

APPEAL # 19-1284 AND 20-991  
TAX TYPE: PROPERTY TAX EXEMPTION/LOCALLY ASSESSED  
TAX YEAR:2019 AND 2020  
DATE SIGNED: 6/26/2020  
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL AND L.WALTERS

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER,  Petitioner,  v.  BOARD OF EQUALIZATION OF COUNTY-1, STATE OF UTAH,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal Nos. 19-1284 and 20-991 <sup>1</sup>  Parcel Nos. #####, ##### Tax Type: Property Tax Exemption / Locally Assessed Tax Years: 2019, 2020  Judge: Jensen
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**This Order may contain confidential "commercial information" within the meaning of Utah Code Sec. 59-1-404, and is subject to disclosure restrictions as set out in that section and regulation pursuant to Utah Admin. Rule R861-1A-37. The rule prohibits the parties from disclosing commercial information obtained from the opposing party to nonparties, outside of the hearing process. However, pursuant to Utah Admin. Rule R861-1A-37, the Tax Commission may publish this decision, in its entirety, unless the property taxpayer responds in writing to the Commission, within 30 days of this notice, specifying the commercial information that the taxpayer wants protected. The taxpayer must mail the response to the address listed near the end of this decision.**

**Presiding:**

Clinton Jensen, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER'S REP-1, Attorney for the Taxpayer  
                  PETITIONER'S REP-2  
                  PETITIONER'S REP-3  
For Respondent: RESPONDENTS REP-1, Chief Civil COUNTY-1 Deputy Attorney  
                  RESPONDENTS REP-2, Deputy COUNTY-1 Auditor  
                  RESPONDENTS REP-3, COUNTY-1 Assessor  
                  RESPONDENTS REP-4, COUNTY-1 Clerk Auditor

STATEMENT OF THE CASE

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<sup>1</sup> In accordance with the Taxpayer's motion to consolidate, joined by the County, and the Commission's order dated DATE consolidating Appeal No. 20-991 and 19-1284, this order governs both Appeal No. 20-991 and Appeal No. 19-1284. Further proceedings in these cases, if any, will be consolidated for purposes of hearings and orders.

This matter came before the Commission for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5 on October 24, 2019. In connection with the Initial Hearing, the parties requested the opportunity to submit post-hearing briefs, which they have now submitted. The Taxpayer also submitted a motion to consolidate its appeal for the 2020 tax year with the 2019 tax year. The County joined in the Taxpayer's motion to consolidate. On DATE, the commission granted consolidation of the two tax years based on the parties' representations in the Taxpayer's motion and the County's joining in that motion that the 2019 and 2020 tax years presented the same issues. Based on the Initial Hearing and the parties' briefs, the Commission issues its Initial Hearing decision.

APPLICABLE LAW

Article XIII, Section 3 of the Utah Constitution provides that certain properties are exempt from taxation, as follows in pertinent part:

(1) The following are exempt from property tax:

.....

(f) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

.....

Utah Code Ann. §59-2-1101(3) also provides that certain properties are exempt from taxation, as follows in pertinent part:

(a) The following property is exempt from taxation:

.....

(iv) property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes;

.....

Utah Code Ann. §59-2-1101(1)(d) defines "[n]onprofit entity" for purposes of Article XIII, Section 3 of the Utah Constitution and Utah Code Ann. §59-2-1101(3) as follows:

"Nonprofit entity" includes an entity if the:

(i) entity is treated as a disregarded entity for federal income tax purposes;

(ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity; and

(iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit entity.

DISCUSSION

At issue is whether the subject property is exempt from property taxes. For purposes of the Initial Hearing, the parties stipulated regarding relevant facts. The parties also agreed on definitions for their stipulated facts as follows:

(a) “2019 Notice” is the 2019 Notice of Property Valuation and Tax Changes, issued by the COUNTY-1 Clerk/Auditor to the BUSINESS-1.

(b) “April 2019 Determination” is the Findings and Determination in response to the BUSINESS-1 application for 2019 property tax exemption, issued by the Board on DATE.

(c) “Auditor” refers to the COUNTY-1 Auditor’s Office.

(d) “Board” is the COUNTY-1 Board of Equalization.

(e) “STRUCTURE NAME-1” is an auxiliary structure owned by the BUSINESS-1 and located on the Property.

(f) “BUSINESS-1” is the TAXPAYER, owner of the Property, which is the subject of this appeal.

