

REPRESENTATIVE FOR PETITIONERS:

Murali M.R. Krishna, *pro se*

REPRESENTATIVE FOR RESPONDENT:

F. John Rogers, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

Murali M.R. & Neeraja Y. Krishna,	)	Petition No.:	02-038-14-3-5-10275-15
)		
Petitioners,	)	Parcel No.:	02-11-07-253-002.000-038
)		
v.	)	County:	Allen
)		
Allen County Assessor,	)	Township:	Aboite
)		
Respondent.	)	Assessment Year:	2014

Appeal from the Final Determination of the
Allen County Property Tax Assessment Board of Appeals

February 2 , 2016

FINAL DETERMINATION

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. Did the Petitioners prove that they were entitled to a homestead deduction on the subject property for the 2014 assessment year?

PROCEDURAL HISTORY

2. The Petitioners initiated their appeal with the Allen County Assessor on May 4, 2015. On June 5, 2015, the Allen County Property Tax Assessment Board of Appeals (PTABOA) issued its determination denying the Petitioners any relief. On June 18, 2015, the Petitioners filed their Petition for Correction of an Error (Form 133) with the Board.
3. On November 5, 2015, the Board's administrative law judge (ALJ), Joseph Stanford, held a hearing on the petition. Neither the Board nor the ALJ inspected the subject property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The following people were sworn as witnesses and testified at the hearing:
 - For the Petitioners: Murali M.R. Krishna,
Neeraja Y. Krishna.
 - For the Respondent: Tera K. Klutz, Allen County Auditor.¹
5. The Petitioners did not offer any exhibits.
6. The Respondent offered the following exhibits:
 - Respondent Exhibit 1: Statement prepared by Tera Klutz, Allen County Auditor, dated June 4, 2015,
 - Respondent Exhibit 2: Letter from the Petitioners to the Allen County Assessor, dated May 4, 2015,
 - Respondent Exhibit 3: Sales disclosure form, dated August 21, 2013,
 - Respondent Exhibit 4: Homestead deduction form, received on April 27, 2015,
 - Respondent Exhibit 5: Form 133 including PTABOA determination,
 - Respondent Exhibit 6: *Vanessa Purdom v. Knox Co. Ass'r*, pet. no. 42-023-13-3-5-00001 (September 2, 2015).
7. The following additional items are recognized as part of the record:
 - Board Exhibit A: Form 133 with attachments
 - Board Exhibit B: Hearing notice, dated September 28, 2015,
 - Board Exhibit C: Hearing sign-in sheet,
 - Board Exhibit D: Notice of Appearance by F. John Rogers.

¹ Crystal A. Jones, property tax manager for the Allen County Auditor was sworn, but did not testify.

8. The property under appeal is a single-family residence located at 14769 Sandstone Drive in Fort Wayne.

JURISDICTIONAL FRAMEWORK

9. The Board is charged with conducting an impartial review of all appeals concerning: (1) the assessed valuation of tangible property, (2) property tax deductions, (3) property tax exemptions, and (4) property tax credits that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Board under any law. Ind. Code § 6-1.5-4-1(a). All such appeals are conducted under Ind. Code § 6-1.1-15. *See* Ind. Code § 6-1.5-4-1(b); Ind. Code § 6-1.1-15-4.

PETITIONERS' CONTENTIONS

10. The Petitioners are requesting a homestead deduction for the 2014 assessment year.² The Petitioners acknowledge they failed to timely file their claim for a homestead deduction for 2014. In fact, they did not file their Claim for Homestead Property Tax Standard/Supplemental Deduction form until “March of 2015.”³ However, this oversight was due to exigent circumstances.⁴ *Murali Krishna testimony.*
11. The Petitioners purchased the subject property, which at that time was a vacant lot, “in 2013.” Subsequently, they contracted with a builder and moved into their newly constructed home in January of 2014. Since that time, this has been their principle place of residence. Upon closing on their home, the Petitioners “signed a bunch of papers.” At this time, they asked their builder if anything else needed to be filed, to which he responded “there is nothing else to be signed.” *Murali & Neeraja Krishna testimony.*

² The Petitioners used the terms “homestead deduction” and “homestead exemption” interchangeably throughout their presentation. There is no statute that exempts homesteads from taxation. The Board infers they are referring to the standard deduction for homesteads provided for under Ind. Code §6-1.1-12-37, and will use the term “homestead deduction” hereinafter.

³ The Petitioners’ claim for homestead property tax standard/supplemental deduction was received by the county on April 27, 2015. *Resp’t Ex. 4.*

⁴ These circumstances include the death of a nephew, the death of Mrs. Krishna’s father, and subsequently Mrs. Krishna’s unemployment.

