

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

Petition: 06-003-23-1-5-00008-24
Petitioners: Robert & Margaret M. King, Jr.
Respondent: Boone County Assessor
Parcel: 06-08-26-000-013.130-005
Assessment Year: 2022¹

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

Procedural History

1. On June 14, 2023, Robert and Margaret M. King, Jr. filed a Form 130 petition challenging the assessed value of their property for 2022 as well as the denial of a “homestead tax credit” for that year. On November 29, 2023, the Boone County Property Tax Assessment Board of Appeals (“PTABOA”) held a hearing on the Kings’ petition. Nine days later, the PTABOA issued a Form 115 determination reducing the Kings’ assessment but determining that “the paperwork was insufficient to allow a 2022 homestead deduction.” *Form 115 determination, attached to Form 131 petition.*
2. The Kings responded by filing a Form 131 petition with us on December 18, 2023.² They elected to proceed under our small claims docket. In their petition, they no longer challenged the property’s valuation but instead sought only “Application of the Homestead Exemption for tax year 22-Pay-23.” *Form 131 petition.*
3. We originally mailed the parties notices setting a hearing on the Kings’ petition for April 18, 2024. We attached hearing instructions to those notices, including instructions advising the parties on time limits for presenting cases under our small claims docket and information about their right to opt out of that docket by filing written notice with us no later than 30 days before the hearing date.
4. At the Kings’ request we continued the April hearing. On April 18, 2020, we mailed out new notices scheduling a hearing for June 20, 2024. We attached the same instructions as we had attached to our previous notices.
5. Our designated administrative law judge, Joseph Stanford (“ALJ”), held a telephonic hearing on the Kings’ petition as scheduled. Neither he nor we inspected the property. John Johantges, a certified tax representative, represented the Kings. Jennifer Lasley, the

¹ We erroneously assigned a petition number indicating that the appeal was for the 2023 assessment date and our hearing notices also reflected that assessment date. It is clear, however, that Kings were appealing the 2022 assessment date.

² That is the postmark date for the envelope containing the Kings’ Form 131 petition. We did not receive the petition until January 9, 2024

Boone County Assessor, represented herself. Johantges, Robert King, Lasley, and Boone County Auditor Debbie Crum testified under oath.

Record

6. The official record for this matter includes the following:

Petitioners Exhibit 1:	The Kings' 2022-payable-2023 tax bill,
Petitioners Exhibit 2:	Sales disclosure form.
Respondent Exhibit 1:	Form 131 petition and Power of Attorney from Johantges,
Respondent Exhibit 2:	Sales disclosure form,
Respondent Exhibit 3:	<i>Marjorie L. Anderson v. Hamilton Cty. Ass'r</i> , IBTR Pet. No. 29-020-20-1-5-00617-21 (January 13, 2022),
Respondent Exhibit 4:	<i>Joshua Winkler v. Hamilton Cty. Ass'r</i> , IBTR Pet. No. 29-015-19-1-5-00482-20 (February 24, 2021),
Respondent Exhibit 5:	<i>William Gutrich v. Hamilton Cty. Ass'r</i> , IBTR Pet. No. 29-015-18-1-5-00431-19 (March 31, 2020),
Respondent Exhibit 6:	<i>Eric Derheimer v. Hamilton Cty. Ass'r</i> , IBTR Pet. No. 29-018-16-3-5-00748-17 (February 1, 2018),
Respondent Exhibit 7:	Form HC10 Claim for Homestead Property Tax/Standard Deduction for 2023-payable-2024, filed May 3, 2023,
Respondent Exhibit 8:	Indiana Code § 6-1.1-12-37.

7. The record also includes: (1) all petitions and other documents filed in this appeal, (2) all notices and orders issued by the Board or the ALJ, and (3) an audio recording of the hearing.

Objections

8. During closing argument, the Kings objected to the ALJ limiting each side's presentation to 20 minutes, as provided in our procedural rules governing small claims. 52 IAC 4-6-4. An administrative law judge, however, has discretion to fairly and impartially adjust that time restriction as necessary for the administration of justice. 52 IAC 4-6-4(c). According to the Kings, the time limit did not allow them to adequately present their case and therefore denied them "due process." Because the ALJ did not rule on the objection at the hearing, we will address it now.

9. We overrule the objection. The Legislature has authorized us to promulgate rules for small claims that, among other things, restrict the length of a hearing, as long as the parties are allowed to opt out of those procedures. Ind. Code § 6-1.5-6-2. Our small claims docket serves an important purpose. Where parties have elected to proceed under that docket, we can schedule multiple hearings for an administrative law judge on the

same day. But we do not force parties into the small claims docket. Instead, our appeal petition asks taxpayers to opt in or out of small claims. And either party can remove an appeal from the small claims docket through written motion filed at least 30 days before a scheduled hearing. 50 IAC 4-5-5(d).

