

REPRESENTATIVE FOR PETITIONER: John C. Slatten, Attorney

REPRESENTATIVE FOR RESPONDENT: Marilyn S. Meighen, Attorney

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

|                             |   |                                      |
|-----------------------------|---|--------------------------------------|
| Pamela Slatten <sup>1</sup> | ) | Petition No.: 29-018-20-1-5-00666-21 |
|                             | ) |                                      |
| Petitioner,                 | ) | Parcel No. 29-10-30-902-017.000-018  |
|                             | ) |                                      |
| v.                          | ) | County: Hamilton                     |
|                             | ) |                                      |
| Hamilton County Assessor,   | ) | Assessment Year: 2020                |
|                             | ) |                                      |
| Respondent.                 | ) |                                      |

**February 1, 2022**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

**INTRODUCTION**

1. After purchasing a property on land contract, Ms. Slatten recorded that contract and applied for a homestead deduction for the 2020 assessment year on January 5, 2021. The Assessor argues that the contract was not timely recorded. We agree. A taxpayer purchasing a property on land contract must record that contract within the assessment year in order to be eligible to claim a homestead deduction. Because Ms. Slatten did not

<sup>1</sup> The Form 115 shows John C. Slatten as the property owner. The Petitioner's Memorandum of Land Contract shows John Slatten as the seller and Pamela Slatten as the purchaser. *See Pet'r Ex. A.*

timely record the land contract, she is ineligible for a homestead deduction for the 2020 assessment year.

### **PROCEDURAL HISTORY**

2. Pamela Slatten contested the denial of her application for a 2020 homestead deduction for her property located at 140 1<sup>st</sup> Street Northeast in Carmel. On July 14, 2021, the Hamilton County Property Tax Assessment Board of Appeals (“PTABOA”) denied her appeal. She timely appealed to the Board.
3. On October 19, 2021, Dalene McMillen, the Board’s designated Administrative Law Judge (“ALJ”), heard the case telephonically. Neither the Board nor the ALJ inspected the property.
4. Pamela Slatten and Hamilton County Deputy Auditor Sadie Eldridge testified under oath.
5. The parties offered the following exhibits:
  - Petitioner Exhibit A: Memorandum of land contract for subject property,
  - Petitioner Exhibit B: Subject property’s 2020 payable 2021 tax statement,
  - Petitioner Exhibit C: Excerpts from “Glossary for Property Appraisal and Assessment” prepared by International Association of Assessing Officers,
  - Petitioner Exhibit D: Ind. Code § 6-1.1-12-37, Ind. Code § 6-1.1-12.45, Ind. Code § 6-1.1-1-9, ` Code § 6-1.1-1-15, 50 IAC 24-2-3, 50 IAC 24-3-1, 50 IAC 24-3-3, 50 IAC 24-3-4, 50 IAC 24-4-1 and 50 IAC 24-4-2,
  - Petitioner Exhibit E: Claim for Homestead Property Tax Standard / Supplemental Deduction – Form HC-10.
  - Respondent Exhibit A: Sales disclosure form for subject property dated 11-1-2016,
  - Respondent Exhibit B: Memorandum of land contract for subject property,
  - Respondent Exhibit C: Excerpts of Ind. Code § 6-1.1-12-37 and 50 IAC 24-2-5,
  - Respondent Exhibit D: Claim for Homestead Property Tax Standard / Supplemental Deduction – Form HC-10,

- Respondent Exhibit E: Email exchange between Department of Local Government Finance and Hamilton County Auditor's office,<sup>2</sup>
- Respondent Exhibit F: Sales disclosure form for 985 Tillson Drive in Zionsville dated 9-13-2021,
- Respondent Exhibit G: Sales disclosure form for subject property dated 12-31-2020.

6. The official record also contains (1) all pleadings, briefs, motions, and documents filed in this appeal; (2) all notices, and orders issued by the Board or our ALJ; (3) an audio recording of the hearing.

#### FINDINGS OF FACT

7. John Slatten<sup>3</sup> purchased the subject property on November 1, 2016. At the time of purchase, he did not claim the property as his primary residence. Pamela Slatten moved to the subject property in October of 2020, with the intention of establishing it as her principal place of residence. On December 31, 2020, Mr. Slatten entered into a land contract to sell the subject property to Ms. Slatten. The land contract required her to pay the 2020 property taxes. Ms. Slatten recorded the land contract with the County Recorder and filed the HC-10 form for homestead deduction with the Auditor in person on January 5, 2021. *P. Slatten testimony; J. Slatten argument; Eldridge testimony; Pet'r Exs. A, B, & E; Resp't Ex. A.*

#### CONCLUSIONS OF LAW

8. Indiana Code § 6-1.1-12-37 provides a standard deduction from the assessed value for homesteads. That statute defines homestead, in relevant part, as an Indiana property that:

[T]he individual is buying under a contract recorded in the county recorder's office, or evidenced by a memorandum of contract recorded in

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<sup>2</sup> Ms. Meighen did not submit Respondent's Exhibit E into the record, however, Mr. Slatten requested it be entered into the record. He also requested Respondent's Exhibit G be entered into the record. Ms. Meighen did not object to the submission of either Respondent's Exhibits E and G.

