



# NOTICE OF ACTION ON EXEMPTION APPLICATION

State Form 49585 (R4 /12-10)

Prescribed by the Department of Local Government Finance

- This is a notice of action on an exemption application by the County Property Tax Assessment Board of Appeals as provided for pursuant to IC 6-1.1-11-7.
- If you do not agree with the action of the County Property Tax Assessment Board of Appeals, the Indiana Board of Tax Review will review that action if you file a timely Form 132 petition with them and provide a copy to the County Assessor. This form can be located on the Indiana Board of Tax Review's website at [www.in.gov/ibr](http://www.in.gov/ibr) and must be filed within 45 days of the date of notification below.

### Check type of property under appeal:

Real    Personal    Both

SECTION I: PETITIONER INFORMATION			
Name of Property Owner (Petitioner) (first, middle, last)      JERIT CS FUND I LLC			
Address of Property Owner 30 WEST PERSHING STREET STE 201	City KANSAS CITY	State MO	ZIP Code 64108
Name of Licensed Attorney STEPHEN FINK % BARNES & THORNBURG			
Address of Licensed Attorney 600 ONE SUMMIT SQUARE	City FORT WAYNE	State IN	ZIP Code 46802

SECTION II: DESCRIPTION OF PROPERTY		
County Allen	Township WAYNE	Parcel or Key number 02-07-35-451-001.000-074
Address of property 2000 N WELLS ST	City FORT WAYNE	ZIP Code 46808
Legal description provided on Form 11 or Property Record Card (for real property), <u>or</u> business name (for personal property) PT LOT 8 WELLS RES & SPC ADJ ON N EX MID PT		

SECTION III: FINAL DETERMINATION			
You are hereby notified that your application for a property tax exemption for the property described above has been acted upon by the Allen County Property Tax Board of Appeals in the following manner:			
March 1, <u>2011</u> assessment date			
	% Exempt:	% Taxable:	Total:
Land	<u>0</u>	<u>100</u>	<u>100</u>
Improvements	<u>0</u>	<u>100</u>	<u>100</u>
Personal Propert	<u>0</u>	<u>0</u>	<u>0</u>
THE COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS SHALL COMPLETE SECTION IV AND V OF THIS FORM. See IC 6-1.1-11-7 (Notice of action by the County Property ASessment Baord of Appeals; action by County Assessor and County Auditor; Appeal)			

Date Notification (Month day year) <b>JUN 14 2011</b>	Signature of County Assessor 
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**SECTION IV: DETERMINATION BY COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS**

The County Property Tax Assessment Board of Appeals' determination is based on the following reasons. This statement should include cites to applicable statutes, regulations, or case law in support of this determination.

SEE ATTACHED FINDINGS & CONCLUSIONS.

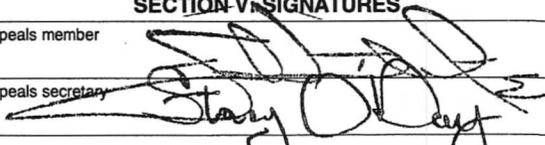
**SECTION V: SIGNATURES**

Signature of County Property Tax Assessment Board of Appeals member

Date signed 06/13/11

Signature of County Property Tax Assessment Board of Appeals secretary

Date signed 06/13/11

Handwritten signatures in black ink, including a large signature for a board member and a signature for the secretary.



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### Check type of property under appeal:

Real    Personal    Both

### SECTION I: PETITIONER INFORMATION

Name of Property Owner (Petitioner) (first, middle, last)				JERIT CS FUND I LLC			
Address of Property Owner		City		State		ZIP Code	
30 WEST PERSHING STREET STE 201		KANSAS CITY		MO		64108	
Name of Licensed Attorney				STEPHEN FINK % BARNES & THORNBURG			
Address of Licensed Attorney		City		State		ZIP Code	
600 ONE SUMMIT SQUARE		FORT WAYNE		IN		46802	

### SECTION II: DESCRIPTION OF PROPERTY

County	Township	Parcel or Key number	
Allen	WAYNE	02-07-35-451-001.001-074	
Address of property		City	ZIP Code
2000 N WELLS ST		FORT WAYNE	46808
Legal description provided on Form 11 or Property Record Card (for real property), <u>or</u> business name (for personal property)			
6.91 A IRR TR BET JACOBS & PUTNAM STS SE 1/4 SEC 35			

### SECTION III: FINAL DETERMINATION

You are hereby notified that your application for a property tax exemption for the property described above has been acted upon by the Allen County Property Tax Board of Appeals in the following manner:

March 1, 2011 assessment date

	% Exempt:	% Taxable:	Total:
Land	0	100	100
Improvements	0	100	100
Personal Propert	0	0	0

**THE COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS SHALL COMPLETE SECTION IV AND V OF THIS FORM. See IC 6-1.1-11-7 (Notice of action by the County Property Assessment Board of Appeals; action by County Assessor and County Auditor; Appeal)**

Date Notification (Month day year)  
JUN 14 2011

Signature of County Assessor





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Address of Property Owner 30 WEST PERSHING STREET STE 201	City KANSAS CITY	State MO	ZIP Code 64108
Name of Licensed Attorney STEPHEN FINK % BARNES & THORNBURG			
Address of Licensed Attorney 600 ONE SUMMIT SQUARE	City FORT WAYNE	State IN	ZIP Code 46802