(g) “Property” is real property located in COUNTY-1, designated as Parcel No. ##### and No. #####.

(h) “Section 3(1)(f)” is Article XIII, Section 3(1)(f) of the Utah Constitution.

(i) “BUSINESS-1” is the BUSINESS-1 structure located on the Property.

PARTIES’ STIPULATED FACTS

1. The Property covers ##### acres in CITY-1, Utah.

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2. Two structures occupy the Property: BUSINESS-1 BUSINESS-1 and the STRUCTURE NAME-1.
3. BUSINESS-1 occupies ##### acres, or %%% of the total area of the Property.
4. STRUCTURE NAME-1 occupies ##### acres, or %%% of the total area of the Property.
5. The Auditor issued the 2019 Notice, setting the following for the tax year 2019:
  - a. Taxable Value of the Property: \$\$\$\$\$.
  - b. Taxes on the Property if [2019] tax increase is approved: \$\$\$\$\$.
6. The April 2019 Determination granted a “partial” tax exemption to the BUSINESS-1 for the Property. For 2020, the County took similar action granting a partial exemption, which the Taxpayer timely appealed.
7. The partial exemption is for %%% of the Property occupied by BUSINESS-1, which qualifies for a religious exemption under Section 3(1)(f).
8. %%% of the Property on which the STRUCTURE NAME-1 sits was determined by the Board to be subject to COUNTY-1 property tax.
9. \$\$\$\$ in the Auditor’s Notice represents the assessment on the STRUCTURE NAME-1 portion of the Property – \$\$\$\$ for the structure value and \$\$\$\$ for the land value.
10. On the lien dates DATE and January 1, 2020, a portion of STRUCTURE NAME-1 was leased to BUSINESS-2, a nonprofit corporation with an IRC §501(c)(3) designation from the U.S. Internal Revenue Service.
11. In connection with its nonprofit operations, BUSINESS-2 operates a small gift shop at which it sells hand-crafted merchandise related to its nonprofit corporate purposes.

12. A portion of the STRUCTURE NAME-1 was leased to BUSINESS-3 a nonprofit corporation with an IRC §501(c)(3) designation from the U.S. Internal Revenue Service.

13. BUSINESS-3 does not conduct any commercial or retail operations in its leased space.

ADDITIONAL FACTS AND PARTIES' ARGUMENTS

In addition to the facts that the parties formalized into a stipulation, the County raised additional facts, which the Taxpayer did not dispute. The BUSINESS-1 first began renting STRUCTURE NAME-1 to other entities in 2012. Other than to describe it as an auxiliary structure, the parties did not indicate what STRUCTURE NAME-1 was or the purposes for which it was used before its lease to BUSINESS-2 and BUSINESS-3. From the parties' agreement that the %%% of the property attributed to STRUCTURE NAME-1 would or would not be exempt based on the lessees' activities, it is evident that the BUSINESS-1 did not retain a portion of STRUCTURE NAME-1 for its own use after renting it to BUSINESS-2 and BUSINESS-3. For the same reason, it is evident that the BUSINESS-1 leased STRUCTURE NAME-1 for the full year rather than part of a year. Other than to provide rent amounts and to agree that rents approximated market rents, the parties did not indicate what portion of the building was rented by each tenant.

COUNTY-1 did not learn of the BUSINESS-1 rental income until 2018. When the rental income came to COUNTY-1's attention, the County Auditor's Office requested additional information "to determine the percentage of [the Property] that may still be eligible for the religious exemption." The BUSINESS-1 responded to the County Auditor's request with information that it collected \$\$\$\$ per month in rent from STRUCTURE NAME-1 – \$\$\$\$ from BUSINESS-2 and \$\$\$\$ from BUSINESS-3. The County allowed a religious exemption for the BUSINESS-1 portion of the Property, but denied exemption for the portion of the Property attributable to STRUCTURE NAME-1. The County's valuations for 2019 and 2020 are not in dispute. The parties agree that the lease amounts that

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BUSINESS-2 and BUSINESS-3 pay for STRUCTURE NAME-1 are commensurate with market lease rates. The parties agree that %%% of the value of the Property is attributable to BUSINESS-1 and that %%% is attributable to STRUCTURE NAME-1. The only issue before the Commission in this appeal is the County's denial of a religious exemption for STRUCTURE NAME-1.

