

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

**Petition:** 29-015-22-1-5-00570-23  
**Petitioner:** Amy & Gordon Soderlund  
**Respondent:** Hamilton County Assessor  
**Parcel:** 29-05-23-002-010.000-015  
**Assessment Year:** 2022

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

**PROCEDURAL HISTORY**

1. Amy and Gordon Soderlund filed an appeal petition with the Hamilton County Assessor claiming that they were denied a homestead standard deduction, and that the Auditor applied a tax cap of 2% for “other residential property” instead of 1% for “owner-occupied properties.” *Form 130 petition*. On August 13, 2023, the Hamilton County Property Tax Assessment Board of Appeals (“PTABOA”) denied their appeal.
2. The Soderlunds then timely filed a Form 131 petition with us and elected to proceed under our small claims procedures. On February 29, 2024, Erik Jones, our designated administrative law judge (“ALJ”), held a telephonic hearing on the Soderlunds’ petition. Neither he nor the Board inspected the subject property.
3. Gordon Soderlund and Hamilton County Deputy Auditor Sadie Eldridge testified under oath. Marilyn Meighen appeared as counsel for the Assessor.

**RECORD**

4. The parties offered the following exhibits as part of the official record:

**The Soderlunds’ Exhibits**

|            |   |
|------------|---|
| Exhibit 1  | Excerpt of sales disclosure form for subject property electronically signed by petitioners,   |
| Exhibit 2a | June 23, 2023 e-mail between Sadie Eldridge and Gordon Soderlund,   |
| Exhibit 2b | Sales disclosure form (including two versions of page 3),   |
| Exhibit 3  | Excerpts from <i>Sheri L. &amp; Peter v. Colan v. Elkhart Cty. Ass’r</i> , Pet. Nos. 20-001-12-3-5-01248-16, et al. (IBTR, Feb. 1, 2018). |
| Exhibit 4  | Form 130 petition.  |

**The Assessor's Exhibits**

- Exhibit A      Warranty deed for subject property,
- Exhibit B      Sales disclosure form (including two versions of page 3),
- Exhibit C      Form HC10 completed for subject property,
- Exhibit D      Citations to legal authorities.

5. 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; and (3) an audio recording of the hearing.

**FINDINGS OF FACT**

6. The subject property is located at 110 Old Ashbury Road in Westfield. The Soderlunds, who then lived in Illinois, bought the property on February 1, 2021. At the time of the sale, the property was a vacant lot. *Eldridge testimony; Soderlund testimony; Exs. A-b.*

7. The closing was done remotely. As part of that process, the title company that handled the closing sent the Soderlunds a packet of documents, including a sales-disclosure form. The form was mostly blank, including the portion reserved for the buyers to indicate whether they were going to use the property as their primary residence, whether they had a homestead to be vacated, and whether they were using the form to apply for a homestead deduction. The Soderlunds electronically signed the blank form and returned it to the title company. There is no evidence to show that the Soderlunds instructed the title company to complete those portions of the form necessary to claim a homestead deduction. *Soderlund testimony; Exs. 1, A.*

8. The Auditor's office received a completed version of the sales disclosure form. It contained two versions of page 3. On one version, both the signature lines for the buyers and the portions of the form relating to the homestead deduction were blank. The second version bore the Soderlunds' electronic signatures. But it appears that the portions relating to the homestead deduction had been whited out and altered:

Pursuant to IC 6-1.1-12-44, the Sales Disclosure Form may be used to apply for certain deductions. Identify all of those that apply:

| YES                                 | NO                                  | CONDITION   | YES                      | NO                                  | CONDITION                                      |
|-------------------------------------|-------------------------------------|---|--------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/>            | 1. Will this property be the buyer's primary residence?   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Homestead                                   |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | 2. Does the buyer have a homestead to be vacated for this residence? If yes, provide address.<br>Address (number and street)<br>City, State, and ZIP Code      County | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Solar Energy Heating or Cooling System      |
|                                     |                                     |   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Wind Power Device                           |
|                                     |                                     |   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Hydroelectric Power Device                  |
|                                     |                                     |   | <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Geothermal Energy Heating or Cooling Device |

Under penalties of perjury, I hereby certify that this Sales Disclosure, to the best of my knowledge and belief, is true, correct and complete as required by law, and is prepared in accordance with IC 6-1.1-5.5. A person who knowingly and intentionally falsifies the value of transferred real property, or omits or falsifies any information required to be provided, commits a Level 3 felony. (Note: Both spouse's information, SSN/Driver's License/ID/Other Number is necessary if a Homestead Deduction is being filed.)

|   |  |
|---|--|
| <i>Gordon M. Soderlund</i>                                    | <i>Amy M. Soderlund</i>  |
| Printed Legal Name of Buyer 1<br>Gordon Soderlund             | Printed Legal Name of Buyer 2/Spouse<br>Amy Michelle Soderlund       |
| Sign Date (MM/DD/YYYY)<br>02/01/2021                          | Sign Date (MM/DD/YYYY)<br>02/01/2021                                 |
| Last 5 Digits of Buyer 1 SSN/Driver's License/ID/Other Number | Last 5 Digits of Buyer 2/Spouse SSN/Driver's License/ID/Other Number |

