

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

Petition: 82-027-19-1-5-00195-21
Petitioner: The Raymond Gilles Lincoln Avenue Land Trust (Amanda Gilles, Trustee)
Respondent: Vanderburgh County Assessor
Parcel: 82-06-28-015-075.003-027
Assessment Year: 2019

The Indiana Board of Tax Review (“Board”) issues this determination, finding and concluding as follows:

PROCEDURAL HISTORY

1. The Raymond Gilles Lincoln Avenue Land Trust challenged the denial of its application for a 2019 homestead deduction for its property located at 1437 Lincoln Avenue in Evansville. On November 20, 2020, the Vanderburgh County Property Tax Board of Appeals (“PTABOA”) issued a determination denying the Trust’s appeal.
2. The Trust timely filed a Form 131 petition with the Board. On May 4, 2021, Ellen Yuhan, our designated administrative law judge (“ALJ”) held a telephonic hearing on the petition.¹ Neither she nor the Board inspected the subject property.
3. Attorney Robert Faulkner represented the Trust. Attorney Nick Cirignano represented the Assessor. Stephanie Pruett, First Deputy Auditor, testified on behalf of the Assessor.

RECORD

4. The official record for this matter contains the following:
 - Respondent Exhibit 1: Auditor Record of Homestead Removal
 - Respondent Exhibit 2: Form HC10 Claim for Homestead Property Tax Standard Supplemental Deduction
 - Respondent Exhibit 3: File-stamped claim for homestead deduction dated 6/25/2020
 - Respondent Exhibit 4: Correction Warranty Deed
 - Respondent Exhibit 5: Evidence of Gilles’ Proof of Residency (**Confidential**)

¹ At the beginning of the hearing, the Trust’s counsel requested a continuance because the Trustee, Amanda Gilles, was unable to attend. Mr. Faulkner admitted the facts were not controverted and that the Assessor’s exhibits were a complete account of what was submitted to the PTABOA. The ALJ declined to continue the hearing and we adopt her ruling.

- Respondent Exhibit 6: Form 130
- Respondent Exhibit 7: Form 131
- Respondent Exhibit 8: Gilles' Recorded Deed
- Respondent Exhibit 9: Property record card
- Respondent Exhibit 10: PTABOA Memorandum

- b. The record also includes the following: (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices and orders issued by the Board or our ALJ; and (3) an audio recording of the hearing.

SUMMARY OF CONTENTIONS

5. **The Trust's case:**

- a. Joshua and Amanda Gilles purchased the property on contract in September 2018. The company that handled the transaction for the seller assured them that everything needed had been done in order for them to receive the homestead deduction.² They found out later that the company had put the property on the rental registry. The County saw the property on the rental registry and removed the homestead deduction. The Gilles were unaware of this because the company concealed it for a while by paying the extra taxes. *Faulkner argument.*
- b. The local officials were sympathetic to the Gilles concerns but felt they did not have the authority to address the issue. However, auditors do have the authority under Indiana Code § 6-1.1-15-12.1, which deals with correction of errors. The statute does not limit the errors that can be corrected to those committed by the County. In fact, it does not say anything about errors that can be corrected in terms of who made the error. *Faulkner argument.*

6. **The Assessor's case:**

- a. A taxpayer who desires to claim the homestead deduction must file a certified statement on forms prescribed by the Department of Local Government Finance ("DLGF") with the county auditor. The form must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed on or before January 5 of the immediately succeeding calendar year. The Trust did not file the HC10 until June 25, 2020. *Pruett testimony; Resp't Exs. R-2, R-3.*
- b. The County agrees that the property lost the homestead deduction because the seller put it on the rental registry. But the paperwork to reinstate the homestead deduction was not timely filed. To the extent the Trust has a claim, it is against the seller, not

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

the county. The county does not agree that a correction of error can be used to reinstate the homestead deduction. *Cirignano argument*.

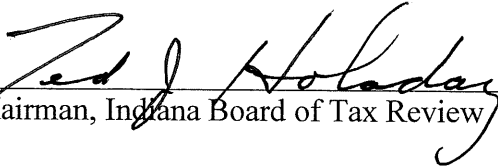
ANALYSIS

7. The Trust failed to prove that it is entitled to the homestead deduction for the 2019 assessment year. The Board reached this decision for the following reasons:
 - a. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines (as relevant here) as a dwelling and up to one acre of surrounding real estate that is owned by a trust and occupied by an individual that uses it as his or her principal place of residence. Ind. Code § 6-1.1-12-37 (a)-(c); *see also* Ind. Code § 6-1.1-12-17.9.
 - b. In this case, the Assessor and the Auditor do not dispute the Trust's eligibility to receive the homestead deduction for the 2019 assessment year. They instead argue that the Trust is not entitled to the homestead deduction because it failed to timely claim the deduction by filing a Form HC10 before the deadline set by Indiana Code § 6-1.1-12-37(e).
 - c. To claim the homestead deduction, taxpayers have to apply for it in one of two ways. One of those ways is to file a certified statement with the county auditor on the Form HC10 prescribed by the DLGF. Ind. Code § 6-1.1-12-37(e); 50 IAC 24-4-2. Taxpayers have to complete Form HC10 within the calendar year for which the deduction is sought and file it on or before January 5 of the immediate succeeding year. Ind. Code § 6-1.1-12-37(e). Thus, to use a Form HC10 to claim the deduction for the January 1, 2019 assessment date at issue here, taxpayers had to complete the form on or before December 31, 2019 and file it with the county auditor on or before January 5, 2020.
 - d. The Assessor and the Auditor submitted the Trust's Form HC10 into evidence. It demonstrates that the Trust applied for the homestead deduction on June 25, 2020, which is well after the January 5, 2020 deadline. And the Trust did not offer any evidence to show that it timely applied for the deduction using a sales disclosure form.
 - e. The Trust is essentially asking 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). While the Board is sympathetic to the Trust's situation, we have no authority to waive a statutory deadline. Thus, we are compelled to find that the Trust is not entitled to a homestead deduction for the 2019 assessment year.

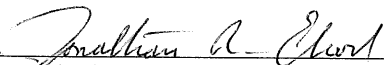
FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, the Board finds for the Assessor and orders no change to the subject property's 2019 assessment.

ISSUED: 7-16-21


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>.