

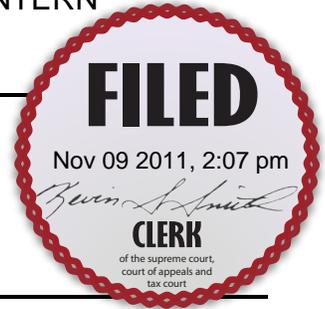
PETITIONERS APPEARING PRO SE:  
**MAURICE O. FULLER**  
**CRAIG L. FULLER**  
Logansport, IN

ATTORNEYS FOR RESPONDENT:  
**GREGORY F. ZOELLER**  
ATTORNEY GENERAL OF INDIANA  
**JOHN D. SNETHEN**  
DEPUTY ATTORNEY GENERAL  
**JULIE DEMUTH**  
CERTIFIED LEGAL INTERN  
Indianapolis, IN

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**IN THE  
INDIANA TAX COURT**

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MAURICE O. FULLER and )  
CRAIG L. FULLER, )  
 )  
Petitioners, )  
 )  
v. )  
 )  
CASS COUNTY ASSESSOR, )  
 )  
Respondent. )

Cause No. 49T10-1011-TA-68

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ON APPEAL FROM THE FINAL DETERMINATION  
OF THE INDIANA BOARD OF TAX REVIEW

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**NOT FOR PUBLICATION**  
**November 9, 2011**

WENTWORTH, J.

On October 31, 2007, Maurice O. Fuller (Mr. Fuller) and his son, Craig L. Fuller, purchased a home located on 1.379 acres of land in Cass County, Indiana.<sup>1</sup> (See Cert. Admin. R. at 78-83, 107, 144-45 (footnote added).) When Mr. Fuller received his 2008 property tax bill, he was upset that his liability was much higher than that paid by any of the property's previous owners. (See Cert. Admin. R. at 105, 143, 150.) As a result,

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<sup>1</sup> Parcel No. 09-05-16-300-011.000-014.

Mr. Fuller's banker increased his mortgage payments, and he nearly lost his home. (See Cert. Admin. R. at 105-07.)

Mr. Fuller claims that his property taxes increased because he did not receive the homestead credit, the homestead standard deduction, or the mortgage deduction for the 2007-pay-2008 period. (See Cert. Admin. R. at 144-45.) According to Mr. Fuller, after he purchased his home, the Cass County Auditor (Auditor) removed those credits and deductions. (See Cert. Admin. R. at 91-92, 144-45.) When Mr. Fuller attempted to have them reinstated, an individual from the Auditor's Office told him it was impossible because the application deadlines for the credits and deductions had expired before he even purchased his home. (See Cert. Admin. R. at 91-92, 107-09.)

Mr. Fuller believes this situation is inequitable because a fundamental principle of our legal system requires that one group not be treated differently than another, e.g., longtime homeowners versus new homeowners. (See Oral Argument Tr. at 12-13.) Mr. Fuller is also frustrated because the application deadlines for the property tax credits and deductions change annually, making it difficult for the general citizenry to know the proper deadlines. (See Oral Argument Tr. at 11-13, 15-16.) The importance of this issue to Mr. Fuller, he explained, has led him to pursue all legal avenues to complain at great personal expense of time, effort, and money. (See Oral Argument Tr. at 13-14, 16.)

### **FACTS AND PROCEDURAL HISTORY**

For the 2008 assessment year, the Cass County Assessor (Assessor) assigned Mr. Fuller's property an assessed value of \$101,800 (\$14,200 for land and \$87,600 for improvements). Mr. Fuller subsequently contacted the Assessor to explain that his

property was overassessed and to ask about the homestead credit, the homestead standard deduction, and the mortgage deduction. Mr. Fuller and the Assessor, however, were unable to resolve Mr. Fuller's concerns.

As a result, on January 22, 2009, Mr. Fuller sent a letter to the Cass County Property Tax Assessment Board of Appeals (PTABOA), asking it to review his assessment and his eligibility for the credits and deductions. On October 27, 2009, the PTABOA held an administrative hearing on the matter, during which Mr. Fuller presented an appraisal of his property. On November 9, 2009, the PTABOA issued a final determination, reducing Mr. Fuller's assessment to \$79,100 (\$14,200 for the land and \$64,900 for the improvements).<sup>2</sup> The PTABOA's final determination, however, did not address Mr. Fuller's claims concerning the credits and deductions.

On March 4, 2010, Mr. Fuller filed a petition for review with the Indiana Board. The Indiana Board held a hearing on the matter on August 17, 2010. During the hearing, Mr. Fuller submitted a copy of a computer printout of his 2007-pay-2008 property tax bill and copies of the written letters he sent to both the Assessor and the Auditor. (Cert. Admin. R. at 42, 45-46, 48-49.) On November 10, 2010, the Indiana Board issued its final determination that concluded Mr. Fuller failed to establish that he met the statutory requirements for the credits and deductions. (See Cert. Admin. R. at 21-23.)

On November 26, 2010, Mr. Fuller initiated this original tax appeal, and the Court heard the parties' oral arguments on October 21, 2011. Additional facts will be supplied as necessary.

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<sup>2</sup> The reduction in the assessed value of Mr. Fuller's improvements resulted primarily from the reclassification of a single building. (See Cert. Admin. R. at 19 ¶ 12(b), 78-83, 147, 153.)

