



STATE TAX COMMISSION OF MISSOURI

MERS MISSOURI GOODWILL INDUSTRIES,)
)
Complainant,)
) Appeal No. 21-52000
v.) Parcel No. 10-02-10-0001-002-
003.002
)
CHRISTOPHER ESTES, ASSESSOR,)
COLE COUNTY, MISSOURI,)
)
Respondent.)

DECISION AND ORDER

MERS MISSOURI GOODWILL INDUSTRIES (Complainant) appeals the Cole County Board of Equalization's (BOE) decision that affirmed the determination of the Cole County Assessor that the subject property did not qualify for exemption from personal and real property tax as of January 1, 2021. Complainant alleges that the activities of Complainant meet the requirements for exemption as provided in Missouri Constitution, Art. 10, Section 6 and Section 137.100 RSMo. The BOE decision is Set Aside.

This matter came on for Evidentiary Hearing before Senior Hearing Officer Erica M. Gage on September 22, 2022. Complainant was represented by counsel Denyse Jones. Respondent was represented by counsel, John Ruth. Both parties had submitted written direct testimony prior to the hearing that was incorporated into the hearing. Complainant objected to part of Respondent's written direct testimony, the testimony is received over the objection and given the weight due.

Complainant’s exhibits are set out below. Complainant’s exhibits A through Q, T & U were received without objection. Complainant withdrew exhibits R and S. Respondent objected to Complainant’s exhibits V through BB. The exhibits are received and given the weight due.

Complainant’s Exhibits

Exhibit	Description	Status
A	Complaint for Review of Assessment	Received
B	Complainant’s Amended and Restated Bylaws	Received
C	Tax Exempt letter from IRS	Received
D	Tax Exempt letter from the State of Missouri for Sales & Use Tax	Received
E	CARF International Accreditation letter dated Dec 19, 2016	Received
F	CARF International Accreditation letter dated January 9, 2020	Received
G	List of Services Offered by Complainant	Received
H	General Warranty Deed to Complainant	Received
I	Employee list (Confidential)	Received
J	Complainant owned Missouri Locations	Received
K	Complainant’s Missouri Store Listings	Received
L	Jeff City Income Statement 2018 thru 2020	Received
M	Complainant’s Combined Financial Statement Dec 31, 2020 & 2019	Received
N	Annual Report for 2018	Received
O	Annual Report for 2019	Received
P	Excerpt from Nonprofit Compensation Report	Received
Q	Compensation Report for 2021	Received
R	Salvation Army Property Tax Report	withdrawn
S	River City Habitat for Humanity Property Tax Report	withdrawn
T	Nonprofit Compensation Report September 2020	Received
U	2021-07-09 Goodwill’s Tax Appeal to the Cole County Board of Equalization	Received
V	2017 The Salvation Army 990	Received
W	2018 River City Habitat for Humanity 990	Received
X	2020 Boys and Girls Club of Jefferson City 990	Received
Y	2020 Catholic Charities of Central and Northern Missouri 990	Received
Z	2019 Jefferson City YMCA 990	Received
AA	2019 Empower Missouri 990	Received
BB	2019 The Food Bank for Central and Northeast Missouri, Inc. 990	Received

Respondent’s exhibits 1 through 10 and 13 were received without objection. Complainant objected to Respondent’s exhibits 11 and 1. The exhibits are received and given the weight they are due. The parties both submitted Post Hearing Briefs. This matter was assigned to Senior Hearing Officer Todd D. Wilson for decision pursuant to Section 138.431.5 RSMo. on March 4, 2024.

Respondent's Exhibits

Exhibit #	Description	Status
1	List of Services Offered by Complainant	Received
2	Complainant's Amended and Restated Bylaws	Received
3	Jeff City Income Statement 2018 thru 2020	Received
4	Complainant's 990 for 2018	Received
5	Complainant's 990 for 2019	Received
6	Complainant's 990 for 2020	Received
7	Complainant's Combined Financial Statements Dec 31, 2019 and 2018	Received
8	Complainant's Combined Financial Statement Dec 31, 2020 & 2019	Received
9	Complainant's Missouri Store Listings	Received
10	Complainant's Organization Chart	Received
11	Income Statement 2018 – 2020	Received
12	Tax Exempt Application	Received
13	Letter dated July 9, 2021 to Cole County BOE	Received

Background

This appeal involves a building which was completed in 2017 located at 2821 South Ten Mile Drive, Jefferson City. The building is used by Complainant as a retail thrift store. The Jefferson City store is one of 42 retail thrift stores operated by Complainant in Missouri and Illinois. The Cole County Assessor denied an application for exemption from taxation in 2017. That action was affirmed by the Cole County Board of Equalization. No further application for exemption was filed until 2021 which is the subject of this appeal.