10. The Kings acquiesced to our small claims procedures, first by electing the small claims docket and then by not seeking to remove the hearing from that docket, even after having twice been advised of their right to do so. They have therefore waived any objection to having to abide by our time limits for small claims. While the ALJ had discretion to adjust the time limits as required for the administration of justice, the Kings have not shown that the ALJ abused his discretion by choosing not to do so. Indeed, the Kings did not explain how those limits prevented them from adequately presenting their case. They did not point to any witnesses they would have called or exhibits they would have offered had they been allowed more time. To the contrary, both of the exhibits the Kings provided in advance of the hearing³ were admitted.

Findings of Fact

11. The subject property is located at 10748 Challis Mill Court in Zionsville. The Kings bought the property on July 10, 2019. At the time, it was a vacant parcel of land. *Resp't Ex. 2.*
12. On July 15, 2019, Chicago Title Company, LLC filed a sales disclosure form on the Kings' behalf. The form was signed by Elizabeth K. Garfield, a limited partner of Chicago Title, and by the Kings, on June 27, 2019. *Lasley testimony; Crum testimony; Resp't Ex. 2.*
13. In Section F of that form, which allows taxpayers to apply for various deductions, the Kings checked a box indicating that the property would not be their primary residence and identified their primary residence as 4671 St. John Circle in Zionsville. *Resp't Ex. 2.*
14. The Kings also checked boxes indicating that they were not applying for a homestead deduction and that they did not have an Indiana homestead to be vacated for the property. They did not provide the last five digits of their driver's license or social security numbers as specified for taxpayers who are using the form to apply for a homestead deduction. *Resp't Ex. 2.*
15. The Kings eventually built a house on the subject property for which a temporary certificate of occupancy was issued on December 30, 2021. On May 3, 2023, the Kings used Form HC10 to file a claim for the standard and supplemental homestead deductions for the 2023 assessment date, which the Boone County Auditor granted. *Crum testimony; Resp't Ex. 7.*

³ Because the hearing was telephonic, we instructed the parties to mail or email their exhibits to us prior to the hearing. *See Hearing Information and Instructions attached to hearing notice.*

16. The Auditor allows taxpayers to claim a homestead deduction via telephone if they provide all the required information. After the Auditor receives the required information over the phone, she mails a Form HC10 for taxpayers to either sign or have as a receipt. There is no evidence that the Kings used that process either when they filed their Form HC10 on May 3, 2023, or at any time before that. *Crum testimony.*
17. Around the time the Kings filed their appeal for the 2022 assessment year with the PTABOA, their tax representative, John Johantges, asked the Assessor for a copy of the sales disclosure from the Kings' purchase of the subject property. *Johantges testimony.*
18. The Assessor gave Johantges a copy printed by her office's computer system. Sales disclosure forms contain confidential information, like telephone numbers. The Assessor's office therefore enters information from the signed forms that it receives into its computer system. When people request copies of sales disclosure forms, the Assessor can print redacted copies from the computer system. *Lasley testimony; Pet'r Ex. 2.*
19. There were several differences between the document generated by the Assessor's computer system and the original signed disclosure submitted to the Assessor. Among other things, there were no signatures on the computer generated document, and spaces for telephone numbers were blank. *Pet'r Ex. 2; Resp't Ex. 2.*
20. More importantly for this appeal, there was also a difference between the two documents in the portion of the form that addresses whether the subject property would be the Kings' primary residence. On the computer-generated document, the "yes" box was checked instead of the "no" box as was the case on the signed disclosure. But the "no" box was still checked in the space reserved for indicating whether the Kings were applying for a homestead deduction. And the St. John Circle property was still listed as the Kings' primary residence. *Pet'r Ex. 2; Resp't Ex. 2.*
21. The Assessor did not know why the two documents had different boxes checked regarding whether the property would be the Kings' primary residence. But the most reasonable inference is that the Assessor's office erred in entering data from the Kings' sales disclosure into its computer system.

