

BEFORE THE IDAHO BOARD OF TAX APPEALS

TEN MILE COMMUNITY CHURCH, INC.,	)	
	)	
Appellant,	)	APPEAL NO. 18-A-1119
	)	
v.	)	FINAL DECISION
	)	AND ORDER
ADA COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**RELIGIOUS EXEMPTION APPEAL**

This appeal is taken from a decision of the Ada County Board of Equalization granting a partial property tax exemption on property described by Parcel No. S1404448850. The appeal concerns the 2018 tax year.

As a matter of convenience, the parties stipulated to the appeal being heard on the written record of evidence and argument presented. The Board subsequently ordered all information and evidence be submitted by the parties, after which the record was closed. The Board now renders its decision based on the record. Attorney Robert Aldridge represented Appellant. Deputy Prosecuting Attorney Lorna Jorgensen represented Respondent.

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

**The issue on appeal is whether the subject property qualifies for a full exemption from property taxes pursuant to Idaho Code § 63-602B, the religious exemption.**

**The decision of the Ada County Board of Equalization is affirmed.**

FINDINGS OF FACT

Appellant, Ten Mile Community Church, Inc. (“Ten Mile”) operates a daycare facility on its main church grounds in Meridian, Idaho. There is no dispute Ten Mile is a religious entity, rather the issue is whether Ten Mile’s real property, Parcel No. S1404448850, qualifies from a use standpoint for a full exemption from property taxes pursuant to Idaho Code Section 63-602B.

Reviewing Appellant's application for a religious exemption, Respondent found subject to only be eligible for a 96% exemption. Respondent based its findings on the fact Ten Mile operates a daycare facility from a portion of subject. For the 2018 tax year, it was found subject was not being "used exclusively for and in connection with any combination of religious, educational or recreational purposes of such religious [organization]". Respondent reported Appellant was using more than three percent (3%) of the church property for a "business or commercial purpose from which revenue is derived," and therefore such portion used for daycare services was assessed as any other commercial daycare. Respondent found subject did not meet the statutory requirements for a full tax exemption due to the daycare operation exceeding a three percent (3%) statutory threshold.

Respondent noted of 81 children served by the daycare in 2018, only two (2) were members of Ten Mile. It was argued Ten Mile offered daycare services to members of the community at large and receives just compensation for the services provided. If Ten Mile does not receive compensation for the services provided, the accounts are turned over to bill collectors. Further, it was noted the daycare is focused on common daycare activities, rather than religious activities associated with Ten Mile. Lastly, the daycare makes a profit at times, with said profits used to subsidize the operation of Ten Mile.

Respondent valued the daycare portion of subject at \$100,000, which was noted to represent four point two percent (4.2%) of the total value of the property at \$2,421,900. The portion was found to exceed the up to three percent (3%) threshold which still permits a full exemption, and therefore the portion used for business of commercial purposes was not entitled to a property tax exemption.

Appellant asserted the daycare is a ministry of Ten Mile and not dissimilar to the operation of other church daycare facilities. Appellant explained the Ten Mile daycare was started in 1992 and has never existed separately from the church. It was founded to support the religious purposes of the church, and formed as an outreach to the community. It was noted the daycare reports directly to church leadership. Christian teaching, principles, and environment were said to be foundational to the daycare operation. Further, no advertising outside of the church's website, bulletin board, or street sign take place.

Appellant agreed in some years there are gains; while in other years there are losses from operating the daycare. Such losses or gains are absorbed by Ten Mile. Appellant pointed to Idaho Code § 63-602B(2), to establish Appellant is a religious corporation which makes use of its property for the religious purposes for which it was organized. It was noted such use is not automatically deemed "commercial" even if fees are collected. Appellant further noted, according to the exemption statute any property use considered commercial is not a factor in the exemption grant if it involves less than 3% of the total property.

Appellant claimed it satisfied the purpose test in Idaho Code § 63-602B(2), as the daycare's purpose has been religious since its inception . It was noted the fees charged for daycare services are designed to cover expenses, not to make a profit. Appellant claimed "the daycare exists to support the religious purposes of the church and no commercial activity is intended."

