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

Petition No.:	**20-029-20-1-5-00627-21**
Petitioners:	**Heather Wilson**
Respondent:	**Elkhart County Assessor**
Parcel No.:	**20-19-31-152-005.000-029**
Assessment Year:	**2020**

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

Procedural History

1. The Petitioner appealed the denial of her 2020 mortgage deduction for her property located at 206 East VanBuren Street in Nappanee.

2. On July 20, 2021, the Elkhart County Property Tax Assessment Board of Appeals ("PTABOA") issued a Form 115 denying the Petitioner relief.

3. The Petitioner timely appealed to the Board electing to proceed under the small claims procedures.

4. On October 4, 2022, Dalene McMillen, the Board's administrative law judge (ALJ), held a telephonic hearing. Neither the Board nor the ALJ inspected the property.

5. Heather Wilson appeared *pro se*. Elkhart County Assessor Cathy Searcy represented herself. Kris Jensen, property compliance manager for the Auditor's office appeared for the Assessor. Wilson and Jensen testified under oath.

Record

6. The parties submitted the following exhibits:

Petitioner Exhibit 1:	Email exchange between Elkhart Auditor's office, Department of Local Government Finance ("DLGF") and Heather Wilson,
Petitioner Exhibit 2:	Petitioner's mortgage deduction comparison timeline with actual dates,
Petitioner Exhibit 3:	DLGF – Deductions Property Tax.

Respondent Exhibit 1:	Auditor's hearing notes for PTABOA hearing,
Respondent Exhibit 2:	DLGF mortgage instructions and qualifications,
Respondent Exhibit 3:	Indiana Code § 6-1.1-12-1 – Deduction for property financed by mortgage or installment loan; home equity line of credit,
Respondent Exhibit 4:	DLGF – "Fall" into deductions from Assessors' Conference August 2017, DLGF – Deductions & Exemptions July 2019 and DLGF – Property Tax Deductions and Exemptions August 2021,
Respondent Exhibit 5:	Email exchange between DLGF and Elkhart County Auditor's office,
Respondent Exhibit 6:	Notification of Final Assessment Determination – Form 115.

7. 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.

Findings of Fact

8. The subject property was purchased on January 24, 2020, and the deed was recorded on January 27, 2020. The Petitioner applied for a mortgage deduction on November 4, 2020. *Wilson testimony; Pet'r Ex. 2; Resp't Ex. 1.*

Summary of the Parties' Contentions

9. Summary of the Petitioner's case:

   a. The Petitioner claimed that the county erred in denying her application for mortgage deduction for 2020. In support of this, she pointed to an informational sheet from the Department of Local Government Finance ("DLGF") website that states: "Deductions applied for prior to the annual deadlines will be applied to the next year's tax bill." She argued that this meant that because she applied in 2020, the deduction should have been applied to the 2021 tax bill. *Wilson testimony; Pet'r Ex. 3.*

   b. The Petitioner also submitted an e-mail exchange in which an a DLGF employee gave an interpretation of the mortgage deduction statute. She argued this interpretation also supported her position. *Wilson testimony; Pet'r Exs. 1-2.*

10. Summary of the Respondent's case:

a. The Respondent argued that in order to qualify for a mortgage deduction a person must have a mortgage as of the assessment date. For the year of 2020, the assessment date is January 1, 2020. *Jensen testimony; Resp't Exs. 2-4.*

b. Jensen testified that because the Petitioner did not own the subject property on the assessment date, she did not have a mortgage and thus did not qualify for the mortgage deduction. *Jensen testimony; Resp't Exs. 1, 4 & 5.*

Analysis

11. Indiana Code § 6-1.1-12-1 provides a deduction to the assessed value of mortgaged property. The total amount of the deduction a person may receive for a particular year is the less of: (1) the balance of the mortgage or contract indebtedness on the assessment date that year; (2) one-half (1/2) of the assessed value of the real property; or (3) three thousand dollars ($3,000); whichever is least. I.C. § 6-1.1-12-1(c). To apply for a deduction a statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. I.C. § 6-1.1-12-2(c)(2). The statement must contain the balance of the person's mortgage, home equity line of credit, or contract indebtedness that is recorded in the county recorder's office on the assessment date of the year for which the deduction is claimed. *See* Ind. Code § 6-1.1-12-2(e)(1).

12. For the 2020 assessment year, the assessment date was January 1, 2020. *See* Ind. Code 6-1.1-2-1.5.

13. Here, we must determine whether the Petitioner qualified for a mortgage deduction for the 2020 assessment year. The evidence shows that the Petitioner purchased the subject property on January 24, 2020, recorded the purchase with the county on January 27, 2020, and applied for the mortgage deduction on November 4, 2020.

14. As discussed above, I.C. § 6-1.1-12-1(c) provides that the deduction is the lesser of: (1) the balance of the mortgage on the assessment date, (2) half the assessed value of the property, or (3), $3,000. Because the Petitioner did not have a mortgage on the 2020 assessment date, the amount of the deduction for 2020 would be $0. While I.C. § 6-1.1-12-2 (b) provides that a person may apply for a deduction later in that year (and file it by January 5 of the next year), that statute does not change how the deduction is calculated. The amount of the deduction still depends on the amount of the mortgage on the assessment date.

15. We are also unpersuaded by the Petitioner's arguments regarding the DLGF informational sheet. While it does say a deduction can be applied in the year after it is applied for, it does not interpret the qualifying requirements for a deduction. In addition, we note that an unpublished e-mail from a DLGF employee is not persuasive authority.

Final Determination

16. Because the Petitioner did not have a mortgage as of the assessment date at issue, we find that she is not entitled to receive a mortgage deduction for the 2020 assessment year.

ISSUED: 12/28/2022

Jonathan R. Elrod
Chairman, Indiana Board of Tax Review

Betsy J. Brand
Commissioner, Indiana Board of Tax Review

Timothy Schuler
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>