

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25870
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) staff's decision denying property tax reduction benefits for 2013. [Redacted]

[Redacted] (claimant) filed an application for a property tax reduction benefit [Redacted]Idaho Code § 63-707 provides the Commission review applications submitted to county assessors. When the Commission staff reviewed the application, it did not appear the property listed on the application was the claimant's primary residence.

An Intent to Deny Property Tax Reduction Benefit letter for the claimant's 2013 property tax reduction benefit was sent July 22, 2013. A timely protest was received by the Commission on August 1, 2013. The claimant's file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals. The benefit is in the form of a reduction of all, or a portion, of the property tax on the dwelling the claimant owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income-the greater the income, the smaller the benefit. Claimants with net household income over \$28,000 do not receive a benefit.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for a claimant 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.)

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 claimant must establish, by clear and convincing evidence, that her home at [Redacted] was her primary dwelling place on January 1, 2013, or before April 15, 2013, and for at least six months of taxable year 2012.

In her protest letter, the claimant states she did not live in [Redacted] in 2012, except for a three week vacation in July 2012. When her husband developed a congestive heart failure, she remained with him in [Redacted] because he “could not live any longer in [Redacted] because of

the high elevation”, and acted as the only care-giver during his extended illness. Her husband’s children gave her the short break in July.

The claimant provided many documents, including statements from social security, the VA medical center, pharmacies, the insurance company, the dental office, and the optometric office. All documents were for February to December 2012, and mailed to a [Redacted] address. The only form provided with a [Redacted] address was a Form 1099-INT listing the claimant and a third person.

The Commission determines that the claimant has not met her burden to establish, by clear and convincing evidence, that the [Redacted] property is her primary dwelling place and she actually occupied it as required by the definition of a primary dwelling place. The application to receive the property tax reduction benefit for 2013 must be denied.

THEREFORE, the decision of the Commission to deny the property tax reduction benefit for taxable year 2013, is hereby APPROVED and MADE FINAL.

An explanation of the claimant’s right to appeal this decision is enclosed.

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