12. Consequently, when the Petitioners received their tax bill in “early 2015” they realized their homestead deduction had not been applied. Immediately they contacted the county to rectify the situation. At this time they were informed they could file for the homestead deduction, but it would apply to the 2015 assessment year and beyond. *Murali Krishna testimony.*

RESPONDENT’S CONTENTIONS

13. The Respondent contends that, although they maintain the subject property as their principal place of residence, the Petitioners failed to timely file a claim for the homestead deduction for the 2014 assessment year. They did not file their Claim for Homestead Property Tax Standard/Supplemental Deduction form until April 27, 2015. Consequently, they are not eligible for the deduction in 2014. *Rogers argument; Klutz testimony; Resp’t Ex. 1.*
14. Additionally, according to Indiana law, the Petitioners do not qualify for either of the “exceptions.” They do not qualify for the “automatic carryover exception,” because their home was newly constructed and therefore had no prior deductions. They also do not qualify for the “sales disclosure exception.” When the Petitioners submitted their sales disclosure form they checked “no” in the box indicating they would not be claiming the homestead deduction. *Klutz testimony (referencing Ind. Code § 6-1.1-12-37(e)); Resp’t Ex. 1, 3.*

ANALYSIS

15. The pertinent facts of this case are not in dispute. There is no dispute that the subject property meets the requirements to be a “homestead” as defined in Ind. Code § 6-1.1-12-37(a)(2) because it is the Petitioners’ principal place of residence and they own it. There is also no dispute that the Petitioners did not timely claim the deduction under Ind. Code § 6-1.1-12-37(e).

16. There are, however, two exceptions provided for in Ind. Code § 6-1.1-12-37(e) that allow a taxpayer to claim a homestead deduction without filing the prescribed form. The first exception allows a purchaser of a homestead to claim the deduction on the sales disclosure form filed with the county auditor. The relevant statute provides in part:

(a) A sales disclosure form under IC 6-1.1-5.5:

(1) that is submitted:

(A) as a paper form; or

(B) electronically;

on or before December 31 of a calendar year to the county assessor by or on behalf of the purchaser of a homestead (as defined in section 37 of this chapter) assessed as real property;

(2) that is accurate and complete;

(3) that is approved by the county assessor as eligible for filing with the county auditor; and

(4) that is filed:

(A) as a paper form; or

(B) electronically;

with the county auditor by or on behalf of the purchaser; constitutes an application for the deductions provided by sections 26, 29, 33, 34, and 37 of this chapter with respect to property taxes first due and payable in the calendar year that immediately succeeds the calendar year referred to in subdivision (1).

Ind. Code § 6-1.1-12-44.

17. The other exception allows for automatic carryover of the homestead deduction from one year to the next. This statute provides in relevant part:

(a) An individual who receives a deduction provided under section . . . 37 of this chapter in a particular year and who remains eligible for the deduction in the following year is not required to file a statement to apply for the deduction in the following year. However, for purposes of a deduction under section 37 of this chapter, the county auditor may, in the county auditor's discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not comply with the requirement in IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015), as determined by the county auditor, before January 1, 2013. Before the county auditor terminates the deduction because the taxpayer claiming the deduction did not comply with the requirement in IC 6-1.1-22-8.1(b)(9) (expired January 1, 2015) before January 1,

2013, the county auditor shall mail notice of the proposed termination of the deduction to:

- (1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
- (2) the last known address of the most recent owner shown in the transfer book.

Ind. Code § 6-1.1-12-17.8(a).

18. Here, the Petitioners failed to offer any argument or evidence regarding either statute referenced above. However, the Respondent offered sufficient evidence and argument to prove that the Petitioners do not qualify for the homestead deduction under either exception. The Petitioners did not claim the homestead deduction on their sales disclosure form filed with the county auditor. In fact, they drew a line through the “no” box indicating that they did not wish to claim the deduction. Further, the property cannot qualify for the automatic carryover exception because there is no dispute that the home was newly constructed in 2014 and did not receive a homestead deduction in 2013.
19. The Board is a creature of statute, and only has those powers granted by statute. *Matonovich v. St. Bd. of Tax Comm’rs*, 705 N.E. 2d 1093, 1096 (Ind. Tax 1999) citing *Vehslage v. Rose Acre Farms, Inc.*, 474 N.E. 2d 1029, 1033 (Ind. Ct. App. 1985)(“Administrative boards, agencies, and officers have no common law or inherent power, but only such authority as is conferred upon them by statutory enactment.”)
20. In issuing its decision in this matter, the Board recognizes that the Petitioners have experienced a series of personal tragedies; however, the Board is an administrative agency, and must issue determinations based on the applicable law. The Board has no inherent power to ignore the law or waive a filing deadline at its discretion. Therefore, as a matter of law, the Board must conclude that the Petitioners were not entitled to receive the homestead deduction for the 2014 assessment year.

SUMMARY OF FINAL DETERMINATION

In accordance with the above findings and conclusions, the Board finds for the Respondent. The Petitioners are not entitled to receive a homestead deduction on the subject property for the 2014 assessment year.

This Final Determination of the above captioned matter is issued by the Board on the date first 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 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>>.