2013 through 2015, Appellant reported to the IRS a total property value of \$3,117,552.

Appellant detailed some of the activities and programs offered at the subject facility during 2015. Appellant reported arranging, partnering, and providing more than 300 free classes and workshops involving 5,400 free hours of teaching for more than 625 students during 2015. Some of the free class offerings included income tax preparation, English, Latin folk dancing, Mariachi music, citizenship, and many others. The subject building was also used free-of-charge by numerous government agencies and nonprofit organizations, such as American Red Cross, Idaho Department of Corrections, American Civil Liberties Union, U.S. Department of Agriculture, Women's Business Center, and dozens more.

Of the more than 400 uses of the subject building during 2015, fewer than sixty (60) uses involved a rental fee. These uses were mostly training sessions, weddings, church gatherings, and cumpleaños and quinceañera celebrations. Respondent agreed some of the paid uses were directly related to the charitable purposes of Appellant, however, considered certain other paid uses as commercial or business activities separate from Appellant's charitable mission. Respondent did not specify exactly which of the paid uses it considered business activities, however, did focus on the use of subject's commercial-grade kitchen by three (3) for-profit users, meetings held at the facility by the Brotherhood of Locomotive Engineers, and weddings/receptions staged on the premises. Respondent's concerns with these uses are discussed below.

During 2015, three (3) for-profit users rented subject's kitchen. These users and total annual rental sums included Fat Daddy's, LLC for \$1,507, Boise Ranch Rubs, LLC for \$99, and

Alicia Reyes for \$2,040. These users prepared food in subject's kitchen for resale to the public at various food-related events. Such use was considered by Respondent to be purely commercial and outside the scope of Appellant's charitable mission. In Appellant's view, these uses were consistent with the organization's mission. In the case of Fat Daddy's, Appellant explained the goal was to establish a relationship in hopes the company would hire or use some of the students and interns participating in Appellant's culinary program. This did not materialize however, as the company was sold in 2015. Similar aspirations were described in relation to the other two (2) for-profit users.

Respondent also questioned whether the wedding-related events held at the subject facility were in furtherance of Appellant's cultural and charitable objectives. Appellant argued wedding events are culturally important so the rents generated from hosting such events should not be considered commercial transactions.

Further challenged by Respondent was use of the subject facility by the Brotherhood of Locomotive Engineers (BLE) for meetings during 2015. Respondent did not see a connection between the purposes of the BLE and Appellant, so argued this particular rental arrangement was commercial in nature. Appellant countered renting meeting space to the BLE did fit within the organization's mission in terms of building a bridge between the Hispanic community and the railroad association. In this regard, the BLE reportedly notified Appellant about some open employment opportunities and looked to Appellant to recommend potential candidates.

In all, Respondent argued \$45,439 of the \$55,892 total annual gross rent for 2015 was for uses outside Appellant's charitable and cultural purposes. Respondent contended these non-charitable uses disqualified subject from a full property tax exemption. Appellant maintained

all uses of the subject facility during 2015, both free and for a fee, did serve to further the organization's charitable purposes.

### CONCLUSIONS OF LAW

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

The central issue here is whether subject qualifies for a full property tax exemption according to the requirements provided in the charitable exemption statute. We find in the affirmative.

Idaho Code § 63-602C provides,

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; provided, that if any building or property belonging to any such limited liability company, corporation or society is leased by such owner or if such limited liability company, corporation or society uses such property for business purposes from which a revenue is derived which, in the case of a charitable organization, is not directly related to the charitable purposes for which such charitable organization exists, then the same shall be assessed and taxed as any other property, and if any such property is leased in part or used in part by such limited liability company, corporation or society for such purposes the assessor shall determine the value of the entire building and the value of the part used or leased for commercial purposes. If the value of the part used for commercial purposes is determined to be three percent (3%) or less than the value of the entirety, the whole of said property shall remain exempt. If the value of the part used for commercial purposes is determined to be more than three percent (3%) of the value of the entirety, the assessor shall assess such proportionate part of such building including the value of the real estate as is so leased or used for such purposes, and merchandise; provided however, that the lease or use of any property by any such limited liability company, corporation or society for athletic

or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums or club rooms within the purposes for which such limited liability company, corporation or society is organized, shall not be deemed a business or commercial purpose, even though fees or charges be imposed and revenue derived therefrom.