### SECTION II: DESCRIPTION OF PROPERTY

County Allen	Township WAYNE	Parcel or Key number 02-07-35-407-001.000-074	
Address of property 207 W JACOBS AVE		City FORT WAYNE	ZIP Code 46808
Legal description provided on Form 11 or Property Record Card (for real property), or business name (for personal property) E 125.83 OF W 617.46 OF N 136.3FT OF SPC ON N E 125.83 OF W 617.46 OF N 136.3FT OF SPC ON N BTWN JACOBS & PUTNAM			

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You are hereby notified that your application for a property tax exemption for the property described above has been acted upon by the Allen County Property Tax Board of Appeals in the following manner:

March 1, 2011 assessment date

	% Exempt:	% Taxable:	Total:
Land	0	100	100
Improvements	0	100	100
Personal Property	0	0	0

**THE COUNTY PROPERTY TAX ASSESSMENT BOARD OF APPEALS SHALL COMPLETE SECTION IV AND V OF THIS FORM. See IC 6-1.1-11-7 (Notice of action by the County Property Assessment Board of Appeals; action by County Assessor and County Auditor; Appeal)**

Date Notification (Month, day, year) JUN 14 2011	Signature of County Assessor 
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**ALLEN COUNTY PROPERTY TAX  
ASSESSMENT BOARD OF APPEALS**

**FINDINGS AND CONCLUSIONS**

Taxpayer: Jerit, CS Fund 1, LLC

Address of  
Property: 2000 N. Wells Street, Fort Wayne, Indiana

Parcel No.: 02-07-35-451-001.000-074  
02-07-35-451-001.001.074  
02-07-35-407-001.000-074

Assessment Year  
Under Appeal: March 1, 2011

**EXHIBITS**

1. Taxpayer's application for property tax exemption Form 136 and attachments.
2. Property record card for subject parcel.
3. Affidavit of Gregory K. Silvers, Vice President of EPT DownReit, Inc.
4. Letter addressed to F. John Rogers, attorney for the Allen County Property Tax Assessment Board of Appeals, from Stephen L. Fink, attorney for Taxpayer, dated March 8, 2011.

**ISSUES PRESENTED TO THE BOARD**

5. Whether the real estate is entitled to exemption from real property taxes pursuant to I.C. 6-1.1-10-16(a).

## FINDINGS

6. The Taxpayer, Jerit, CSF 1, LLC, n/k/a Educational Capital Solutions, LLC is a Delaware limited liability company, wholly owned by EPT DownReit, Inc., a Missouri corporation, that is in turn wholly owned by a single entity known as Entertainment Properties, LLC.
7. The Taxpayer timely filed an application for exemption from real property taxes pursuant to I.C. 6-1.1-10-16(a), seeking the exemption as a Taxpayer who owns the property for an educational purpose.
8. The parcel is leased from the Taxpayer by Imagine Schools, Inc., a Delaware for profit corporation, engaged in the operation of charter schools.
9. The Taxpayer is in the business of providing funding options for private charter school properties.
10. The Taxpayer purchased the parcels in July of 2008, from School House Finance, Inc. for \$6.21 million.
11. School House Finance, Inc. is a corporation wholly owned by Imagine Schools, Inc.
12. Imagine Schools entered into a "Master Lease" with the Taxpayer in July of 2007.
13. The terms of the Master Lease call for a 25 year lease with a 3% per annum rent escalator, with Imagine Schools paying rent to the Taxpayer for the current year in the amount of \$639,616.44.
14. The terms of the Master Lease require the tenant to pay the related ongoing expenses of the property, resulting in what is commonly referred to as a "triple net lease".
15. There is no common ownership between the Taxpayer and the entity operating the charter school.
16. The parcel is occupied and used by the lessee, Imagine Schools, Inc., in the operation of a charter school.
17. The Master Lease limits the use of the property by the tenant to that of a "primary or secondary charter school and for no other purposes (other than ancillary uses) without the

prior written consent of landlord” (see paragraph 2.3 of the master lease in Taxpayer’s Exhibit A attached to February 28, 2011 letter).

## CONCLUSIONS

18. To qualify for an exemption for educational or charitable purpose, a Taxpayer must demonstrate that the property is “owned” and “occupied” and “used” for an educational or charitable purpose.

19. Taxpayer did not present evidence to the Board that was sufficient to allow the Board to conclude that the Taxpayer “owns” the property for an exempt purpose independent of the educational purpose for which the property is being “occupied and used” by an entity that is separate from the Taxpayer.

20. There is no interlocking or common ownership of the Taxpayer and the Lessee. There is no evidence that the Taxpayer participated in meeting any of the operational expenses incurred by the lessee in occupying and using the premises for the educational purpose.

21. The one sentence in the Master Lease that states tenant may “occupy and use each of the properties as a primary or secondary charter school and for no other purpose (other than ancillary use) without prior consent of the landlord....” is not sufficient to demonstrate an independent educational or charitable purpose on the part of the Taxpayer. *See Hamilton County Property Tax Assessment Board of Appeals and Hamilton County Assessor vs. Oaken Bucket Partners, LLC*, Indiana Supreme Court, 49 S 10-1003-TA-140 (December 15, 2010), and *SPD Realty, LLC, Petitioner vs. Hamilton County Assessor, Respondent*, Final Determination by the Indiana Board of Tax Review (March 11, 2011).

22. **Petition denied.**