

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 15889
[Redacted],	)	
	)	DECISION
Petitioner.	)	
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	)	

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 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 benefit application on or about April 13, 2001. In that application, the petitioner showed herself and two others as household members. Because Idaho Code § 63-701 requires all income received by all household members during the prior year to be included in household income when determining the benefit amount, the staff corrected the application to reflect inclusion of the household members' income. The resulting total income exceeded the amount allowed for an applicant to receive a benefit. The staff sent a letter to the petitioner advising her of the intent to deny her benefits for the year 2001. She responded by sending a letter appealing that determination.

The petitioner's appeal file was transferred to the Legal/Tax Policy Division for administrative review. Information gathered during that review suggested the petitioner might not have lived in the home during the year 2000. On October 11, 2001, the Tax Appeals Specialist spoke with the petitioner on the telephone. At that time, the petitioner confirmed that she had indeed been away from her home for the entire year while she served on a mission in Washington, D. C.

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.

(2) "**Homestead**" means the dwelling, owner-occupied by the claimant and used as the primary dwelling place of the claimant and occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. Homestead does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

...

(4) "Household income" means **all income received by all persons of a household** in a calendar year while members of the household.

...

(7) "Occupied" means **actual use and possession.**

...

- (9) (a) **"Primary dwelling place" means the claimant's dwelling place on January 1 of the year for which the claim is made.** The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. **A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 and:**
- (i) **At least six (6) months during the prior year; or**

(Emphasis added.)

To receive benefits, Ms. [Redacted] must meet one of several conditions in addition to owning the homestead. As the claimant, the petitioner must have actually occupied the property as her primary dwelling place on January 1, 2001 and for at least six months of 2000, or she must establish that the dwelling was her primary dwelling place during the prior year by clear and convincing evidence.

The petitioner stated that she did not live in her home at all during 2000. Rather, her daughter and son-in-law lived in her home while she was away. As household members, their income would be included in the household income total even if the petitioner had lived at least six months of 2000 in the dwelling. The petitioner's daughter and son-in-law's income for year 2000 exceeded the maximum allowed for the petitioner to qualify for benefits.

The petitioner's application to receive circuit breaker benefits for 2001 must be denied.

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 county commissioners.

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

An explanation of the petitioner's right to appeal this decision 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