*Eldridge testimony; Ex. B.*

9. Although there is no direct evidence to show who completed the previously blank portions of the form or altered the portion relating to the homestead deduction, Gordon

Amy & Gordon Soderlund  
Findings and Conclusions

Soderlund thought that someone at the title company had done so. We find that is the most likely explanation. *Soderlund testimony.*

10. The Soderlunds signed a contract with a builder, who began constructing a home on the property in June of 2021. A certificate of occupancy was issued on November 10, 2022. Around that time, either the builder or the Soderlunds' insurance agent mentioned the homestead deduction. Because the Soderlunds were unfamiliar with Indiana's deduction Gordon Soderlund telephoned the Assessor's office to ask about the application process. He spoke to an unidentified employee who told him that the Soderlunds had to be living in the home on January 1, 2022, to get the deduction for that year and that he should file his application early the following year. *Soderlund testimony.*
11. On April 25, 2023, the Soderlunds applied for a homestead standard deduction using Form HC10. *Soderlund testimony; Ex. C.*

### CONCLUSIONS OF LAW AND ANALYSIS

12. The Soderlunds appeal the denial of the standard deduction for homesteads and an accompanying credit capping taxes at 1% of gross assessed value for 2022. Because the Soderlunds did not timely apply for the deduction, however, we deny their appeal.
13. Indiana Code § 6-1.1-12-37 provides a standard deduction from assessed value for homesteads, which at the times relevant to this appeal, the statute defined as a "dwelling" that an individual owned and used as the individual's principal place of residence and up to one acre of immediately surrounding land. I.C. § 6-1.1-12-37(a)-(c) (2022). Taxpayers who have been granted the homestead standard deduction are also entitled to a credit capping their taxes at 1% of gross assessed value. I.C. § 6-1.1-20.6-2; I.C. § 6-1.1-20.6-7.5(a)(1). Owners of other property types receive credits that cap their taxes at higher percentages. I.C. § 6-1.1-20.6-7.5(a)(2)-(6). For example, taxes on "residential property" other than homesteads are capped at 2%. I.C. § 6-1.1-20.6-7.5(a)(2).
14. At all times relevant to this appeal, taxpayers could apply for the homestead standard deduction in one of two ways. First, they could file with the county auditor a certified statement, in duplicate, on a form approved by the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-12-37(e) (2022). The DLGF prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer had to (1) complete Form HC10 within the calendar year of the assessment to which it sought to have the deduction apply, and (2) file that form with the county auditor on or before January 5 of the immediately succeeding year (i.e. the year the taxes were first due and payable). *Id.*; I.C. § 6-1.1-12-37(e) (2022).<sup>1</sup> 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.

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<sup>1</sup> Effective January 1, 2025, there is a single deadline for taxpayers to both complete and file the Form HC10: January 15<sup>th</sup> of the year in which taxes on an assessment are first due and payable. I.C. § 6-1.1-12-37(f)(1); 2024 Ind. Acts 136, §14.

15. The Soderlunds did not apply for the homestead standard deduction until they filed their HC10 form on April 23, 2023. That was more than four months after the deadline to apply for the deduction for the 2022 assessment date. Although the Soderlunds make much of the fact that the title company altered the sales disclosure form to explicitly negate any claim for the homestead standard deduction, we give that fact little weight. The Soderlunds needed to affirmatively apply for the deduction by filling out the relevant portions of the form. They neither did so nor instructed the title company to do so on their behalf. Put another way, the Soderlunds' failure to check the "yes" boxes indicating that they were applying for a deduction had the same effect as the title company checking the "no" boxes.
16. The Soderlunds nonetheless believe that they should be excused from missing the deadline because an unidentified employee from the Assessor's office misled them into believing that they were not entitled to the deduction for 2022. According to the Soderlunds, had they known that their property could qualify for 2022, they could have timely filed their HC10 form for that year.
17. We disagree. It has long been settled that individuals cannot circumvent statutory filing requirements based on government employees' misrepresentations about those requirements:

When the legislature enacts procedures and timetables which act as a precedent to the exercise of some right or remedy, those procedures cannot be circumvented by the unauthorized acts and statements of officers, agents, or staff of the various departments of our state government. All persons are charged with knowledge of the rights and remedies prescribed by statute.

*Middleton Motors, Inc. v. Indiana Dep't of State Revenue*, 380 N.E.2d 79, 81 (Ind. 1978) (citations omitted).

#### **FINAL DETERMINATION**

18. Because the Soderlunds did not apply by the statutory deadline, they are not entitled to the homestead standard deduction for 2022. And because qualification for the 1% tax-cap credit applies only to properties for which a homestead standard deduction has been granted, the Soderlunds are not entitled to that credit either. We therefore find for the Assessor.

ISSUED: May 29, 2024

  
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 of 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>.