The statute requires subject be owned by a charitable organization and used in furtherance of the purposes for which such charitable entity is organized. The parties agreed the ownership prong was satisfied, however, Respondent contended the use requirement was not satisfied. Specifically, Respondent argued most of the rents collected during 2015 stemmed from uses outside the purposes for which Appellant is organized, and such uses disqualified subject from a full exemption. We disagree.

Respondent first noted the statute did not include "kitchens" in the list of exempt facilities. The statute was not intended to list every component of different facility types, but rather to broadly define the type of facilities which might be used to generate revenue and still qualify for the exemption. Indeed, several of the facilities identified in the statute would naturally come equipped with a kitchen. In the case at bar, subject's kitchen is attached to the main meeting hall and is used to support activities in the main hall. Subject's kitchen is merely a supportive component of the overall building, the same as bathrooms, closets, and hallways. Further, just because a kitchen is "commercial-grade" does not mean every use is commercial in nature.

Respondent's primary argument centered on the types of uses to which the subject building was put during 2015. Though it was unclear exactly which rental events Respondent considered commercial in nature, Respondent claimed \$45,439 of the roughly \$56,000 total gross rent collected in 2015 was related to commercial activities.

As noted previously, the subject facility was rented for many different types of events

during 2015. Some of these events included training sessions, weddings, church gatherings, art exhibitions, and cumpleaños and quinceañera celebrations. One of Appellant's primary goals is to celebrate Hispanic cultural heritage and to build bridges between the Hispanic community and outside groups. The subject building was designed, and is used, with this purpose in mind. From the record it is clear the building was used overwhelmingly in furtherance of Appellant's charitable purposes. Respondent's contention roughly 80% of the rents collected during 2015 were for commercial uses of the building is unsupported by the record, which shows almost exclusive use of the facility to promote cultural heritage.

That being said, the Board did find three (3) rental events which appear to be more commercial than charitable. These users were Fat Daddy's, LLC, Boise Ranch Rubs, LLC, and Alicia Reyes, each of whom rented subject's kitchen to prepare food to be sold for-profit at different food-related events and festivals. In the Board's view, these uses were outside the purposes for which Appellant was organized; particularly where there was no connection between the users and participants in Appellant's culinary program, or between the users and other aspects of Appellant's operations. On their face, these three (3) particular rental events appear to be simple commercial transactions. As such, the statute requires these commercial activities to be valued.

To value the commercial portion of the subject building's use, Respondent offered an income approach. As this is the only value approach in record, we will use the basic model to value subject's 2015 commercial uses. The three (3) rental events totaled \$3,646, which after applying Respondent's expense rates yields a net income total of \$1,823. Capitalizing the net income by an overall rate of 9% results in a commercial value indication of \$40,511.

The statute allows a full exemption as long as the value of the commercial portion of the subject property is three percent (3%) or less of the value of the entire property. Subject's total value is \$3,117,552. With a capitalized value of the income representing roughly 1.2% of the value of the entirety, the three percent (3%) threshold was not breached. Stated differently, subject's commercial use during 2015 was *de minimus* and did not disqualify subject from a full exemption.

"Tax exemptions exist as a matter of legislative grace, epitomizing the antithesis of traditional democratic notions of fairness, equality, and uniformity. Therefore, they are to be construed according to the 'strict but reasonable' rule of statutory construction." *Corp. of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada County*, 123 Idaho 410, 416, 849 P.2d 83, 86 (1993). Based on the record before us, it is clear the subject property qualifies for the full charitable exemption. As such, the decision of the Canyon County Board of Equalization is reversed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Canyon County Board of Equalization concerning the subject parcel be, and the same hereby is, REVERSED, granting a full property tax exemption pursuant to Idaho Code § 63-602C.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 17<sup>th</sup> day of April, 2017.