Conclusions of Law and Analysis

22. Although the Kings' appeal petitions referred to the "homestead tax credit" and the "homestead exemption," they center around the standard homestead deduction provided by Ind. Code § 6-1.1-12-37. Property that qualifies for and has been granted that deduction also receives other benefits, including a credit that caps property taxes at 1% of gross assessed value. I.C. § 6-1.1-20.6-2(a); I.C. § 6-1.1-20.6-7.5(a)(1).
23. The Assessor argues that the Kings were not entitled to the homestead deduction for the 2022 assessment year because they did not apply for it by the statutory deadline. They did not file a Form HC10 claim until May of 2023, and their sales-disclosure affirmatively negated an intent to claim the deduction. In any case, the Assessor argues

that the Kings could not have used the sales disclosure to claim a homestead deduction because they were buying vacant land.

24. The Kings counter that there are “competing” sales disclosures, one of which sufficed to claim the deduction. In their view, that supposed ambiguity requires us to give the benefit of the doubt to them as taxpayers. And notwithstanding the Assessor’s argument to the contrary, the Kings contend that Ind. Code § 6-1.1-12-37(m)⁴ allowed them to claim a homestead deduction even though the land was vacant when they bought it. Finally, the Kings argue that the Auditor’s practice of allowing taxpayers to claim an exemption by telephone does not comply with Ind. Code § 6-1.1-12-37. According to the Kings, county officials should not be allowed to argue that the Kings failed to comply with the homestead deduction statute when those officials did not comply with it either.
25. We agree with the Assessor that the Kings are not entitled to the homestead deduction for 2022 because they did not timely claim it.
26. Broadly speaking, the homestead deduction is available for a dwelling, certain other structures, and land that a taxpayer uses as the taxpayer’s principal place of residence. I.C. § 6-1.1-12-37(a).⁵ There are two ways taxpayers can claim the deduction. First, they can file a certified statement with the county auditor on a form prescribed by the Department of Local Government Finance (“DLGF”). I.C. § 6-1.1-12-37(e). The DLGF has prescribed Form HC10 for that purpose. 50 IAC 24-4-2. During the year at issue, taxpayers had to complete Form HC10 within the calendar year containing the assessment date for which the deduction was sought and file it on or before January 5 of the immediately succeeding year (i.e., the year in which taxes on the assessment were first due). I.C. § 6-1.1-12-37(e) (2022); *see also* I.C. § 6-1.1-12-45(d) (2022). Second, taxpayers can claim the deduction on the sales disclosure form when they buy a property. I.C. § 6-1.1-12-37(e); I.C. § 6-1.1-12-44.
27. As the Assessor correctly points out, the Kings did not file Form HC10 until May of 2023, which was too late to obtain the deduction for 2022. Instead, the Kings apparently argue that they claimed the deduction on the sales disclosure from when they bought the property. But the signed disclosure that was filed with the Assessor expressly declines to claim the standard homestead deduction.
28. The Kings’ reliance on a re-created sales disclosure is misplaced. They do not claim to have filed the second document. To the contrary, that document was generated from the Assessor’s computer system based on data that was entered from the Kings’ signed sales-disclosure. The fact that a data-input error may have led to the box regarding the Kings’ intent to use the property as their primary residence being checked on the computer-generated form is beside the point. Even then, the computer generated form still

⁴ At the time the sales disclosure form was filed, that provision was codified at subsection (p). *See* I.C. § 6-1.1-12-37(p) (2019).

⁵ Although not relevant to our determination, the statutory definition of what may be included in a homestead has changed since the 2022 assessment date. *Compare* I.C. § 6-1.1-12-37(a)(2024) with I.C. § 6-1.1-12-37(a), (m) (2022)

affirmatively indicates that the Kings did not intend to use the sales disclosure to apply for a homestead deduction.

29. The Kings' argument that the Assessor should be precluded from contesting their timeliness in claiming a homestead deduction based on the Auditor's own alleged non-compliance with Ind. Code § 6-1.1-12-37 is a red herring. The Kings argue that the Auditor improperly allows taxpayers to claim homestead deductions telephonically. But the Kings do not claim to have used the allegedly non-compliant procedure. Nor do they explain how the availability of that procedure prevented them from timely claiming a deduction. In any case, they do not cite to any authority or otherwise cogently develop their argument that a local official's unrelated noncompliance with a statute precludes the official's ability to assert a taxpayer's failure to comply with statutory deadlines.
30. Finally, our determination that the Kings did not use the sales disclosure form to apply for a deduction means we need not decide whether Ind. Code § 6-1.1-12-37(m) would have given them the right to do so under the circumstances of this case, i.e. where the property was vacant land when the Kings bought it and they did not finish building a home on the property until more than two years later.

Conclusion

31. We find for the Assessor. Because the Kings failed to timely claim a standard homestead deduction by any of the means available to them for the January 1, 2022, assessment date, they are not entitled to receive the deduction for that year.

Date: September 30, 2024

Jonathan A. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Blutz
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>.