BUSINESS-2 engages in fair trade with third-world artisans. It lists among its commitments paying artisans in third-world countries a fair price for the products they make. BUSINESS-2 engages in sales of handmade artisan goods from developing nations who are abiding by fair trade principles, with the funds from sales and operation of the gift shop going directly to the artisans of the products. BUSINESS-2 holds events to promote awareness and community education on fair trade and the artisans it supports. BUSINESS-2 filed a Statement of Functional Expenses with the State of Utah Division of Consumer Protection indicating that \$\$\$\$ of its \$\$\$\$ in total revenue came from contributions. The parties did not specify the period covered in BUSINESS-2's Statement of Functional Expenses, but agreed that the period was relevant to the 2019 and 2020 tax years at issue in this case.

BUSINESS-3 puts on an annual arts fair in CITY-1. As part of the fair, BUSINESS-3 rents booths to artists and food vendors, who in turn sell art and food to the public. BUSINESS-3's profit and loss statement for the period DATE through DATE indicated that BUSINESS-3 received \$\$\$\$ from booth rental to artists, \$\$\$\$ from grants, \$\$\$\$ from food vendor booths, \$\$\$\$ from beverage sales, \$\$\$\$ from artist and food vendor application fees, and \$\$\$\$ from donations.

The parties cite Article XIII, Section 3(1)(f) of the Utah Constitution and Utah Code Ann. §59-2-1101(3), both of which exempt from property tax "property owned by a nonprofit entity used exclusively for religious, charitable or educational purposes." The parties agree that, for purposes of both Section 3(1)(f) and Utah Code Ann. §59-2-1101(3), the BUSINESS-1 is a nonprofit entity and owns

STRUCTURE NAME-1. Based on this, they agree that STRUCTURE NAME-1 is “property owned by a nonprofit entity” as described in Section 3(1)(f) and Utah Code Ann. §59-2-1101(3). Because they made this agreement, they did not discuss or analyze the definition of “nonprofit entity” provided in Utah Code Ann. §59-2-1101(1)(d).<sup>2</sup> Their only area of disagreement is whether STRUCTURE NAME-1 is “used exclusively for religious, charitable or educational purposes.” The Taxpayer focuses on the activities of the tenants, BUSINESS-2 and BUSINESS-3, noting that these organizations use STRUCTURE NAME-1 for charitable and educational purposes. The Taxpayer argues that because a property can be exempt if used wholly for religious purposes, wholly for charitable purposes, or wholly for educational purposes, a mix of these purposes at the Property is also exempt. The County agreed that a mix of religious, charitable, and educational purposes qualifies or does not qualify in the same manner and with the same limitations as any one of these activities singly. However, the County focused on the BUSINESS-1 collection of rent from STRUCTURE NAME-1. It argued that renting a property is a commercial activity and that a property rented to generate income for the BUSINESS-1 is not “used exclusively for religious, charitable or educational purposes.” As an alternative argument, the County notes that even if the commission looks to the activities of the tenants, neither tenant is engaged in charity because neither provides a gift to the community.

#### ANALYSIS

The parties present two issues: A) Whether leasing to a tenant precludes the property from qualifying for the exemption; and B) Was the property being used exclusively for charitable purposes? If the commission determines that leasing property to a tenant precludes a property from qualifying for an exemption, that single issue will end the analysis for this case and the commission will not need to

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<sup>2</sup> Although neither party addressed the application of the definition of “nonprofit entity” in Utah Code Ann. §59-2-1101(1)(d), neither party contested that the property was owned by a nonprofit entity.

consider the second issue regarding use for charitable purposes. If the commission determines that leasing to a tenant does not preclude a property from qualifying for an exemption, the commission will need to consider the second issue of whether the property at issue in this case was used exclusively for charitable purposes.

A. Does leasing property rule out a Section (3)(1)(f) exemption on that property?

As both parties noted, the commission had occasion to consider exemption of leased property under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3). In Utah State Tax Commission Case No. 09-1308, issued December 1, 2010,<sup>3</sup> the commission considered property owned by a nonprofit entity that was a single land parcel improved with an office building. The office building had a common area and meeting rooms as well as a number of separate office spaces. The owner of the property in Case No. 09-1308 used %%% of the building exclusively for its own purposes, which were found to be charitable and educational. The owner leased the other offices in the building to a number of tenants. Some of the tenants used their spaces exclusively for charitable and education purposes and some of the tenants did not use their spaces for such purposes. In Case No. 09-1308, regarding the space used by the nonprofit entity owner of the building, the Commission determined that “this portion of the subject building is used exclusively for charitable and educational purposes and is exempt from taxation.” However, the Commission went on to consider the rest of the building, which was “comprised of office space that the taxpayer leases to other tenants, meeting rooms and common space.”

