

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19721
[REDACTED],)	
)	DECISION
Petitioners.)	
)	
)	
)	

This case arises from a timely protest of a State Tax Commission staff decision to deny the property tax reduction benefit for 2006. 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] (petitioners) filed a property tax reduction benefit application on March 6, 2006. Idaho Code § 63-707(5) provides for the Tax Commission to review applications the petitioners submit to their county assessors. When the staff examined the petitioners' application and records available to the State Tax Commission, it did not appear the taxpayers were Idaho residents.

The staff sent a letter to the petitioners advising them of the intent to deny them the benefit for tax year 2006. They responded by sending a letter appealing that determination. The petitioners' file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The Code states in pertinent part:

(2) **"Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant** and may be 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.

...

(8) (a) **"Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 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 to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:**

(i) At least six (6) months during the prior year; or

(ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or

(iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1) year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine. (Emphasis added.)

The burden of proof is on the petitioners to establish that their home in Idaho was their primary dwelling place on January 1, 2006, or before April 15, 2006, and at least six months of 2005 or by clear and convincing evidence.

With their application, the petitioners submitted a copy of their federal income tax return, a copy of a Quitclaim Deed issued in 2001 for the Idaho property, a copy of [Redacted] Idaho driver's license, and a copy of two Idaho automobile registrations. One was issued on October 11, 2005, and one was issued on August 31, 2006.

To receive the benefit, the petitioner must meet one of several conditions in addition to owning the homestead. As the claimants, the petitioners must have actually occupied the property as their primary dwelling place on January 1, 2006, or before April 15, 2006, and for at least six months of 2005, or they must establish that the dwelling was their primary dwelling place during the prior year by clear and convincing evidence.

In the letter of protest, [Redacted] listed events that had an effect on the petitioners'

residency for the years 2003 through 2005. In 2003, contractors finished the home [Redacted]. In 2004, the petitioners spent time renovating a rental house [Redacted]. In 2005, [Redacted] spent time in a hospital and a rehabilitation center. For 2006, he writes, [Redacted]. The letter is dated September 28, 2006.

The petitioners sent the State Tax Commission a copy of their electronically filed federal income tax return. The address shown in that return was their [Redacted] address – not their Idaho address. Research of State Tax Commission records found no record for the petitioners in the data base and no record of the petitioners filing an Idaho Resident Income Tax Return for any year including 2005. In addition, there is [Redacted] written statement that they were continuing the move to Idaho in 2006.

The State Tax Commission is not persuaded the petitioners established that their house in [Redacted], Idaho, was their primary dwelling place by clear and convincing evidence or by actually occupying the property as required by the definition of primary dwelling place on January 1, 2006, or before April 15, 2006, and for six months during 2005.

Idaho Property Tax Administrative Rule 600 states: “The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.” The petitioners have not met their burden. The petitioners’ application to receive the property tax reduction benefit for 2006 must be denied.

The State 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 to deny the property tax reduction benefit for 2006 is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is included with this decision.

DATED this _____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.