Next, Appellant noted other area churches operate church-run daycare facilities and these properties are commonly granted a full exemption. Appellant found only one (1) similar property was denied a full exemption by the Ada County Board of Equalization. This involved a church

leasing space to the YMCA to run a daycare. It was claimed the denial there was based on the fact the YMCA had a different purpose than the church.

The position of Ten Mile is the daycare operates to fulfill its religious purpose and “there is no commercial aspect” to the ministry. Further, Appellant claimed the daycare involves less than three percent 3% of the total property value as outlined in § 63-602B. Appellant claimed statute provides a safe harbor protection whereby up to 3% of non-exempt commercial usage does not preclude a property from receiving a full 100% exemption. Appellant claimed Respondent’s calculation was based on an assumption the daycare space was only used for daycare purposes. It was explained the daycare space is actually used for a number of other church-related purposes as well. These include Sunday School, children’s ministry, and youth groups, along with other church activities.

Appellant calculated the daycare’s exclusive use of the daycare space on an hours-per-week basis. Thus measured the daycare facility was used 57.50 hours per week for the daycare operation, and 39 hours per week for other religious purposes. Using these totals, Appellant calculated the shared space was used by the daycare 59.58% of the time. This percentage was then applied to the daycare space’s value of \$100,000, yielding \$59,580, which prorated value when divided by the total parcel value to derive two point four percent (2.4%).

#### CONCLUSIONS OF LAW

This Board having considered the evidence and argument submitted by the parties, hereby enters the following. The primary issue before the Board is whether the subject property’s ownership and use meet the statutory requirements for a full property tax exemption.

Idaho Code §§ 63-203 and 63-601 provide all property within the jurisdiction of this state,

not expressly exempted, is subject to appraisal, assessment and property taxation. Appellant claims the subject property is entitled to a full exemption under Idaho Code § 63-602B. The full text of the statute follows.

63-602B. Property exempt from taxation — Religious limited liability companies, corporations or societies. (1) The following property is exempt from taxation: property belonging to any religious limited liability company, corporation or society of this state, used exclusively for and in connection with any combination of religious, educational, or recreational purposes or activities of such religious limited liability company, corporation or society, including any and all residences used for or in furtherance of such purposes.

(2) If the entirety of any property belonging to any such religious limited liability company, corporation or society is leased by such owner, or if such religious limited liability company, corporation or society uses the entirety of such property for business or commercial purposes from which a revenue is derived, then the same shall be assessed and taxed as any other property. If any such property is leased in part or used in part by such religious limited liability company, corporation or society for such business or commercial purposes, the assessor shall determine the value of the entire exempt property, and the value of the part used or leased for such business or commercial purposes, and that part used or leased for such business or commercial purposes shall be taxed as any other property. The Idaho state tax commission shall promulgate rules establishing a method of determining the value of the part used or leased for such business or commercial purposes. If the value of the part used or leased for such business or commercial purposes is determined to be three percent (3%) or less of the value of the entirety, the whole of said property shall remain exempt. If the value of the part used or leased for such business or 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 property, and shall assess the trade fixtures used in connection with the sale of all merchandise for such business or commercial purposes, provided however, that the use or lease of any property by any such religious limited liability company, corporation or society for athletic or recreational facilities, residence halls or dormitories, meeting rooms or halls, auditoriums, or club rooms for and in connection with the purposes for which such religious 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 Idaho Supreme Court has held statutes governing tax exemptions must be narrowly

construed against the taxpayer and in favor of the state; nor can a statute granting a tax exemption be extended by judicial construction to create an exemption not specifically authorized. *Community Action Agency, Inc. v. Bd. of Equalization of Nez Perce County*, 138 Idaho 82, 85 (2002).

Qualification for this religious exemption depends upon the property's ownership and the property's use. *Corp. of Presiding Bishop v. Ada County*, 123 Idaho 410 at 423, 849 P.2d 83 (1993). The church ownership here is consistent with the requirements of the religious exemption. The question is whether the daycare facility's use qualifies for the exemption. And if not a qualifying use, whether the daycare used property represented more than three percent (3%) of the total property's value. The parties disagreed on how to fairly calculate the percentage of value involved for the daycare facility.

