

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

Petition No.: 49-101-22-1-00405-23
Petitioner: John Slatten
Respondent: Marion County Auditor
Parcel: 49-06-25-189-057.000-101
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. On January 31, 2023, John Slatten contested the denial of his application for a 2022 homestead deduction for his property located at 2122 North New Jersey Street, Indianapolis. The Marion County Property Tax Assessment Board of Appeals (“PTABOA”) found he was not entitled to a homestead deduction for that year.
2. Slatten timely appealed to the Board, electing to proceed under the small claims procedures. On November 29, 2023, Natasha Marie Ivancevich, the Board’s Administrative Law Judge (“ALJ”), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.
3. John Slatten appeared *pro se* and testified under oath. Attorney Jess Gastineau appeared as counsel for the Marion County Auditor. Slatten, as well as Colleen Lewis and Drew Carlson from the Marion County Auditor’s Office, testified under oath.

Record

4. The official record for this matter is made up of the following:
 - a) Exhibits:

Pet’r Ex. 1:	Form 51781
Pet’r Ex. 2:	Form 56026/HC 10
Pet’r Ex. 3:	Screen Captures of Appeal Form
Pet’r Ex. 4:	Driver’s License and Voter Registration
Pet’r Ex. 5:	February 24, 2023, Email Exchange
Pet’r Ex. 6:	January 31, 2023, Email Exchange
Pet’r Ex. 7:	December 13, 2022, Email
Pet’r Ex. 8:	December 16, 2022, Email
Pet’r Ex. 9:	December 19, 2022, Email

Pet'r Ex. 10:	December 5, 2022, Email
Pet'r Ex. 11:	December 2, 2022, Email
Pet'r Ex. 12:	December 1, 2022, Email
Pet'r Ex. 13:	Amended Driver's License Instructions
Resp't Ex. A:	Sales Disclosure Form
Resp't Ex. B:	Photographs of subject property

- b) 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) a digital recording of the hearing.

Objections

5. Almost halfway through the hearing, Slatten stated a “general objection to having a hearing in this format.” We take that to mean an objection to having the hearing telephonically. He did not ask for a continuance or for any other relief, nor did he request an in-person hearing at any point prior to this. For these reasons we overrule this objection.

6. Slatten objected to the admission of Resp't Ex. B, photographs of the subject property, on a number of grounds. These included objections that:
 - The photographs were improperly obtained because he had provided them to the Assessor's office for a different appeal and had never provided them to the Auditor's office.
 - The photographs were confidential.
 - That Slatten had intellectual property rights in the photographs.
 - That the photographs were not relevant because they were from 2021.

We address the relevance claim first. The Auditor is attempting to use the photographs to show the house's condition was not suitable for habitation. We find them at least minimally relevant for this purpose. We note that Slatten was of course permitted to provide his own rebuttal evidence regarding the condition of the property when he moved back in December of 2022. As to the remaining grounds, we find he failed to show why any of these factors make the exhibit inadmissible under any rule of evidence. For these reasons we overrule the objections and admit the exhibit.

7. The Auditor objected to the admission of Pet'r's Exs. 1, 3, and 8-13 for “lack of foundation,” but did not explain whether these were objections for lack of foundation for authenticity, relevance, or some other grounds. An objecting party must state specific grounds for its objection unless the grounds are otherwise apparent from its context. *Nassar v. State*, 646 N.E.2d 673, 676 n.4 (Ind. Ct. App. 1995). For this reason, we overrule the objections and admit the exhibits.

8. The Auditor objected to Petr's Exs. 5-6, e-mails between Slatten and the Assessor's witnesses, on the grounds they were hearsay. Our procedural rules allow us to admit hearsay, provided we do not base our determination solely on it. 52 IAC 4-6-9(d). For that reason we overrule the objection and admit the exhibits, noting that we do not base our determination on them.

