
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: Assessing Officials

FROM: Barry Wood, Assessment Division Director

RE: Homestead and 1% Tax Cap Case – *Marion County v. Schiffler*

DATE: October 28, 2022

This memorandum provides guidance to assessing officials after the Indiana Tax Court decision, *Marion County v. Schiffler*. On Friday, September 23, 2022, the Indiana Supreme Court denied the transfer of the Marion County Assessor's petition, requesting that the Court hear the appeal. This case centers upon the application of the homestead deduction and the application of the 1% property tax cap. After the Indiana Board of Tax Review ("IBTR") issued a decision in favor of the assessor, Mr. Schiffler appealed, and the Tax Court found in his favor in February 2022.

Key Facts of the Case

The facts of the case are helpful to have as background. The taxpayer owns a home in Indianapolis on a little over two acres of property. His property includes a main house, an attached garage, a detached second garage, and a carriage house. At no time during the appeal process did the assessor dispute that Mr. Schiffler was entitled to a homestead. The question centered upon what property should be included in the homestead. Instead, Mr. Schiffler argued that Article X of the Indiana Constitution limited property tax on the property included in the homestead to 1% of its assessed value, and that the legislature had exceeded its authority when it limited the property's eligibility in Ind. Code § 6-1.1-12-37(m) as discussed further below.

Mr. Schiffler argued that his detached second garage and carriage house were all part of the homestead and located within the immediately surrounding one acre, and therefore, should receive the 1% property tax cap preference. The assessor contended that Ind. Code § 6-1.1-12-37(m) specifically prohibited the inclusion of a detached garage and a detached carriage house as part of the homestead because of the wording of the statute, and the Department of Local Government Finance ("Department") guidelines, as based upon the statute, prohibited it.

The applicable part of the statute states:

- (m) For assessment dates after 2009, the term "homestead" includes:
- (1) a deck or patio;
 - (2) a gazebo; or
 - (3) another residential yard structure, as defined in rules adopted by the department of local government finance (other than a swimming pool) **that is assessed as real property and attached to the dwelling**

While the Indiana Tax Court did not hold that this part of the homestead statute was unconstitutional, it did find that the assessor should have included the carriage house and detached second garage in the homestead; therefore, qualifying it for the 1% property tax cap.

Guidance

As the Tax Court case addressed only the homestead property and the 1% property tax cap, this memo takes the same approach. Therefore, when a homeowner meets the requirements for a homestead, other property that may previously have been considered ineligible should be classified as part of the homestead when those improvements are used as an extension of the home. Owners with additional buildings on the one-acre homestead that are used as an extension of the individual's dwelling, such as carriage houses, detached garages, barns, and similar structures, should be included as property under the 1% property tax cap.

Previously, the Department's guidance specifically excluded these structures. Property outside the one-acre homestead should be treated as it has been previously. Nothing in the Indiana Tax Court opinion spoke to property within the 2% or 3 % property tax cap categories.

Assessors may see appeal arguments based upon the *Schiffler* case and should respond accordingly. Additionally, assessors should seek to adjust property record cards to proactively make changes when a homeowner has additional structures on their one-acre homestead that will now be considered eligible for the 1% property tax cap.

Assessing officials should disregard an older, obscure fact sheet from the Department, issued more than 5 years ago¹, that the assessor used in the IBTR case. Please use this memo as guidance going forward.

If you have any questions, please contact Barry Wood, Assessment Division Director, at (317) 232-3762 or Bwood@dlgf.in.gov.

¹ This guidance has been removed from the Department's website.