

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17998
[REDACTED]	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2002 and 2003. 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 April 5, 2002, for the 2002 tax year and February 24, 2003, for the 2003 tax year. The applications were approved based on the information shown in each application, and the petitioner received property tax reduction benefits.

Idaho Code §§ 63-707 and 708 provide for audit of all claims and recovery of benefits that have been paid in error. The staff reviewed the petitioner's applications and compared the information reported in those forms with federal, state, and county records.

Both applications showed the petitioner's status as a widow qualified her to receive the benefits. The staff sent the petitioner a letter asking her to provide a copy of her spouse's death certificate because it was not attached to either application and was not on file with the Tax Commission.

The petitioner sent a copy of a Certificate of Death issued by the State of Idaho. Because the certificate showed the deceased was married to someone other than the petitioner at the time of his

death, the staff concluded the petitioner was not a widow when she submitted the application for benefits. She did not qualify as a claimant in any other way.

The staff sent the petitioner a notice that advised her of the determination that she did not qualify as a claimant for receiving the property tax reduction benefits for 2002 and 2003. She was asked to repay the benefit monies she received as well as accrued interest.

The petitioner sent a written protest to the determination, and her entire file was transferred to the Legal/Tax Policy Division for administrative review. In response to a letter advising her of her appeal rights, the petitioner telephoned the Tax Appeals Specialist. In that conversation, the petitioner argued that she was indeed a widow because she had been married to the deceased, father of her three children, for 14 years prior to his last marriage. She said she is receiving “widow’s benefits.”

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. 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 child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; 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 U.S.C. 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.)

Idaho Code sets out certain eligibility requirements for persons seeking property tax reduction benefits. In her letter of protest, the petitioner claims her eligibility is because of her status as the widow of [Redacted], who died December 4, 1996. She explained she and Mr. [Redacted] were married for 14 years and had three children together. She advised she is receiving widow's benefits as a result of that marriage.

The Tax Commission's review of the records and the copy of the death certificate found the petitioner is receiving benefits from the Social Security Administration in an amount determined by the number of years she was married to Mr. [Redacted] and his work record. However, the Certificate of Death shows [Redacted] was married to someone other than the petitioner at the time of his death.

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."

Idaho State Tax Commission Property Tax Administrative Rule 700(07) defines widow/widower as a person who has not remarried after the death of his/her spouse or whose subsequent marriage has been annulled. The petitioner does not meet the Tax Commission's definition of widow as it applies to the property tax reduction benefit. Repayment of the benefits the

petitioner received in error is appropriate.

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.

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

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement and interest.

<u>YEAR</u>	<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$270	\$12.39	\$282.39
2003	480	5.23	<u>485.23</u>
		TOTAL	<u>\$767.62</u>

Interest is computed through June 7, 2004.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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 \_\_\_\_\_, 2004.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, 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]

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