Appellant first believes subject should be granted a full exemption because the daycare should be considered a ministry of Ten Mile. Appellant declared the daycare was founded to offer a community outreach in support of the religious purposes of the church. Christian teachings take place at the daycare as well as an outreach to the community. For these and other reasons, Appellant argued the daycare use was not commercial and thus there was no need to consider a partial exemption.

Respondent found subject eligible for a ninety six percent (96%) exemption. This was based on the fact Ten Mile operates a daycare facility similar to those operated by commercial daycare facilities. Therefore Respondent found not all of subject was used exclusively for religious purposes (§ 63-602B(1)). Respondent calculated the commercially used area to involve more than 3% of the entire subject's value, thereby requiring a partial exemption be granted.

The Board found the Ten Mile daycare is largely operated like a for-profit commercial daycare. We did not find the daycare use -- which involved the charging of fees to the general public, to be one of the listed exceptions provided for at the end of the exemption statute. Therefore the use of the subject property was not consistent with the requirements for a full exemption, apart perhaps from managing to qualify via the three percent (3%) threshold standard.

Although some religious purposes are pursued through the daycare, and other church uses of the same property occur, these alone were not deemed significant enough to qualify the daycare used property for exempt status. Such religious use must be an exclusive use under § 63-602B(1). Here commercial like fees are being collected by the church through the daycare, toward meeting all operating costs, and even generating a profit in some years. In this later way the daycare use of the property is deemed to be similar to a commercial daycare's property use. We were unable to discern a significant difference between Appellant's daycare operation in comparison to that of a commercial daycare.

The second question then is whether the daycare space's value is three percent (3%) or less of the total property's value. Idaho Code § 63-602B(2) provides if a religious corporation uses more than three percent (3%) of its property for a "business or commercial purpose from which revenue is derived," then that part shall be taxed as any other property. The parties disagreed on the proper calculation of the percentage. The statute provides the Idaho State Tax Commission shall promulgate rules establishing the method of determining the value of the part so used. IDAPA 35.01.03.603 (Rule 603) provides in part:

Valuing the Taxable Part of Qualifying Property. Under Section 63-602B(2), Idaho

Code, a county shall determine the value of the part of the property used or leased for business or commercial purposes by considering the particular facts of each case, examining the amount of time, during the calendar year, the property is used for business or commercial purposes, the percentage of the property used for business or commercial purposes, or a combination thereof. The county may require reporting by the religious corporation or society of any use of the property for business or commercial usage in such form, and by such date, as the county establishes.

We are reminded here tax exemption statutes are strictly and narrowly construed in favor of the state and against taxpayer, who must show clear entitlement, in favor of the state. *Ada County Assessor v. Roman Catholic Diocese of Boise*, 123 Idaho 425, 428, 849 P.2d 98 (1993).

Appellant's calculation considered the hours the daycare operated to the hours other church activities used the same, or at least a portion of the same, space. Respondent calculated its percentage based on the value of the daycare square footage to the total subject property's value. This later method was deemed to more reasonably represent the value of the daycare used property, which as noted was predominantly a commercial like use. Further information from the parties may have yielded a different result from this Board. However on the record before us, we find Appellant has not demonstrated a superior valuation of the daycare used property.

The Board has found Appellant's consideration of hours of use did not show clear entitlement to the extra exemption amount it derived when compared to the calculation offered by Respondent. Clearly the predominant use of the daycare space was by the daycare business. Per Idaho Code, the assessor shall determine the value of the part of the property used for a business or commercial purposes. Respondent was found to give a fair value consideration of the part of the subject property associated with the daycare.

In conclusion, the Board finds a portion of Ten Mile's property was used in a commercial manner and that the percentage of property involved exceeded the three percent (3%) threshold, thus requiring the daycare used portion be valued and taxed. For the reasons expressed, the decision of the Ada County Board of Equalization granting a 96% exemption on the subject property is affirmed.

**FINAL ORDER**

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

DATED this 8<sup>th</sup> day of April, 2019.

**IDAHO BOARD OF TAX APPEALS**