

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20633
[Redacted],	)	
	)	DECISION
Petitioners.	)	
_____	)	

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] filed a property tax reduction benefit application on January 19, 2007. Idaho Code § 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for the property tax reduction benefit. Because the recorded owner of the property was a trust, the staff sent a letter requesting proof of ownership to the petitioner. The petitioners provided a copy of the trust agreement for review.

In a letter dated September 17, 2007, the staff advised the petitioners of the intent to deny them the benefit because they did not appear to qualify as claimants according to Idaho Code § 63-701 which provides in pertinent part:

- 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.

...

(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:**

**(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or** (Emphasis added.)

In response to the notification of the staff's intention to deny the property tax reduction benefit, the petitioners' attorney sent a letter of explanation along with a copy of the [Redacted]. In that letter and subsequent telephone conversation with the Tax Commission's Property Tax Reduction Coordinator, the attorney said he believed [Redacted] were the beneficiaries of the [Redacted] Trust.

The petitioners' file was transferred to the Legal/Tax Policy Division for administrative review and a letter was sent to the petitioners to advise them of their appeal rights.

To qualify as a claimant for property tax reduction benefit purposes, the applicant must be the owner of a homestead on January 1, or before April 15 of the year in which the claim was

filed. The records show the owner of the subject property on January 1, 2006, was The [Redacted] Trust.

For a property held in trust, the claimant must be named as beneficiary of the trust in order to qualify as owner. A review of The [Redacted] Trust shows [Redacted] as the Entrustors and [Redacted] as Trustees of the trust. The trust states that all property of any kind will be transferred to [Redacted]. The trust states it does not in any way restrict “. . . the right of the Entrustors to sell or dispose of real or personal property in a fiduciarily responsible manner for the benefit of the Trustees herein.” The Trustees, not the Entrustors, are the beneficiaries of the [Redacted] Trust. The petitioners are not the Trustees of The [Redacted] Trust. They are the Entrustors.

According to the definition of owner, the owner of the property in question is The [Redacted] Trust—not the petitioners. The petitioners must be denied the 2007 property tax reduction benefit. On [Redacted], the petitioners filed a Quitclaim Deed with [Redacted] County preserving a life estate in the property to ensure they will be considered owners in future applications.

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 petitioners’ rights to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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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.

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