Goodwill is a not-for-profit corporation. Its central administration and operational hub is in St. Louis, Missouri. Goodwill has four operational divisions and four support divisions. Its four operational divisions are retail, missions, contracts, and auto donations. Its four support divisions are human resources, accounting, information technology and loss prevention, and health and wellness. The retail division oversees Goodwill's retail thrift stores and outlets, which hire and train employees, accept donations, sort donations, tag donations, and put them out on the sales floors of its thrift stores. A significant part (33 – 40%) of the employees and managers of the Cole

County thrift store have “barriers to employment”. The Cole County location is part of Goodwill’s retail division.

FINDINGS OF FACT

1. The Subject Property. The subject property is located at 2821 S. Ten Mile Drive, Jefferson City, Cole County, Missouri. Complainant had the structure on the property built and construction on the building was complete in 2017. The property is classified as commercial with a value set by the Assessor and affirmed by the Board of Equalization of Cole County of \$2,038,100. Complainant filed this appeal seeking to have the classification of the property changed to Exempt because of the charitable activities of the organization. Complainant is a recognized Not-for-Profit under 501(c)(3) of the Internal Revenue Code. Its central administration and operational hub is in St. Louis, Missouri.

2. Complainant’s Evidence. Complainant has four operational divisions and four support divisions. Its four operational divisions are retail, missions, contracts, and auto donations. Its four support divisions are human resources, accounting, information technology and loss prevention, and health and wellness. The retail division oversees Complainant’s retail thrift stores and outlets, which hire and train employees, accept donations, sort donations, tag donations, and put them out on the sales floors of its thrift stores. The Cole County location is part of Complainant’s retail division. No part of the facility is leased to any other entity. A significant part (35 – 40%) of the employees and managers of the Cole County thrift store have “barriers to employment”. Barriers to employment includes disabilities as set out in laws such as the Americans with Disabilities Act, but is more encompassing. An illustrative but not exhaustive list of barriers would also include people who are homeless, who have a mental disorder, who are younger or older than most employees, who have limited work experience, or who have criminal records. While the organization provides many services to people throughout the State of Missouri, the only services

provided at the subject property relate to employing people with barriers to employment in an integrated environment. An integrated environment is a setting in which a person with barriers to employment works with others who do not have barriers to acclimate to a real-world work environment. For an integrated work environment to be effective, less than 50% of the employees can have barriers to employment.

Complainant maintains that the property meets the three factors of the *Franciscan Tertiary Province of Missouri, Inc. v. State Tax Commission*, 566 S.W.2d 213, 219 (Mo. 1978) and its progeny which are: (1) is “owned and operated on a not-for-profit basis so that there can be no profit, presently or prospectively, to individuals or corporations;” (2) “dedicated unconditionally to the charitable activity” per the definition of “charity” set forth in *Salvation Army v. Hoehn*, 188 S.W.2d 826, 830 (Mo. Banc 1945); and (3) that “the dominant use of the property must be for the benefit of an indefinite number of people” and directly or indirectly benefits society generally.

Complainant maintains that it meets the first factor, the store must be owned and operated on a not-for-profit basis, because it is a not-for-profit, charitable organization recognized for exemption under Section 501(c)(3) of the Internal Revenue Code and that this store has never made a profit; showing deficits of \$118,273, \$150,876, and \$409,434 in 2018, 2019, and 2020 respectively. Included in the calculation of deficits are a proportionate share of expenses of the total enterprise of Goodwill and the depreciation on the building and equipment located at the subject property.

Complainant maintains that it meets the second factor, exclusive use of the property for charitable purposes by providing vocational rehabilitation services to its employees with barriers to employment. Complainant admits that other charitable activities which the organization

provides are not provided at the subject location.

Complainant maintains that it meets the third factor in that it employs individuals who are unable to obtain or maintain employment elsewhere, thereby lessening, if not eliminating its employees' reliance on government assistance. A significant amount of the employees and managers at the subject property have barriers to employment.

Complainant's final argument is that the State Tax Commission in Appeal No. 16-45500, from Butler County, Missouri, found that Complainant's integrated work environment qualified for exemption under similar circumstances and therefore, to be consistent the STC should again find in favor of Complainant and find the property exempt from ad valorem taxes.

3. Assessment and Valuation. The BOE classified the subject property as commercial with a fair market value of \$2,038,100 as of January 1, 2021.