## STANDARD OF REVIEW

The party seeking to overturn an Indiana Board final determination bears the burden of demonstrating its invalidity. Hubler Realty Co. v. Hendricks Cnty. Assessor, 938 N.E.2d 311, 313 (Ind. Tax Ct. 2010) (citation omitted). Accordingly, Mr. Fuller must demonstrate to the Court that the Indiana Board's final determination is:

- (1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
- (2) contrary to constitutional right, power, privilege, or immunity;
- (3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitations;
- (4) without observance of procedure required by law; or
- (5) unsupported by substantial or reliable evidence.

See IND. CODE § 33-26-6-6(e) (2011).

## LAW AND DISCUSSION

On appeal, Mr. Fuller reiterates his claim that during the 2007-pay-2008 period he was unfairly required to pay higher taxes because he purchased his home after the statutorily imposed deadlines for the homestead credit, the homestead standard deduction, and the mortgage deduction. (See Oral Argument Tr. at 10-13.) In addition, Mr. Fuller claims that because he has had to spend his own time and money trying to rectify this "unfairness," he is entitled to the same compensation an attorney would receive had he engaged an attorney to represent him. (See Oral Argument Tr. at 13-15, 17-19.) The Court will address each of these claims in turn.

### I.

During the 2007-pay-2008 period, Indiana Code § 6-1.1-20.9-1 et seq. provided certain homeowners with a homestead credit against their property tax liabilities:

Except as otherwise provided in section 5 of this chapter, an individual who on March 1 of a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the individual's homestead. However, only one (1) individual may receive a credit under this chapter for a particular homestead in a particular year.

IND. CODE § 6-1.1-20.9-2(a) (2007) (repealed 2008). Moreover, a homeowner who qualified for the homestead credit could also reduce his property tax liability through application of the homestead standard deduction. See IND. CODE § 6-1.1-12-37 (2007) (amended 2008). An additional deduction, the mortgage deduction, was also available for those homeowners who had mortgages. See IND. CODE § 6-1.1-12-1 (2007) (amended 2008).

When a taxpayer claims entitlement to a property tax credit or deduction, he must establish that he comes within the specific statutory provisions allowing those credits and deductions. See, e.g., Indiana Dep't of State Revenue v. Estate of Daugherty, 938 N.E.2d 315, 320 (Ind. Tax Ct. 2010) (citation omitted), review denied. Accordingly, to establish that he qualified for the homestead credit and the homestead standard deduction, Mr. Fuller needed to show, among other things, that he owned his property on the March 1, 2007, assessment date for the 2007-pay-2008 period. See I.C. § 6-1.1-20.9-2(a); I.C. § 6-1.1-12-37. The certified administrative record in this case shows that Mr. Fuller did not own his home on March 1, 2007. Mr. Fuller, therefore, did not establish that he was eligible to receive the homestead credit and the homestead standard deduction.

Mr. Fuller's eligibility for the mortgage deduction depended on whether he established that he had a mortgage and whether he filed the requisite application for the

deduction on or before October 15, 2007. See I.C. § 6-1.1-12-2(a); Pub.L. No. 1-2008, § 8; 2008 Ind. Acts 1, 11-12. The certified administrative record indicates that Mr. Fuller had a mortgage. (See Cert. Admin. R. at 106 (where Mr. Fuller testifies that his bank increased his monthly mortgage payments due to the increased property taxes).) Nonetheless, Mr. Fuller could not have complied with the October 15, 2007, application deadline for the mortgage deduction because he purchased his home after that deadline had passed (i.e., October 31, 2007).

Mr. Fuller's situation reflects some of the challenges Indiana's citizens have had in understanding the changes to and complexities of our property tax system. While the Court is sympathetic to Mr. Fuller's plight, it is bound to apply the law as written. See Scopelite v. Ind. Dep't of Local Gov't Fin., 939 N.E.2d 1138, 1144 (Ind. Tax Ct. 2010) (stating that the Court will not read provisions into statutes where they do not exist) (citation omitted). Therefore, the Court must affirm the Indiana Board's final determination that Mr. Fuller did not establish that he was entitled to the homestead credit, the homestead standard deduction, or the mortgage deduction for the 2007-pay-2008 period.

## II.

Mr. Fuller also explains that he has spent a great deal of time, effort, and money in representing himself in this matter; thus, as an attorney would receive compensation for his or her labor in representing a client, he too is entitled to fees. (See Oral Argument Tr. at 13-15, 17-19.) The Court disagrees.

Indiana's Supreme Court has explained that "there are two basic attorney fee schemes: the English rule ('loser pays') and the American rule ('every man for

himself’).” State Bd. of Tax Comm’rs v. Town of St. John, 751 N.E.2d 657, 658 (Ind. 2001) (citation omitted). Indiana follows the “American Rule.” See id. at 658-59, 662. Consequently, in the absence of a statute, rule, agreement, or stipulation providing otherwise, litigants must pay their own fees and costs. See Fackler v. Powell, 891 N.E.2d 1091, 1098 (Ind. Ct. App. 2008) (citation omitted), trans. denied.

Mr. Fuller has not identified a statutory basis to support his request for fees and costs for providing his own representation. Nor has he identified the existence of an agreement where the County and State officials promised Mr. Fuller that they would pay him for his time and expenses. Therefore, the Court denies Mr. Fuller’s claim for fees and costs.

#### **CONCLUSION**

For the foregoing reasons, the final determination of the Indiana Board is AFFIRMED.