

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-361-050-112
<b>[Redacted]</b> ,	)	
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

This case arises from a timely protest of a State Tax Commission (Commission) decision to deny a property tax reduction benefit for 2016. This matter was submitted for a decision based on the documents in the file. The Commission has reviewed the file and makes its decision based on the contents in the file.

**[Redacted]** (Petitioner) filed an application with the **[Redacted]** County Assessor’s office for the 2016 property tax reduction benefit on April 13, 2016. The assessor’s office sent the application to the Commission for review and processing.

During review of Petitioner’s application and the property deed that accompanied it, the staff discovered Petitioner was not the owner of the parcel in question until April 15, 2016.

In order to qualify as a claimant for the property tax reduction benefit, an applicant must meet one of the conditions described in Idaho Code § 63-701(1):

- 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, if a person is not within the purview of, and is therefore not recognized as disabled

by, any other entity listed in this paragraph, then by the public employee retirement system or public employee disability plan in which the person participates that may be of any state, local unit of government or other jurisdiction in the United States of America; 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.

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.

Idaho Code § 63-701(1)

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).

To qualify as a claimant and be eligible to receive a 2016 property tax reduction benefit, an applicant must be the owner of the property on January 1, 2016, or before April 15, 2016. In the present case, Petitioner, as personal representative and Grantor of her [Redacted] estate, executed a Deed of Distribution by Personal Representative conveying the real property in question to herself as Grantee. However, this transfer of property did not occur until April 15, 2016. Because Petitioner was not the owner of the parcel before April 15, 2016, she does not qualify as a claimant for the 2016 property tax reduction benefit.

For the purposes of the 2016 property tax reduction benefit Petitioner was not the owner of the property before April 15, she must be denied the benefit.

THEREFORE, the decision of the Idaho State Tax Commission staff to deny the property tax reduction benefit is APPROVED and MADE FINAL.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2017, 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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