Findings of Fact

9. Slatten bought the subject property in 1999 and received a homestead deduction through the 2021 assessment year. In August of 2021, he bought a property in Hamilton County, taking out a Veteran's Administration loan to secure the purchase. The VA loan required him to live in the Hamilton County property for one year. He applied for and received a homestead deduction for that property for 2021 and 2022. *Slatten testimony; Lewis testimony; Resp't Ex. A.*
10. Slatten lived in the Hamilton County home until he started working in downtown Indianapolis in November of 2022. He moved back into the subject property in December of 2022. He notified Hamilton County that he moved, and they removed the homestead deduction for 2023. *Slatten testimony; Colleen Lewis testimony.*

Contentions

11. Summary of the Petitioners' case:
- a) Slatten argued he is entitled to a homestead deduction for the 2022 assessment year because I.C. § 6-1.1-12-37(h) provides an exception to the general rule that a person cannot receive a homestead deduction on two properties in the same year. The exception allows a person that has moved residences to receive two homestead deductions in the year they move.
12. Summary of the Respondent's case:
- a) The Auditor argued that Slatten failed to establish the elements for a homestead deduction, including that the subject property was his principal place of residence.
 - b) The Auditor also offered testimony from Drew Carlson claiming that it was his belief that Slatten was attempting to claim two homestead deductions in perpetuity by moving back and forth between the subject property and the property in Hamilton County. *Carlson testimony.*

Analysis

13. We find Slatten is not entitled to a homestead deduction for the subject property for the 2022 assessment year because he also received a homestead deduction for another property, and he previously applied for a homestead deduction for the subject property.

- a) Indiana Code § 6-1.1-12-37 provides a standard deduction for the assessed value for homesteads. The statute defines homestead, in relevant part, as an individual's principal place of residence that is located in Indiana and that the individual owns. I.C. § 6-1.1-12-37(a)(2). The statute further provides:

Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. ...[T]he deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in (a)(2)(B) on:

- (1) the Assessment date; or
- (2) any date in the same year after an assessment date that a statement is filed...

I.C. § 6-1.1-12-37. For the 2022 assessment year, the assessment date was January 1, 2022. I.C. § 6-1.1-2-1.5.

- b) The Assessor argues that Slatten does not qualify for a homestead deduction because he failed to show the subject property was his principal place of residence during the year at issue. But we do not need to resolve this question to resolve this appeal. Rather, we find that Slatten was not entitled to a homestead deduction because he also received a homestead deduction on another property.
- c) The prohibition on receiving two homestead deductions is found at the end of I.C. § 6-1.1-12-37(h). It reads:

Except as provided in subsection (n)¹, the county auditor may not grant an individual or a married couple a deduction under this section if:

- (1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
- (2) the applications claim the deduction for different property.

This establishes the general rule that a county auditor may not grant a deduction if an individual claims a deduction for two different properties in the same assessment year.

- d) There is an exception to that general rule, which is also found in I.C. § 6-1.1-12-37(h) immediately preceding the passage above. It reads in relevant part:

This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other

¹ Subsection (n) deals with married couples living separately in two different states.

property on the assessment date in the same year in which an application for a deduction is filed under this section ... and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application.

Slatten argues that this exception applies to this appeal because he (1) maintained a principal place of residence at the Hamilton County property on the assessment date and (2) he was moving to the subject property. This might have been the case but for a key requirement of the exception that Slatten ignores—namely that the exception only applies to “property in the first year for which a deduction is claimed.” 2022 was not the first year for which Slatten claimed a homestead deduction for the subject property. Rather, he claimed a deduction from 1999 through the year preceding the year at issue, 2021. This puts Slatten’s claim clearly outside the plain language of the exception. Thus, under these facts, Slatten is not permitted to receive a homestead deduction for the subject property for the 2022 assessment year.

- e) We are unable to determine if the Auditor’s witness is correct that Slatten is attempting to claim two deductions in perpetuity by moving back and forth between the two residences each year. But we do find that adopting Slatten’s interpretation could lead to that result. We do not believe this was the intent of the legislature, nor does the plain language of the statute support it. Had the legislature wished to permit such a practice, they could have done so.

Final Determination

- 14. Slatten is not entitled to a homestead deduction on the subject property because he also claimed a homestead deduction on the Hamilton County property for the same year, and the exceptions to the prohibition on receiving two homestead deductions in the same year do not apply.

ISSUED: 2/23/2024



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 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>>.