

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15869
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2001. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the file.

[Redacted] (petitioner) filed a property tax reduction application on or about March 19, 2001. During review of the petitioner's application and her accompanying forms, the staff determined the petitioner did not qualify as a claimant for property tax reduction benefits. The staff sent the petitioner a letter advising her of the intent to deny her the benefits. The petitioner appealed the determination and the file was transferred to the Legal/Tax Policy Division for administrative review. The petitioner did not respond to a letter from the Tax Appeals Specialist advising her of her appeal rights.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive circuit breaker benefits. The Code states in pertinent part:

63-701. Definitions. [EFFECTIVE UNTIL JANUARY 1, 2002] As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on **January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A fatherless or motherless child under the age of eighteen (18) years of age; or

- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or
- (f) A person as specified in 42 USC 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

The code sets out certain eligibility requirements for persons seeking property tax reduction benefits. In her application for benefits and in her letter of protest, the petitioner claims her eligibility is because of her status as a widow.

Webster's Ninth New Collegiate Dictionary defines widow as "a woman who has lost her husband by death and has not remarried." Husband is defined as "a married man." Divorce is "a legal dissolution of a marriage."

In the petitioner's application, the petitioner claimed her status as the widow of [Redacted], who died on July 18, 1998, qualified her to receive the property tax reduction benefits. However, [Redacted] death certificate shows Mr. [Redacted] marital status at the time of his death as divorced. Mr. [Redacted] was a divorced man at the time of his death; he could not have left a widow.

In her letter, the petitioner explained she lived with Mr. [Redacted] prior to his death. She said she is receiving widow benefits from social security. In addition, the petitioner said she lived with Mr. [Redacted] before 1996 when Idaho law was changed and would no longer recognize common law marriages in the state of Idaho.

The federal social security program is an entirely different benefits program from Idaho's

property tax reduction benefits program. The qualifications to receive benefits are not similar. Social security allows a person who has been divorced to receive benefits under some circumstances as if she were a widow. The Idaho property tax reduction benefits program does not provide such leeway.

Unfortunately, the petitioner must be denied benefits. She does not meet any of the requirements to qualify as a claimant for property tax reduction benefits.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the board of county commissioners under Idaho Code § 63-711--the hardship exemption.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of petitioner's right to appeal this decision, if it is adverse to petitioner, is enclosed with this decision.

DATED this _____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2001, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

ADMINISTRATIVE ASSISTANT 1