In Case No. 09-1308, the commission considered *Parker v. Quinn*, 64 P.2d 961 (Utah 1901), a previous case from the Utah Supreme Court dealing with a property tax exemption allowed for property owned by a nonprofit entity used exclusively for religious, charitable, or educational purposes:

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<sup>3</sup> The cited case is among the cases available online in a redacted format at <https://tax.utah.gov/commission-office/decisions>.



In *Parker*, the Utah Supreme Court considered a two-story building owned by the Mormon Fifteenth Ward Relief Society. The relief society used the upper floor in furtherance of its charitable purposes. The relief society rented out the lower floor to tenants and used the rental proceeds in furtherance of its charitable purposes. Although the Court found that the upper floor qualified for exemption, it found that the lower floor did not because it was not used exclusively for an exempt purpose, due to the fact that it was held as a source of revenue.

As the County argued at the subject hearing, discussions in *Parker* regarding a tenant renting space from a nonprofit entity which a tenant uses exclusively for religious, charitable or educational purposes were dicta inasmuch as the facts in *Parker* did not require such a determination. For that reason, the commission in Case No. 09-1308 went on to consider the question of whether a tenant renting space from a nonprofit entity, which a tenant uses exclusively for religious, charitable or educational purposes, is exempt from property taxation. The commission determined as follows:

[T]hat a nonprofit owner rents its property to a tenant does not appear to necessarily disqualify that property from exemption. If the property is leased by a nonprofit owner to a tenant who uses the property exclusively for a religious, charitable or educational purpose, it appears that the property still qualifies for exemption. Art. XIII, Sec. 3(1)(f) and Section 59-2-1101(3)(d) provide that a property qualifies for exemption if “owned by a nonprofit entity” and “used exclusively for religious, charitable or educational purposes.” Neither the constitutional provision nor the statute specifies that the property must be used by the nonprofit owner of the property.

In making this determination, the commission considered *County Board of Equalization of Salt Lake County v Utah State Tax Comm’n and Evans & Sutherland Computer Corp.*, 927 P.2d 176 (Utah 1996). The commission noted that a rental property may qualify for exemption from property tax under the religious, charitable or educational exemption. Although *Evans & Sutherland* addressed a privilege tax, the court in *Evans & Sutherland* discussed the interrelationship between the privilege tax and the property tax exemption in a situation involving leased property. The commission relied on language from *Evans & Sutherland* holding that leased property owned by a nonprofit entity “is exempt from the property tax when it is used exclusively for a religious, educational, or charitable purpose.” Case No. 09-1308, citing

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*County Board of Equalization of Salt Lake County v Utah State Tax Comm'n and Evans & Sutherland Computer Corp.*, 927 P.2d 176 (Utah 1996). Based on this, the commission ruled in Case No. 09-1308 that “[g]iven the direction in *Evans & Sutherland*, it appears that a nonprofit entity may lease its property to another entity and, as long as the lessee uses the property exclusively for religious, educational or charitable purposes, it could qualify for exemption.”

Therefore, in Case No. 09-1308, the commission determined that if the spaces that the nonprofit entity property owner leased to tenants were “used exclusively for religious, charitable or educational purposes,” the mere fact that they were leased to tenants would not disqualify the property from property tax exemption under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3).

In the case now before the commission, the parties agree that the Taxpayer is a nonprofit entity. The Taxpayer uses some of its property exclusively for its own tax-exempt purposes and the property tax exemption with respect to that portion of the property is not in dispute. The Taxpayer leases some of its property to tenants. At issue is whether the tenants’ use of the leased property can qualify the property for tax exemption if the tenants use the leased property exclusively for religious, charitable, or educational purposes. Because the facts of the case now before the commission are similar to the facts in Case No. 09-1308, there is good cause for the commission to rule in a consistent manner with its previous ruling in Case No. 09-1308. If the space that the Taxpayer leases to the two entities are “used exclusively for religious, charitable or educational purposes,” the mere fact that the BUSINESS-1 receives lease payments from the two entities will not disqualify the property from property tax exemption under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3). Based on this determination, the commission must determine whether the property that the Taxpayer leased to its tenants was used exclusively for religious, charitable, or educational purposes.

