

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21441
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2008. 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 property reduction benefit for 2008 on April 15, 2008. Pursuant to Idaho Code, the staff routinely audits the applications that have been submitted to the county where the petitioners live.

The staff examined property tax records on file with [Redacted] County and found the petitioner was not shown as owner of the property for which the property tax reduction benefit was requested. The staff sent the petitioner a letter advising her of the intent to deny her the benefit.

The petitioner filed a protest, and her 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 property a tax reduction benefit. The pertinent parts of Idaho Code § 63-701 state:

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 or before April 15 in which the claim was filed a claimant must be an owner of a homestead and be:

...

(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

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate. "Owner" includes a vendee in possession under a land sale contract. Any partial ownership shall be considered as ownership for determining initial 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 or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. 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 so long as the combined community property interests constitute the entire ownership of the homestead, including where the spouses are occupying a homestead owned by an entity, as set forth in this subsection, and the spouses have the primary right of occupancy of the homestead. 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 of the deceased person shall be the "owner," provided that the time periods during which the deceased person held such title shall be

attributed to the estate for the computation of any time periods under subsection (8)(a) or (8)(b) of this section. (Emphasis added.)

The property tax reduction benefit program is a benefit for certain individuals based on their qualifications as defined in Idaho law. One of the specific requirements for consideration to receive the benefit is to own a homestead before April 15 of the year in which the claim was filed. The owner of the property is then described in detail to identify who will be considered owner for property tax reduction benefit purposes.

On September 29, 2008, the staff received a letter from the petitioner stating that she is a tenant buyer and not a renter. She also stated that her monthly payments go to purchasing the property and she is responsible for the property tax.

The petitioner provided a copy of a Lease Agreement with Option to Purchase wherein she was listed as tenant. The agreement dated March 30, 2006, specifies the lease term to start January 1, 2006, and end on December 31, 2010. The agreement states that the tenant must notify the landlord, in writing and prior to the termination of the agreement, of her intent to exercise the option to purchase. The agreement specifically states that until the written exercise of the option, the relationship between the parties shall be solely that of landlord and tenant.

The petitioner has provided nothing to show that she has exercised the option to purchase the property and therefore has no ownership interest. The petitioner must be denied the property tax reduction benefit for 2008.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter issued on September 15, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2008, 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.

\_\_\_\_\_