

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition No.:** 29-018-17-1-5-00742-18  
**Petitioner:** Pramod Bangalore Krishna  
**Respondent:** Hamilton County Assessor  
**Parcel No.:** 29-09-26-405-038.000-018  
**Assessment Year:** 2017

The Indiana Board of Tax Review (Board) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated his appeal with the Hamilton County Auditor on March 20, 2018. On May 30, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioner relief.
2. The Petitioner timely filed a Petition for Review of Assessment (Form 131) on July 11, 2018, with the Board and elected the Board's small claims procedures.
3. On February 13, 2019, the Board's administrative law judge (ALJ) Dalene McMillen held a hearing.<sup>1</sup> Neither the Board nor the ALJ inspected the property.
4. Pramod Bangalore Krishna appeared *pro se* and was sworn. Attorney Marilyn Meighen appeared for the Respondent. Chaitra Hemanth was sworn as a witness for the Petitioner. Hamilton County Auditor's office employee Sadie Eldridge was sworn as a witness for the Respondent.<sup>2</sup>

**Hearing Facts and Other Matters of Record**

5. The property under appeal is a single-family home located at 13045 Grand Vue Drive in Carmel.
6. The official record for this matter is made up of the following:

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<sup>1</sup> The Petitioner filed various continuance requests with the Board and each request was granted. As a result, the Board issued a notice of hearing on January 28, 2019, for the appeal to be heard on February 13, 2019. At the hearing, the parties signed a Waiver of Notice agreeing to waive the Board's thirty day notice requirement under Ind. Code § 6-1.1-15-4.

<sup>2</sup> County Assessor Robin Ward, Lisa Johnson, Lisa Scherer, and Jennifer Dougherty were present but not sworn to testify.

- a. A digital recording of the hearing,
- b. Exhibits:

- Petitioner Exhibit 1: Letter from Hamilton County Assessor’s office employee Lisa Johnson to Pramod Krishna, dated May 30, 2018,
- Petitioner Exhibit 2: Special Power of Attorney from Pramod Krishna to Chaitra Hemanth, dated February 6, 2017,
- Petitioner Exhibit 3: Email from Lisa Johnson to Pramod Krishna, dated June 14, 2018,
- Petitioner Exhibit 4: “Property Tax Deductions – Removal Notification” addressed to Pramod Krishna dated April 1, 2017,
- Petitioner Exhibit 5: Email exchange between Hamilton County Auditor’s office employee Lisa Scherer and Pramod Krishna dated July 13, 2018, and July 16, 2018,
- Petitioner Exhibit 6: United States Postal Service (USPS) certified mail receipt dated April 5, 2017.
  
- Respondent Exhibit A: Sales Disclosure Form dated January 31, 2017, **(Confidential)**,
- Respondent Exhibit B: Respondent’s memorandum outlining Ind. Code § 6-1.1-12-44(a) and summary of *Vanessa Purdom v. Knox Co. Ass’r*, Pet. No. 42-023-13-3-5-00001 (Ind. Bd. Tax Rev. September 2, 2015),
- Respondent Exhibit C: “Property Tax Deductions – Notification” addressed to Pramod Krishna dated April 1, 2017,
- Respondent Exhibit D: Claim for Homestead Property Tax Credits/Standard Deduction (Form HC10) dated March 16, 2018, **(Confidential)**; Corporate Warranty Deed dated February 6, 2017; and Affidavit of Plat Correction dated January 8, 2018,
- Respondent Exhibit E: Auditor’s “Address Change” from 13045 Grand Vue Drive to 13462 Flintridge Pass dated March 20, 2018, **(Confidential)**.

- c. The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders and notices issued by the Board or ALJ; and (3) these findings and conclusions.

