

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21527
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision denying the property tax reduction benefit for 2008. 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 thereon.

[Redacted]petitioner filed an application for the 2008 property tax reduction benefit. Pursuant to Idaho Code, the staff routinely audits applications that have been submitted to the county where the petitioners live. The petitioner’s file was reviewed, and when compared with [Redacted] county records, ownership of the property was questioned and a copy of the deed was requested.

When the staff discovered the [Redacted] records did not show [Redacted] (petitioner) as an owner on the property, the staff sent the petitioner a letter advising her of the intent to deny her the benefit. The petitioner filed a protest to that determination. 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 a property tax reduction benefit. The pertinent part of Idaho Code § 63-701 states:

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. (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.

On April 15, 2008, a warranty deed was filed by the [Redacted] family trust taking ownership of the property out of the trust and making [Redacted] the sole owner of the property.

Idaho Code § 63-701 uses definitions to describe eligibility and income requirements for an applicant to qualify for the property tax reduction benefit. These definitions are not the same definitions used in other sections of the Idaho Code or even in the common dictionary.

However, the definitions are very specific. The law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission, John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

As of April 15, 2008, [Redacted] became the sole owner of the property. She did not meet the eligibility requirements by definition for 2008 and, therefore, must be denied the benefit.

WHEREFORE, the Intent to Deny Property Reduction Benefit letter dated October 6, 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 _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, 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.