4. Respondent's Evidence. Respondent presented the following evidence regarding Complainant's revenue and net income.

Year	Approx. total revenue	Approx. net income
2013	\$145,000,000	\$8,110,000
2014	\$151,000,000	\$9,714,000
2015	\$153,860,896	\$3,065,000
2016	\$157,190,000	\$3,128,000
2017	\$167,371,071	\$5,800,758
2018	\$173,000,000	\$1,632,364
2019	\$192,914,751	\$13,631,212
2020	\$153,435,383	\$-5,975,500

Respondent showed that Complainant had three main sources of income which are: 1) retail sales; 2) public support including donations of personal property, charitable contributions from other organizations, auto donations and income from investments that are permanently restricted; and 3) government program revenue for its employment and training program. Respondent further showed that Complainant paid its seven key employees over \$2,000,000 per year.

Year	Total Revenue	Employment and training program income	Net Income	Total pay to key employees
2018	\$173,000,000	\$23,380,667	\$1,632,364	\$2,012,919
2019	\$192,914,751	\$30,083,762	\$13,631,212	\$2,029,920
2020	\$153,435,383	\$27,349,593	\$-5,975,500	\$2,124,557

Respondent asserts that the subject property is used as a retail thrift store, which, in and of itself, is not a charitable purpose. The providing of an integrated work environment is not sufficiently charitable to satisfy the second prong of *Franciscan* test as it is not dedicated unconditionally to a charitable activity.

CONCLUSIONS OF LAW

1. Evidence. “Although technical rules of evidence are not controlling in administrative hearings, fundamental rules of evidence are applicable.” *Mo. Church of Scientology v. State Tax Comm’n*, 560 S.W.2d 837, 839 (Mo.banc 1977). The hearing officer is the finder of fact and determines the credibility and weight of the evidence. *Kelly 8 v. Mo. Dep’t of Soc. Servs., Family Support Div.*, 456 S.W.3d 107, 111 (Mo. App. W.D. 2015).

2. “STC decisions and orders are non-binding, persuasive authority aiding the consistent disposition of factually analogous cases.” *Tuba v. Zimmerman*, Appeal No. 21-18285, 2022 WL 16841480 at• 6 (Mo. St. Tax Com. Nov. 4, 2022) (emphasis added); *see also Laclede Gas Co. ‘s Verified Application to Re-Establish & Extend the Fin. Auth. Previously Approved By the Comm ‘n v. Mo. Pub. Serv. Comm ‘n*, 526 S.W.3d 245, 252 (Mo. Ct. App. W.D. 2017) (an administrative agency, such as the STC, “is not bound by its previous decisions, so long as its current decision is not otherwise unreasonable or unlawful.”).

3. Charitable Exemption: Article X, section 6 of the Missouri Constitution provides “all property, real and personal, not held for private or corporate profit and used exclusively . . . for purposes purely charitable . . . may be exempted from taxation by general law.” Consistent with this constitutional provision, Section 137.100(5) RSMo. exempts from taxation:

All property, real and personal, actually and regularly used exclusively for religious worship, for schools and colleges, or for purposes purely charitable and not held for private or corporate profit, except that the exemption herein granted does not include real property not actually used or occupied for the purpose of the organization but held or used as investment even though the income or rentals received therefrom is used wholly for religious, educational or charitable purposes[.]

“Tax exemptions are construed strictly against the taxpayer, and any doubt must be resolved in favor of application of the tax.” *SEBA, LLC v. Dir. Of Revenue*, 611 S.W.3d 303, 313–14 (Mo. banc 2020). Exemptions are “allowed only upon clear and unequivocal proof, and any doubts are resolved against the party claiming it.” *Id.* (internal quotation omitted).²

To obtain a charitable exemption, the taxpayer must show the property: (1) is “owned and operated on a not-for-profit basis so that there can be no profit, presently or prospectively, to individuals or corporations;” (2) “dedicated unconditionally to the charitable activity” per the definition of “charity” set forth in *Salvation Army v. Hoehn*, 188 S.W.2d 826, 830 (Mo.banc 1945); and (3) that “the dominant use of the property must be for the benefit of an indefinite number of people” and directly or indirectly benefits society generally. *Sunday School Bd. Of the*

² See also *Am. Polled Hereford Ass’n v. City of Kansas City*, 626 S.W.2d 237, 240 (Mo.banc 1982)(noting the taxpayer bears the burden of establishing a property tax exemption “by unequivocal proof that such release is required by the terms of the statute....”); *City of St. Louis v. State Tax Comm’n*, 524 S.W.2d 839, 845 (Mo.banc 1975)(noting the taxpayer claiming a charitable exemption must make “a clear and convincing showing that the specific activity in question does fall within an accepted category found in the definition”).