B. Has the Taxpayer demonstrated that the property leased to its tenants is used exclusively for religious, charitable or educational purposes?

The Taxpayer, as a party claiming exemption, has the burden of establishing that it is entitled to the exemption. *See Corporation of the Episcopal Church in Utah v. Utah State Tax Commission*, 919 P.2d 556 (Utah 1996) (burden of establishing exemption lies with the entity claiming it). However, the burden of establishing exemption “must not be permitted to frustrate the exemption’s objectives.” *Id.*

The Taxpayer argued that its tenants’ activities are primarily charitable with some educational benefits. However, the parties agreed that eligibility for the Section (3)(1)(f) exemption hinges on whether the property was used exclusively for charitable purposes. Thus, the commission will address only whether the property was used exclusively for charitable purposes, and not whether the property was used for religious or educational purposes.

With regard to charitable activities, the County relied on *Utah County by and through County Bd. Of Equalization v Intermountain Health Care*, 709 P.2d 265 (Utah 1985). In *Utah County*, the Utah Supreme Court explained the nature of charity required to qualify for tax exemption through use of property for charitable purposes:

An entity may be granted a charitable tax exemption for its property under the Utah Constitution only if it meets the definition of a 'charity' or if its property is used exclusively for 'charitable' purposes. Essential to this definition is the element of gift to the community.

Charity is the contribution or dedication of something of value . . . to the common good . . . . By exempting property used for charitable purposes, the constitutional convention sought to encourage individual or group sacrifice for the welfare of the community. An essential element of charity is an act of giving.

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*Utah County, By and Through County Bd. of Equalization of Utah County v. Intermountain Health Care, Inc.*, 709 P.2d 265, 269 (Utah 1985) (citing *Salt Lake County v. Tax Commission ex rel. Greater Salt Lake Recreational Facilities, Utah*, 596 P.2d 641, 643 (1979)).

In *Utah County*, the court went on to provide two alternative means for a party to demonstrate that its activities amounted to charity:

A gift to the community can be identified either by a substantial imbalance in the exchange between the charity and the recipient of its services or in the lessening of a government burden through the charity's operation.

*Utah County, By and Through County Bd. of Equalization of Utah County v. Intermountain Health Care, Inc.*, 709 P.2d 265, 269 (Utah 1985) (citing *Salt Lake County v. Tax Commission ex rel. Laborers Local No. 295*, 658 P.2d 1192, 1198 (Utah 1983) (Oaks, J., concurring)).

With regard to the alternative to show a “gift to the community” through “the lessening of a government burden through the charity's operation,” the County provided ample argument that neither BUSINESS-2 nor BUSINESS-3 performed functions or services that the state would otherwise be required to perform. It pointed out that the state is under no requirement to provide fair trade markets for artisans from third world areas as does BUSINESS-2. It similarly pointed out that BUSINESS-3 puts on an annual art fair with booths for artists and food vendors, which is not a required state function. The Taxpayer did not challenge these assertions. Accordingly, there is no reason for the commission to further consider the alternative to show a “gift to the community” through “the lessening of a government burden through the charity's operation.”

With regard to the alternative to show a “gift to the community” through “a substantial imbalance in the exchange between the charity and the recipient of its services,” the court in *Utah County* listed six

factors to be used in determining whether a particular institution is using property in a manner that provides a gift to the community, as follows:

- (1) whether the stated purpose of the entity is to provide a significant service to others without immediate expectation of material reward;
- (2) whether the entity is supported, and to what extent, by donations and gifts;
- (3) whether the recipients of the "charity" are required to pay for the assistance received, in whole or in part;
- (4) whether the income received from all sources (gifts, donations, and payment from recipients) produces a "profit" to the entity in the sense that the income exceeds operating and long-term maintenance expenses;
- (5) whether the beneficiaries of the "charity" are restricted or unrestricted and, if restricted, whether the restriction bears a reasonable relationship to the entity's charitable objectives; and (6) whether dividends or some other form of financial benefit, or assets upon dissolution, are available to private interests, and whether the entity is organized and operated so that any commercial activities are subordinate or incidental to charitable ones.

The issue of whether the tenants of the Taxpayer meet the six factors for a gift to the community through "a substantial imbalance in the exchange between the charity and the recipient of its services" is an issue for which the Taxpayer, as a party claiming exemption, has the burden of proof. *See Corporation of the Episcopal Church in Utah v. Utah State Tax Commission*, 919 P.2d 556 (Utah 1996) (burden of establishing exemption lies with the entity claiming it).

