

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20608
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for 2007. 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 an application for the 2006 property reduction benefit on April 6, 2007. Pursuant to the Idaho Code, the staff routinely audits the applications that have been submitted to the county where the petitioners live. The petitioner’s file was reviewed and compared with records retained by [Redacted] County and the State Tax Commission.

When the staff discovered the [Redacted] County records showed [Redacted] and [Redacted] not [Redacted] as owners of the property, the staff sent the petitioner a letter advising him of the intent to deny him the benefit. The petitioner filed a protest to that determination. His file was transferred to the Legal/Tax Policy Division for administrative review.

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

63-701. Definitions. As used in this chapter:
(1) **"Claimant" means a person who has filed an application** under section 63-602G, Idaho Code, and 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, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, **a claimant must be an owner of**

the homestead and on January 1 of said year a claimant must 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 department of veterans affairs; 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.

(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. 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. (Emphasis added.)

...

(7) **"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: (Emphasis added.)

The property tax reduction benefit 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 benefit is to own a homestead on January 1, or before April 15, of the year in

which the claim was filed. The owner of a property is then described in detail to clarify who will be considered owner for property tax reduction benefit purposes.

In his protest, the petitioner explained that he deeded the property to his brother and his brother's wife many years ago so they could build a house on the property. The petitioner said he intended to retain ownership of his own house until it would pass on to his brother and his wife upon his death. He said he has always paid all of the expenses on the home he occupied.

The petitioner sent the Tax Commission a copy of a "Correction Quitclaim Deed" showing [Redacted] as Grantor transferring the deed to the property to [Redacted] and [Redacted] while retaining a right to possess, occupy, and control interest in the house during the Grantor's life. The deed was recorded on [Redacted].

During the years between the filing of the Quitclaim Deed on [Redacted], and the Quitclaim Deed filed on [Redacted], [Redacted] and [Redacted] not the petitioner—were the persons holding title in fee simple of the property. The petitioner must be denied the 2007 property tax reduction benefit.

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 Intent to Deny Property Tax Reduction Benefit letter dated September 24, 2007, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2007, 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]

Receipt No.
