

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-808-523-776
██████████,)	
)	
Petitioner.)	DECISION
_____)	

On July 15, 2019, the staff of the Property Tax Division (staff) of the Idaho State Tax Commission (Commission) sent an Intent to Deny Property Tax Reduction Benefit letter (Intent to Deny Benefits) to ██████████ (Petitioner) informing her that she will not be receiving a benefit for 2019. Petitioner protested and the matter was referred to the Commission's Appeals unit for administrative review.

The Commission sent Petitioner a letter on September 17, 2019, outlining her options for redetermination of the Intent to Deny Benefits letter. Petitioner did not respond. The Commission reviewed the file and upholds the Intent to Deny Benefits letter for the reason that follows.

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 payment of all or a part of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

Idaho Code § 63-701 defines the conditions that must exist for an applicant to qualify for the property tax reduction benefit. The Code states 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.

- (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.)

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration to occupy the dwelling. Payment of utilities shall not be payment of a consideration to occupy the dwelling. A claimant's spouse who resides in a care facility shall be deemed to reside at the claimant's primary dwelling place and to be a part of the claimant's household. A care facility is a hospital, nursing facility or intermediate care facility for people with intellectual disabilities as defined in section 39-1301, Idaho Code, or a facility as defined in section 39-3302(16), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the application is made lives and receives help in daily living, protection and security.

In the present matter, Petitioner applied for a property tax reduction benefit on January 30, 2019. The mailing address shown on Petitioner's application was different than that of the Idaho parcel for which Petitioner was assessed a property tax. Petitioner explained this in her protest letter, stating that she does not live on the property located in Idaho due to multiple health issues that require her to live with her daughter in Utah.

The definition of "primary dwelling place" in Idaho Code § 63-701(8)(b) has a provision to include claimants who reside in a care facility. However, a review of Commission records shows Petitioner has not resided on the Idaho property for quite some time, if at all. Petitioner has not established by clear and convincing evidence that the property for which she seeks a benefit is her primary dwelling place.

Idaho Code § 63-701 clearly defines the eligibility requirements for an applicant to qualify for the property tax reduction benefit. The law must be followed as written.

Petitioner's primary dwelling place in 2019 was not the property for which she sought relief from property taxes. Therefore, the decision of the staff to deny Petitioner a 2019 property tax reduction benefit is hereby APPROVED and MADE FINAL.

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

DATED this _____ day of _____ 2020.

IDAHO STATE TAX COMMISSION

COMMISSIONER



CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2020,
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:



Receipt No.

