

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 15945
[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 circuit breaker application on or about April 13, 2001. The staff adjusted the petitioner's eligibility for property tax reduction benefits by issuing an "Intent To Deny Benefits" letter to the applicant, which she appealed.

According to the records on file in Kootenai County, Idaho, the owner of the property for which circuit breaker benefits have been applied is "[Redacted]" Because [Redacted] did not appear to own the subject property and, therefore, did not qualify as a claimant, the staff sent the petitioner a letter advising her of the intent to deny the benefits.

On September 20, 2001, the petitioner responded with a timely letter of protest. That letter said in its entirety: "This is a letter of protest regarding Parcel # [Redacted], as I do not agree that the intent to deny benefits is correct. More time is needed to gather further information as well." The petition attached substantiation of her medical expenses, a copy of her federal tax return, and a copy of the Articles of Incorporation of [Redacted] that included an illegible copy of a "Corporation Account-Cash" form from [Redacted]

Nothing further has been received from the petitioner. She did not respond to a letter from

the Legal/Tax Policy Division wherein her appeal rights were explained.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive circuit breaker benefits:

**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:

...

(2) **"Homestead" means the dwelling, owner-occupied by the claimant** and used as the primary dwelling place of the claimant

...

(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. "Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered ownership for determining qualification for property tax reduction benefits, however, the amount of property tax reduction under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, shall be computed on the value of the claimant's partial ownership. "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. A person holding either partial title in fee simple or holding a certificate of motor vehicle title together with another person but who does not occupy the dwelling as his primary dwelling place, shall not be considered an owner for purposes of this section, if such person is a cosignatory of a note secured by the dwelling in question and at least one (1) of the other cosignatories of the note occupies the dwelling as his primary dwelling place. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection

shall not apply to community property interests. Where title to property is held by a person who has died without timely filing a claim for property tax reduction, the estate shall be the "owner." (Emphasis added.)

For circuit breaker purposes, to qualify as a claimant an applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The Kootenai County records show the person holding title in fee simple on January 1, 2001 was [Redacted] - not the petitioner and not [Redacted]. Furthermore, the petitioner has furnished nothing that would indicate she was a corporate officer of [Redacted], the person holding title in fee simple of the subject property.

The property tax reduction program is a benefit for certain individuals based on their qualifications as outlined in Idaho law. One of the specific requirements for consideration to receive the benefits is to own a homestead. A corporation owns the petitioner's dwelling.

Idaho Code § 63-201(13) in pertinent part states:

**63-201. Definitions.** [EFFECTIVE JANUARY 1, 1999] As used for property tax purposes in title 63, chapters 1 through 23, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

...

(13) "Person" means any entity, individual, corporation, partnership, firm, association, limited liability company, limited liability partnership or other such entities as recognized by the state of Idaho.

Corporations are legal persons separate from the shareholders or board of directors. Pursuant to Idaho Code § 63-701, property must be owner-occupied to qualify for property tax reduction benefits. Entities such as corporations cannot qualify for circuit breaker benefits unless the property is occupied by one of the corporation's shareholders, because one person owns the property while another person occupies the property. The petitioner has provided no evidence to suggest she is a shareholder in [Redacted]

As such, the property is not owner-occupied. For this reason [Redacted] does not qualify for property tax reduction benefits. The petitioner's application to receive property tax reduction 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. 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] \_\_\_\_\_