<sup>3</sup> Mr. Slatten is also the attorney for Ms. Slatten.

the county recorder's office ... that provides that the individual is to pay the property taxes on the residence, and that obligates the owner to convey title to the individual upon completion of all the individual's contract obligations. I.C. § 6-1.1-12-37(a)(2)(B)(ii).

In addition, I.C. § 6-1.1-12-37(b) 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 subsection (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 2020 assessment year, the assessment date was January 1, 2020. I.C. § 6-1.1-2-1.5. Finally, I.C. § 6-1.1-12-45(f) provides that "A person who is required to record a contract with a county recorder in order to qualify for a deduction under this article must record the contract or a memorandum of the contract, before, or concurrently with, the filing of the corresponding deduction application."

9. Taxpayers are required to apply for the deduction in one of two ways. First, they could file a certified statement with the county auditor on forms prescribed by the Department of Local Government Finance ("DLGF"). I.C. Code § 6-1.1-12-37(e). The DLGF prescribed Form HC10 for that purpose. 50 IAC 24-4-2. A taxpayer must complete the 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. *Id.*; I.C. Code § 6-1.1-12-44.
10. There is no dispute that Ms. Slatten used the property as her principal place of residence in 2020 or that the land contract is sufficient under I.C. § 6-1.1-12-37(a)(2)(B)(ii). She also timely filed her application. The only dispute in this case is to whether the land contract was timely recorded. As the Assessor points out, an unrecorded land contract

does not meet the requirements for a homestead. The Assessor argues that for the 2020 assessment date, a property needed to meet the definition of a homestead within the calendar year of the assessment date (by December 31, 2020). We agree. I.C. § 6-1.1-12-37(a)(2)(B)(ii) allows a homestead deduction for property that is purchased under a “recorded” contract. Thus, in order to qualify for a homestead deduction, the contract must be recorded within the eligibility period, i.e. by December 31 of the assessment year according to I.C. § 6-1.1-12-37(b).

11. Ms. Slatten makes several arguments for why she should still receive a homestead deduction even though her land contract was not recorded in the assessment year. First, she argues that the interpretation of I.C. § 6-1.1-12-37(a)(2)(B)(ii) described above would be reading extra words into the statute, namely reading the statute to require a land contract “that has been” recorded, rather than simply recorded. We do not find this argument compelling because the term recorded is already in the past tense. Thus, adding the phrase “that has been” would be superfluous to the original meaning.
12. Next, Ms. Slatten argues that I.C. § 6-1.1-12-37(b) only requires that a taxpayer “has an interest” in a homestead within the assessment year. We agree that Ms. Slatten did have an interest in the subject property as of December 31, 2020 when she signed the contract. But contrary to her claim, the subject property was not a homestead at that time. As discussed above, a contract must be recorded in order to meet the definition of a homestead. The subject property did not become a homestead when Ms. Slatten signed the contract, but rather when she recorded it. That happened on January 5, 2021, too late for the 2020 assessment year.
13. Ms. Slatten also argues that I.C. § 6-1.1-12-45(f) provides safe harbor for recording a contract after the assessment year. As Ms. Slatten points out, that statute requires taxpayers to record a contract “before, or concurrently with” a deduction application. She claims this permits her to record the land contract after the assessment year because

the deadline for filing the application is not until January 5 and she recorded the contract concurrently with filing her application. We do not find this argument persuasive for several reasons. Were we to interpret 45(f) as Ms. Slatten asks, it would be in conflict with the homestead statute. We do not find it likely that the legislature intended that result without explicitly amending the homestead statute. Rather, 45(f) is only intended to prevent taxpayers from filing a deduction application prior to recording the relevant contract when the eligibility period for that deduction is still open. It is not intended to otherwise modify I.C. § 6-1.1-12-37(b).


14. Finally, Ms. Slatten argues that I.C. § 6-1.1-12-37(b) permits individuals who apply for homesteads in the January after an assessment year to acquire an interest in the subject property in the year after an assessment year:

If they file the statement for a particular assessment year in the subsequent year, before January 5<sup>th</sup>, in compliance with Subsection (e), then they must “have” the appropriate interest within that subsequent year on which the application is filed. *Pet’r Br. at 5.*

She bases this argument on the wording of I.C. § 6-1.1-12-37(b)(2), which states that an individual must have an interest in homestead on “any date in the same year after an assessment date that a statement is filed...” In effect arguing that if a taxpayer chooses to file their homestead application between January 1 and January 5 after an assessment year, they are granted an entire additional year to acquire an interest in the property they are seeking a homestead on. We find this argument unavailing. I.C. § 6-1.1-12-37(e) requires that a homestead application be completed by December 31 of the applicable assessment year. The January 5 deadline only extends the date for filing the application, not the eligibility factors. In addition, we do not find it likely that the legislature intended the requirements for obtaining a homestead to change dramatically based on when the application was filed.

15. Although taxpayers purchasing property on contract can receive a homestead deduction, they must meet certain requirements. One of those requirements is that the contract be recorded within the applicable assessment year. Because Ms. Slatten did not record her contract in the assessment year, she is ineligible to receive a homestead deduction for the 2020 assessment year.

The Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date written above.

  
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>