### Summary of the Parties’ Contentions

- 7. Summary of the Petitioner’s case:

- a. The Petitioner purchased the subject property on January 31, 2017. Because he was out of the county “due to work obligations” he appointed a “Special Power of Attorney” to Chaitra Hemanth, his cousin’s sister, to process the paperwork with his homebuilder and close on the subject property. Ms. Hemanth signed the sales disclosure form as the Petitioner’s “Attorney in Fact” and applied for his homestead deduction in his name only.<sup>3</sup> The sales disclosure was filed with the Hamilton County Auditor on February 1, 2017. *Krishna testimony; Pet’r Ex. 2.*
  - b. Mr. Krishna learned from the Assessor’s office he was denied the homestead deduction for the 2017 assessment year because he failed to provide proof of the “Special Power of Attorney.” According to Mr. Krishna, because he never received any notification, he failed to timely file the requested information. Mr. Krishna testified that as of the date of the certified notification, April 5, 2017, he was not living at the subject property. *Krishna testimony; Pet’r Ex. 1, 3, 4, 5, 6.*
8. Summary of the Respondent’s case:
- a. The Petitioner, via his power of attorney, purchased the subject property on January 31, 2017. At the time of purchase, the homestead deduction was filed via the sales disclosure form and included the Petitioner’s Missouri license information. The property was deeded in his name only and no spousal information was provided on the sales disclosure form. Additionally, Ms. Hemanth failed to attach a copy of her power of attorney authorizing her to act on the Petitioner’s behalf.<sup>4</sup> Therefore, the form was incomplete at the time it was filed and the homestead deduction for 2017 was denied. *Meighen argument; Eldridge testimony; Resp’t Ex. A, B.*
  - b. The Auditor’s office sent a “Property Tax Deduction – Notification” by certified mail to the Petitioner at the address listed on his corporate warranty deed on April 1, 2017. The notification requested the Petitioner to sign the sales disclosure form, provide all certifying information, and provide spousal information by December 31, 2017. The notification also stated that the Petitioner was required to file a “Homestead Claim Form.” The Auditor’s office did not receive a reply to the letter. As a result, the homestead deduction was denied for the 2017 assessment year.<sup>5</sup> *Eldridge testimony; Resp’t Ex. C, D.*
  - c. On March 16, 2018, Mr. Krishna and his spouse applied for the homestead deduction via the Form HC10 with their certifying information and their signatures. They also certified this is their principal place of residence. The homestead deduction has been applied to the 2018 assessment year. *Eldridge testimony; Resp’t Ex. D.*

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<sup>3</sup> In response to the Respondent’s questioning, Mr. Krishna testified he has been married since 2001.

<sup>4</sup> The Board notes the Special Power of Attorney for Ms. Hemanth was recorded with the Hamilton County Recorder on February 6, 2017. *Pet’r Ex. 2.*

<sup>5</sup> Mr. Krishna filed an address change form with the Assessor on March 29, 2018. Mr. Krishna changed his mailing address from 13045 Grand Vue Drive in Carmel to 13462 Flintridge Pass in Carmel. *Resp’t Ex. E.*

## Analysis<sup>6</sup>

9. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines as a dwelling that an individual owns and uses as his principal place of residence and up to one acre of surrounding land. Ind. Code § 6-1.1-12-37(a)-(c). At all times relevant to this appeal, the taxpayer had to apply for the deduction in one of two ways.<sup>7</sup> First, he could file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance (DLGF). Ind. Code § 6-1.1-12-37(e). The DLGF prescribed the 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.*; Ind. Code § 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.*; Ind. Code § 6-1.1-12-44.
10. Here, the Petitioner applied for the homestead deduction using the sales disclosure form as allowed by 50 IAC 24-4-3 and Ind. Code § 6-1.1-12-44. The sales disclosure form was filed on February 1, 2017, with information from the Petitioner's Missouri driver's license and signed by Ms. Hemanth, his attorney in fact. The Respondent did not dispute the subject property meets the requirement to be a "homestead" as defined by Ind. Code § 6-1.1-12-37(a)(2) because it is the Petitioner's principal place of residence.
11. Sometime in 2017, the Auditor realized the Petitioner had not provided all of the required documentation when the sales disclosure was filed. Notably, the Petitioner himself did not sign the form and he failed to provide a power of attorney for Ms. Hemanth, the form was filed with his Missouri driver's license information, and he did not include any information pertaining to his spouse. The Auditor attempted to obtain the information by mailing out a letter on April 1, 2017. The Petitioner failed to respond by the December 31, 2017, deadline.
12. The Board will address whether the Petitioner filed a sales disclosure form that met the requirements of Ind. Code § 6-1.1-12-44. The statute provides, in part:
  - (a) A sales disclosure form under IC 6-1.1-5.5:
    - (1) that is submitted:
      - (A) as a paper form; or
      - (B) electronically;on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in section 37 of this chapter) assessed as real property;
    - (2) that is accurate and complete;

