

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

**Petition No.:** 29-013-17-1-5-00743-18  
**Petitioners:** Andrew & Michele M. Meyer  
**Respondent:** Hamilton County Assessor  
**Parcel No.:** 29-10-15-009-012.000-013  
**Assessment Year:** 2017

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

**Procedural History**

1. The Petitioners initiated their appeal with the Hamilton County Auditor on April 17, 2018. On May 30, 2018, the Hamilton County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners relief. On July 12, 2018, the Petitioners appealed to the Board.
2. The Petitioners elected to have their appeal heard under the Board's small claims procedures and the Respondent did not object.
3. On October 17, 2018, the Board's administrative law judge (ALJ) Dalene McMillen held a hearing. Neither the Board nor the ALJ inspected the property.
4. Andrew Meyer and Michele Meyer appeared *pro se* and were sworn as witnesses. Attorney Marilyn Meighen appeared for the Respondent. Hamilton County Auditor's office employee Sadie Eldridge was sworn as a witness for the Respondent. County Assessor Robin Ward, Lisa Johnson, Jennifer Dougherty, and Lisa Scherer were present, but were not sworn to testify.

**Hearing Facts and Other Matters of Record**

5. The property under appeal is a single-family home located at 5973 Caitlin Lane in Noblesville.

6. The official record for this matter contains the following:
  - a. A digital recording of the hearing,
  - b. Exhibits:
    - Petitioner Exhibits: None presented.
    - Respondent Exhibit A: Not presented,
    - Respondent Exhibit B: Email correspondences between Michele Meyer and Lisa Scherer, dated April 10, 2018,
    - Respondent Exhibit C: County Auditor's notes on the subject property,
    - Respondent Exhibit D: Claim for Homestead Property Tax Standard/Supplemental Deduction (Form HC10) dated April 10, 2018,<sup>1</sup>
    - Respondent Exhibit E: Indiana Code § 6-1.1-12-37(a).
  - c. All pleadings and documents filed in this appeal, all orders and notices issued by the Board or ALJ, and these findings and conclusions.

### **Summary of the Parties' Contentions**

7. Summary of the Petitioners' case:
  - a. The Petitioners purchased the subject property in 2010 and used it as their principal place of residence until June 1, 2016. The Petitioners received the benefit of the homestead deduction from 2010 through 2016. *M. Meyer testimony.*
  - b. In 2016, the Petitioners received a residency verification letter from the Auditor's office. On September 1, 2016, the Petitioners provided their verification information to the Auditor's office. At this time, the Petitioners disclosed to the Auditor's office they were leasing their home to another family. The Petitioners leased the subject property from June 1, 2016, through May 31, 2017. According to the Petitioners, an employee in the Auditor's office stated "their homestead deduction would not be impacted because they would be living in the home for part of each calendar year of 2016 and 2017." *M. Meyer testimony.*
  - c. In April of 2018, the Petitioners received notification their taxes were increasing. When they contacted the Auditor's office they were informed their homestead deduction was removed for the 2017 assessment year. At that time they were notified they should have re-filed for their homestead deduction before January 5, 2018, for the deduction to be effective for the 2017 assessment year. The Petitioners

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<sup>1</sup> The Respondent redacted the phone number, social security numbers, and driver's license numbers from the exhibit.

acknowledged they did not re-file for the homestead deduction until April 10, 2018, and it was “genuinely an oversight.” *M. Meyer testimony.*

8. Summary of the Respondent’s case:
  - a. The Petitioners properly received the homestead deduction from 2010 through 2016. The Auditor’s office was informed the subject property was “changed” to a rental effective June 1, 2016. Because the Petitioners owned the property and used it as their primary residence as of January 1, 2016, the homestead deduction carried over for the 2016 taxes payable in 2017. But the homestead deduction was properly removed because the use changed for the 2017 assessment year. *Eldridge testimony; Resp’t Ex. C.*
  - b. The Auditor’s interoffice notes indicate the Petitioners called on September 27, 2016. At that time they were informed that when they returned to live in the home, they would be required to re-file for the homestead deduction and provide a current bank statement. *Eldridge testimony; Resp’t Ex. C.*
  - c. On April 10, 2018, the Petitioners re-filed their homestead deduction claim with the proper certified information for the 2018 assessment year. Accordingly, the homestead deduction will be reapplied for the 2018 assessment year. *Eldridge testimony; Resp’t Ex. D.*

### **Analysis**

9. The Petitioners only challenge is the homestead deduction. Therefore, the burden shifting provisions of Ind. Code § 6-1.1-15-17.2 do not apply.
10. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads, which the statute defines as a dwelling that an individual owns and uses as the *individual’s principle place of residence* and up to one acre of surrounding land. I.C. § 6-1.1-12-37(a)-(c) (emphasis added). At all times relevant to this appeal, the taxpayer had to apply for the deduction in one of two ways. First, a taxpayer could file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance (DLGF). I.C. § 6-1.1-12-37(e). The DLGF prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer had to complete Form HC10 within the calendar year for which the deduction was sought and file that form on or before January 5 of the immediately succeeding year. *Id.*; I.C. § 6-1.1-12-37(e). Alternatively, a taxpayer could use the sales disclosure form at the time of purchase to claim the deduction. *See Id.*; I.C. § 6-1.1-12-44.
11. The Petitioners purchased the subject property in 2010 and used it as their principal place of residence from that time until June 1, 2016. Then the Petitioners leased the property from June 1, 2016, through May 31, 2017. As a result, the subject property was not their principal place of residence during this time. In April of 2018, the Petitioners were

notified that their taxes were increasing and their homestead deduction had been removed for the 2017 assessment year.

12. The Petitioners claim they relied on advice given by an employee at the Auditor's office who allegedly indicated the deduction would not be removed because they would be living in the home for part of each calendar year of 2016 and 2017.
13. The Auditor claims because the Petitioners leased the property, it constituted a "change in use." Indiana Code § 6-1.1-12-37(f) states in pertinent part that if an individual who is receiving the homestead standard deduction changes the use of the real property, so that all or part of the real property no longer qualifies for the homestead deduction, the individual must file a certified statement with the auditor of the county notifying the auditor of the change in use within 60 days after the date of change.
14. It is undisputed that the Petitioners changed the use of the property when they leased it to someone else. The property was then no longer an owner-occupied principal place of residence. It was converted to a rental property for roughly a year. During that time it was not a "homestead." (The record is silent about whether the Petitioners filed a certified statement with Auditor within 60 days after the date they changed the use of the property.)
15. The subject property again qualified as a "homestead" under Ind. Code § 6-1.1-12-37(a)(2), when the Petitioners moved back on May 31, 2017, and again utilized it as their principal place of residence. The Petitioners re-filed for the homestead deduction on April 10, 2018, when they filed their Form HC-10 for the 2018 assessment. The Petitioners do not dispute this fact. The Petitioners were notified they were required to re-file for their homestead deduction, but they failed to do so in time for the application to apply to the 2017 assessment. Therefore, they are not entitled to the homestead deduction for the 2017 assessment.

### **Conclusion**

16. The Board finds for the Respondent.

## Final Determination

In accordance with these findings and conclusions, the Petitioners are not entitled to a homestead deduction for the 2017 assessment year.

ISSUED: January 15, 2019

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Chairman, Indiana Board of Tax Review

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Commissioner, Indiana Board of Tax Review

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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>>