

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15902
[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 decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a property tax reduction application on or about April 13, 2001. Idaho Code § 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for property tax reduction benefits. Because the recorded owner of the property is a trust, the staff sent a letter requesting proof of ownership to the petitioner. The petitioner provided a copy of the trust agreement for review.

In a letter dated September 7, 2001, the staff advised the petitioner of the intent to deny her benefits because she did not qualify as a “claimant” according to Idaho Code § 63-701 which provides in pertinent part:

63-701. Definitions. As used in this chapter:

(8) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. **"Owner" shall also include any person who as grantor created a revocable or irrevocable trust and named himself as beneficiary of that trust, or who is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation which holds title in fee simple or holds a certificate of motor vehicle title or who has**

retained or been granted a life estate. "Owner" shall not include any person that otherwise occupies property as beneficiary of a trust. . . . (Emphasis added.)

In response to the notification of the staff's intention to deny the property tax reduction benefits, the petitioner sent a letter of protest wherein she stated that she has been a widow since 1992. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review, and a letter was sent to the petitioner to advise her of her appeal rights. On October 15, 2001, the petitioner telephoned the Tax Commission and spoke with the Tax Appeals Specialist.

During that conversation, the petitioner acknowledged that the trust owned the property and that she did not create the trust. She said she would check into having the trust revoked and the property placed in her name. She advised that she would not need the benefit next year because she had sold some artwork that had been left to her by her husband, which resulted in more income than allowed to qualify for benefits.

To qualify as a claimant for property tax reduction purposes, the applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The records show the owner of the subject property on January 1, 2001 was [Redacted].

For a property held in trust, a claimant must qualify as the owner for property tax reduction purposes and must meet two critical elements. These elements are:

1. The claimant must be the grantor; and
2. The claimant must be named as beneficiary.

A review of [Redacted] shows [Redacted] was the grantor.

[Redacted] is not a natural person, a partnership, a firm, or a corporation. It is an association. An association is a person. Idaho Code § 63-116. [Redacted] is the "person" holding title to the property for which property tax reduction benefits have been applied. [Redacted] is the person

occupying the property. [Redacted] and [Redacted] are not the same person. Therefore, the property is not owner-occupied, and for this reason also, the petitioner does not qualify 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 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 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