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<sup>6</sup> Because the Petitioner only challenged the homestead deduction, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply and the burden rests with the Petitioner.

<sup>7</sup> Once the auditor grants the deduction, it carries forward and taxpayers need not reapply. *See* Ind. Code § 6-1.1-27-37(e); Ind. Code § 6-1.1-12-17.8.

- (3) that is approved by the county assessor as eligible for filing with the county auditor; and
- (4) that is filed:
  - (A) as a paper form; or
  - (B) electronically:
    - with the county auditor by or on behalf of the purchaser; constitutes an application for the deductions provided by sections...37 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

Ind. Code § 6-1.1-12-44.

- 13. The Respondent offered a copy of the sales disclosure form documenting the Petitioner’s original purchase of the subject property on January 31, 2017. This form is prescribed by the DLGF pursuant to Ind. Code § 6-1.1-5.5 and can serve as an application for the homestead deduction. However, “[i]f the transferee uses the form to claim the standard deduction under IC 6-1.1-12-37, the information required for a standard deduction under IC 6-1.1-12-37” must be included. Ind. Code § 6-1.1-5.5-5(a)(18). Thus, the form needs to include the information required by subdivision (1) through (4) of Ind. Code § 6-1.1-12-37(e).
- 14. The Auditor’s office denied the Petitioner’s original claim for the homestead deduction because Ms. Hemanth failed to attach a copy of power of attorney indicating she was authorized to act on Mr. Krishna’s behalf. Additionally, the sales disclosure listed the Petitioner’s Missouri driver’s license information and lacked any information pertaining to the Petitioner’s spouse.<sup>8</sup> As a result, the Auditor’s office found this to be an incomplete sales disclosure form. Admittedly, this is a close call for the Board. With that being said, we find the Petitioner barely met the requirements of Ind. Code § 6-1.1-12-44 in filing his sales disclosure form and ultimately proved he was *eligible* to receive the homestead deduction, and as discussed below, eligibility controls.<sup>9</sup>
- 15. The Respondent’s current position assumes the lack of the above mentioned items *necessarily* establishes lack of the required residency. A county auditor has the authority to determine that a property was not eligible for a homestead deduction, and then recover any taxes lost as a result of that error. *See* Ind. Code § 6-1.1-12-37(f); Ind. Code § 6-1.1-36-17. However, a taxpayer may timely appeal an auditor’s action in denying a homestead. The Respondent has not challenged the timeliness of this appeal. It is the taxpayer’s eligibility that controls.<sup>10</sup> Because the Petitioner timely filed, the

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<sup>8</sup> The Respondent never alleged the Petitioner’s spouse was erroneously receiving a homestead deduction on another property.

<sup>9</sup> The Board notes the Petitioner is not faultless here. The Petitioner should have included all of the relevant information as required by Ind. Code § 6-1.1-12-37(e).

<sup>10</sup> It is clear from the record the Petitioner is eligible to receive the homestead deduction because the Respondent approved the homestead deduction for the 2018 assessment year moving forward.

Respondent's action cannot stand on appeal when eligibility is conceded. The purpose of the statute is to revoke ineligible homesteads. Having proved he is eligible and that the subject property is his principal place of residence, the homestead deduction must be reinstated.

### **Conclusion**

16. The Board finds for the Petitioner.

### **Final Determination**

In accordance with these findings and conclusions, the Petitioner is entitled to a homestead deduction for the 2017 assessment year.

ISSUED: May 13, 2019

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>>