While the Taxpayer provided descriptions of its tenants' stated purposes, it did not provide a description of how the tenants' financial dealings dovetailed with the stated goals so that the commission would be able to make determinations about the tenants' immediate expectation of material reward or lack thereof. With regard to if the Taxpayer's tenants are supported, and to what extent, by donations and gifts, the information presented does not allow the commission to make determinations about donation and gift support received by the entities. Answers to questions such as whether the tenants are Utah entities or Utah subsets of larger organizations and whether grants the entities receive are donations or

gifts would be necessary in making a determination about donation and gift support. With regard to whether the recipients of charity are required to pay for the assistance received, in whole or in part, the parties discussed items that the tenants offer for sale, but did not provide information about whether the tenants offered events, classes, activities, or other similar support to the community without cost.

With regard to whether the Taxpayer's tenants have income that exceeds operating and long-term maintenance expenses, the parties did not provide sufficient information to make determinations regarding these elements of "profit" as discussed in *Utah County*. Similarly, the information presented does not allow the commission to learn enough about the beneficiaries of the "charity" to determine the extent to which they are restricted or unrestricted. Finally, the commission is aware the Taxpayer's tenants are 501(c)(3) entities and are therefore subject to federal restrictions on earnings. Nevertheless, the commission does not have information beyond this assumption to determine the status of the Taxpayer's tenants with regard to dividends or some other form of financial benefit, or assets upon dissolution.

The commission does not have sufficient information regarding the Taxpayer's tenants to conclude that the BUSINESS-1 has met its burden of proof to establish that the portion of the STRUCTURE NAME-1 for which exemption is sought qualifies for exemption from property taxation. In this regard, the commission would find testimony from the Taxpayer's tenants useful should there be further proceedings in this matter. However, based on the information presented, the commission does not have information to demonstrate that the activities of the Taxpayer's tenants meet the six-part test of *Utah County*. In addition, the parties should be aware that the Tax Commission in its Findings of Fact, Conclusions of Law and Final Decision in Case No. 09-2211, (November 17, 2011), considered an entity whose use of the property in question in that appeal was very similar to the use of the subject property by

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BUSINESS-2, and in that case the Commission denied the exemption.

### Summary and Conclusions

Lease payments from the two entities to the BUSINESS-1 will not of itself disqualify the leased portions of the property from property tax exemption under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3). However, it is incumbent on the Taxpayer to demonstrate that the property it leased to its tenants is “used exclusively for religious, charitable or educational purposes.” An essential element of demonstrating charitable purposes is to show a gift to the community. There are two alternatives to show a gift to the community. One alternative is to show “the lessening of a government burden through the charity's operation.” The Taxpayer did not show that either of its tenants lessened a government burden. *See Utah County, By and Through County Bd. of Equalization of Utah County v. Intermountain Health Care, Inc.*, 709 P.2d 265, 268 (Utah 1985) (“exemptions confer an indirect subsidy and are usually justified as the quid pro quo for charitable entities undertaking functions and services that the state would otherwise be required to perform...”). The other alternative is to show “a substantial imbalance in the exchange between the charity and the recipient of its services.” Utah courts have used a six factor test to consider this substantial imbalance in the exchange between the charity and the recipient of its services. For each of the Taxpayer’s tenants, the commission lacks information to make determinations to change the board of equalization findings. *See Corporation of the Episcopal Church in Utah v. Utah State Tax Commission*, 919 P.2d 556 (Utah 1996) (burden of establishing exemption lies with the entity claiming it). Based on this, there is good cause to sustain the County’s actions in denying property tax exemption under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3) for property leased to BUSINESS-2 and to

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BUSINESS-3.

Clinton Jensen  
Administrative Law Judge



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DECISION AND ORDER

Based upon the foregoing, the Tax Commission sustains the County's actions in denying the property tax exemption under Section 3(1)(f) and Utah Code Ann. §59-2-1101(3) for the ~~%%%~~ the portion of the subject property leased to BUSINESS-2 and to BUSINESS-3 for the 2019 and 2020 tax years. It is so ordered.

This Decision does not limit a party's right to a Formal Hearing. Any party to this case may file a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

or emailed to:  
taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2020.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
Commissioner