Southern Baptist Conv. V. Mitchell, 658 S.W.2d 1, 5 (Mo.banc 1983) (citing *Franciscan Tertiary Province of Missouri. Inc. v. State Tax Comm’n*, 566 S.W.2d 213 (Mo.banc 1978)), (hereinafter

“Baptist Bookstore”). The Court thus made it clear that the language of the charitable exemption provisions “makes the use of the property the focus of the exemption” and that the “general nature of owning organization—other than that it is not-for-profit—cannot be said to determine whether the use of the particular property is charitable or not.” *Franciscan*, 566 S.W.2d at 223.

It is not enough, however, that the profits are ultimately used for religious or charitable purposes. “[A]n exemption will not be granted covering property which houses a business operated for the purpose of gaining a profit, even though it is turned over to a parent organization to be used for what are admittedly independently religious or charitable purposes.” *Franciscan*, 566 S.W.2d at 224. Otherwise the exception could swallow the general rule if the profits from any enterprise, be it charitable or not, were ultimately used for charitable purposes. There must be a more significant nexus between profits earned through use of the property for which an exemption is sought and the use that is made of those profits. A business cannot compete for profit and then seek to insulate itself from taxation by claiming that its profits are used to attain a religious or charitable purpose. *Baptist Bookstore*, Page 6.

DISCUSSION

Examination of the facts in the *Baptist Bookstore* case as decided by the Missouri Supreme Court show that the Court went to great lengths to find that the bookstore turned a profit. The Profit and Loss statement presented by the bookstore showed a loss every year; however, the Court found that the store showed a small profit in two of the four years until a deduction of the Baptist Bookstore’s proportioned share of the general and administrative expenses of the Sunday School Board as a whole created a deficit.

In the instant case, through the testimony of Dwayne Barnett, CFO of Complainant, it was shown that Complainant, as an entity, made a profit every year from 2013 to 2019. 2020 was the only year a loss was shown and that was due to the COVID 19 pandemic. Respondent asserts that without its share of allocated central expenses and depreciation, the Cole County facility would have been profitable. Through the testimony of Mr. Barnett, it was made apparent that profit of the Jeff City location is difficult, if not impossible to discern as the direct expenses of the store are

included and an allocated share of central administration and warehouse costs are allocated to each department in accordance with the revenue it generates. It was further found that the “charitable” use of the facility is the vocational rehabilitation services.

Under a strict application of the principles of the Baptist Bookstore ruling, the property would not qualify for an exemption. However, the interpretation of the Baptist Bookstore ruling by the Courts has been less than clear. In *Missouri Conference Association of 7th Day Adventists*, 727 S.W.2d 940, 1987, the Western District Court of Appeals, with facts strikingly similar to the facts set out in the Baptist Bookstore case, found that the property qualified as charitable and, therefore, exempt. The Supreme Court of Missouri refused to hear the case, providing tacit approval to this interpretation. Consistent with the ruling in the *Missouri Conference Association of 7th Day Adventists* and the prior rulings of the STC in appeals dealing with this Complainant, the Hearing Officer finds the evidence presented substantial and persuasive. The activity of providing employment to a significant percentage of employees with barriers to employment meets the requirements of the *Franciscan* test.

CONCLUSION AND ORDER

The BOE’s decision is set aside. Complainant is granted exempt status under Article X, Section 6 of the Missouri Constitution.

APPLICATION FOR REVIEW

A party may file an application for review of this decision within 30 days of the mailing date set forth in the certificate of service for this decision. The application "shall contain specific detailed grounds upon which it is claimed the decision is erroneous." Section 138.432 RSMo. The application must be in writing, and may be mailed to the State Tax Commission of Missouri, P.O. Box 146, Jefferson City, MO 65102-0146, or emailed to Legal@stc.mo.gov. A copy of the application must be sent to each person listed below in the certificate of service. ***Failure to state specific facts or law upon which the application for review is based will result in summary***

denial. Section 138.432 RSMo.

Disputed Taxes

The Collector of Cole County, and the collectors of all affected political subdivisions therein, shall continue to hold the disputed taxes pending the possible filing of an application for review, unless the disputed taxes have been disbursed pursuant to a court order under the provisions of section 139.031 RSMo.

SO ORDERED August 8, 2024.

STATE TAX COMMISSION OF MISSOURI

Todd D. Wilson
Senior Hearing Officer

Certificate of Service

I hereby certify that a copy of the foregoing has been electronically mailed and/or sent by U.S. Mail on August 9th, 2024, to: Complainant(s) and/or Counsel for Complainant(s), the County Assessor and/or Counsel for Respondent and County Collector.

Stacy M. Ingle
Legal Assistant