

REPRESENTATIVE FOR PETITIONER: Marjorie L. Anderson, *pro se*

REPRESENTATIVE FOR RESPONDENT: Marilyn S. Meighen, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Marjorie L. Anderson ¹)	Petition No.: 29-020-20-1-5-00617-21
)	
Petitioner,)	Parcel No.: 29-12-29-016-022.000-020
)	
v.)	County: Hamilton
)	
Hamilton County Assessor,)	Assessment Year: 2020
)	
Respondent.)	

January 3, 2022

FINAL DETERMINATION

The Indiana Board of Tax Review (“the Board”) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

INTRODUCTION

1. Marjorie Anderson is contesting the denial of a homestead deduction² for the 2020 assessment of the subject property. But she did not apply for a homestead deduction until April 11, 2021, well after the applicable deadline for 2020. Thus, we find she is not entitled to a homestead deduction for the 2020 assessment year.

¹ The Notification of Final Assessment Determination – Form 115 and Respondent Exhibit B quit-claim deed show the property under appeal is titled in the names of Eric E. and Laura L. Anderson, husband and wife and subject to a life estate of Marjorie L. Anderson.

² The parties used the terms “homestead deduction” and “homestead exemption” interchangeably throughout their presentations. There is no statute that exempts homesteads from taxation. The Board infers they are referring to the standard deduction for homesteads provided for under Ind. Code § 6-1.1-12-37 and will use the term “homestead deduction” hereinafter.

PROCEDURAL HISTORY

2. Marjorie Anderson contested the denial of her application for a 2020 homestead deduction for her property located at 15918 Lambrusco Way in Fishers. On July 13, 2021, the Hamilton County Property Tax Assessment Board of Appeals (“PTABOA”) denied her appeal. She timely appealed to the Board.
3. On October 19, 2021, Dalene McMillen, the Board’s designated Administrative Law Judge (“ALJ”), heard the case telephonically. Neither the Board nor the ALJ inspected the property.
4. Marjorie L. Anderson, Eric Anderson, and Hamilton County Deputy Auditor Sadie Eldridge testified under oath.
5. The Petitioner offered the following exhibits:
 - Petitioner Exhibit 1: Form 131 petition,
 - Petitioner Exhibit 2: Parcel information report for subject property,
 - Petitioner Exhibit 3: Form 130 petition,
 - Petitioner Exhibit 4: Sales disclosure form for subject property,
 - Petitioner Exhibit 5: Letter and timecard from Eric Anderson; and U.S. Postal Service delivery complaint,
 - Petitioner Exhibit 6: Auditor’s property tax deduction – removal notification letter; and U.S. Postal Service delivery confirmation receipt,
 - Petitioner Exhibit 7: Joint Report by Taxpayer / Assessor to the County Board of Appeals of a Preliminary Informal Meeting – Form 134,
 - Petitioner Exhibit 8: Notification of Final Assessment Determination – Form 115.
6. The Respondent offered the following exhibits:
 - Respondent Exhibit A: Sales disclosure form for subject property,
 - Respondent Exhibit B: Quit-claim deed,
 - Respondent Exhibit C: Letter from Eric Anderson,

- Respondent Exhibit D: Auditor's property tax deduction – removal notification letter; and U.S. Postal Service delivery confirmation receipt,
Respondent Exhibit E: Respondent's statement of law.

7. The official record also contains (1) all pleadings, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; (3) an audio recording of the hearing.

FINDINGS OF FACT

8. Marjorie Anderson's son and daughter-in-law, Eric and Laura Anderson, purchased the subject property on September 26, 2019, from an unrelated seller. On the sales disclosure form, the sections regarding homestead/primary residence were left blank. On November 4, 2019, the Hamilton County Auditor's office sent a letter by certified mail to Eric Anderson at the address of the subject property stating that there was no application for a homestead deduction on file for the subject property and any application must be made by December 31, 2019. The letter was signed for in the name of Eric Anderson, but he testified that he never received the letter and he was in Texas on the date he supposedly signed for it. *M. Anderson testimony; E. Anderson testimony; Eldridge testimony; Pet'r Exs. 2 & 4; Resp't Ex. D.*
9. On December 18, 2019, the Andersons granted the Petitioner, Marjorie Anderson, a life estate via quit-claim deed. No sales disclosure form was filed for this event. The Hamilton County Auditor did not grant the homestead deduction for the 2020 assessment year because there was no application on file. Marjorie Anderson first discovered the property was not receiving the homestead deduction for 2020 when she received the 2021 tax bill. On April 11, 2021, Marjorie Anderson filed for a homestead deduction using Form HC10. *M. Anderson testimony; E. Anderson testimony; Eldridge testimony; Pet'r Exs. 2 & 4; Resp't Ex. A, B, D, E.*

CONCLUSIONS OF LAW

10. Indiana Code § 6-1.1-12-37 provides a standard deduction from assessed value for homesteads, which the statute defines as a dwelling that an individual owns and uses as their place of residence and up to one acre of surrounding land. I.C. § 6-1.1-12-37(a)-(c). At all times relevant to this appeal, a taxpayer had to apply for the deduction in one of two ways.³ First, they could file with the county auditor a certified statement, in duplicate, on forms prescribed by the Department of Local Government Finance (“DLGF”). I.C. § 6-1.1-12-37(e). The DLGF prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer had to complete Form HC10 within the calendar year for which the deduction was sought and file that form on or before January 5 of the immediately succeeding year. *Id.*; I.C. § 6-1.1-12-37(e). Alternatively, a taxpayer could use the sales disclosure form at the time of purchase to claim the deduction. *Id.*; I.C. § 6-1.1-12-44.

11. There is no dispute that the subject property qualified as a homestead under I.C. § 6-1.1-12-37. Rather, this case turns on whether Marjorie Anderson timely applied for the deduction for the 2020 assessment year. We find she did not. When Eric and Laura Anderson purchased the subject property, they did not apply for a homestead using the sales disclosure form. Nor were they eligible to apply, because the subject property was not their principal place of residence. When they granted a life estate to Marjorie Anderson, they did not file a new sales disclosure form. Nor was any other application for a homestead filed until April 11, 2021, too late for the 2020 assessment year. Mrs. Anderson makes much of the fact that her son did not receive the Assessor’s November 14, 2019 letter. But the Assessor was under no obligation to inform the Andersons that they were not receiving a homestead deduction that was never applied for. Ultimately, it is up to the taxpayer to comply with the application requirements to obtain the deduction.

³ Once the auditor grants the deduction, it carries forward and taxpayers need not reapply. See I.C. § 6-1.1-12-37(e); I.C. § 6-1.1-12-17.8.

12. Essentially, Marjorie Anderson is requesting the Board to waive the deadline to apply for a homestead deduction. But the Board is a creation of the legislature, and it has only those powers conferred by statute. *Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 1093, 1096 (Ind. Tax Ct. 2002) citing *Matonovich v. State Bd. Of Tax Comm'rs*, 715 N.E.2d 1018, 1021 (Ind. Tax Ct. 1999). The Board has no authority to ignore the law or waive a statutory deadline. Thus, we conclude the subject property is not entitled to a homestead deduction for the 2020 assessment year.

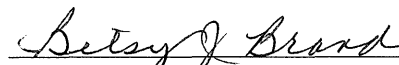
SUMMARY OF FINAL DETERMINATION

13. As discussed above, because the Petitioner failed to timely file her claim, she is not entitled to a homestead deduction for 2020.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.



Chairman, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review



Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>. The Indiana Tax Court's rules are available at <http://www.in.gov/judiciary/rules/tax/index.html>