

BEFORE THE IDAHO BOARD OF TAX APPEALS

TERRI WOODLAND, )  
 )  
Appellant, ) APPEAL NOS. 23-A-1003 and  
 ) 23-A-1004  
v. )  
 ) FINAL DECISION AND ORDER  
ADA COUNTY, )  
 )  
Respondent. )  
 )  
\_\_\_\_\_)  
 )  
ADA COUNTY ASSESSOR, )  
 )  
Appellant, )  
 )  
v. )  
 )  
TERRI WOODLAND, )  
 )  
Respondent. )  
 )  
\_\_\_\_\_)

**PROPERTY TAX EXEMPTION APPEAL**

These appeals are taken from a decision of the Ada County Board of Equalization concerning recovery of property taxes related to an improperly claimed or approved homestead exemption on Parcel No. R5113750020. The appeal concerns the 2016 through 2020 tax years.

This matter came on for hearing June 27, 2023, in Boise, Idaho, before Board Member Leland Heinrich. Appellant Terri Woodland was self-represented. Ada County Deputy Prosecuting Attorney Lorna Jorgensen represented the Ada County Assessor. Ada County Deputy Prosecuting Attorney Claire Tardiff represented the Ada County Board of Equalization.

Board Members Leland Heinrich, Kenneth Nuhn, and Doug Wallis join in issuing this decision.

**The issue on appeal concerns whether Appellant’s homestead exemption was improperly claimed or approved for tax years 2016 through 2022 and thus subject to recovery.**

**The decision of the Ada County Board of Equalization is modified.**

FINDINGS OF FACT

For purposes of this decision, Terri Woodland will be referred to as *Appellant* and the Ada County Assessor as *Respondent*.

In October 1995, Appellant purchased an improved residential property in Boise, Idaho. The following month Appellant filed an application for the homestead exemption for the property with the Ada County Assessor's office, which was approved for the 1996 tax year. In April 1997, Appellant filed another application for the homestead exemption, which too was apparently approved<sup>1</sup>.

In March 2005, Appellant met Tyler Woodland (hereinafter "Husband") and they were married in January 2006. In October 2005, prior to getting married, Husband was gifted a portion of the family homestead located near Weiser, Idaho. After getting married, Appellant and Husband continued to maintain separate residences, with Appellant at her property in Boise, and Husband at his Weiser property. Appellant testified this separate living arrangement has persisted ever since. In March 2006, Husband applied for the homestead exemption on his Weiser property with the Washington County Assessor's office. The exemption application was approved for the 2006 tax year.

In connection with securing financing in 2007, Husband was advised by the lending institution to convert the manufactured home on the Weiser property into real property and to also add Appellant to the property deed. In June 2007, Husband filed a quit claim

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<sup>1</sup> The 1997 application filed by Appellant was titled "1996 Owner Occupied Residential Dwelling Exemption Application", with instructions stating that applications would ". . . only be accepted between January 1, 1996, and April 15, 1996." It was not clear in the record why Appellant filed the application, or whether it was officially "approved" by the assessor's office. In any event, the homestead exemption continued uninterrupted from 1996 through 2022.

deed transferring ownership of the Weiser property from Husband to Appellant and Husband, as husband and wife.

In February 2010, Appellant filed another application for the homestead exemption on the Boise property with the Ada County Assessor's office. In the comments section of the application, Appellant indicated the reason for the new application was due to refinancing the Boise property and changing Appellant's last name to match Husband's. The application was approved, and the exemption continued in place.

In December 2022, Appellant received a *Notice of Homestead Recovery* from the Ada County Assessor's office notifying Appellant the homestead exemption on the Boise property had been improperly claimed for tax years 2016 through 2022. The notice explained that it had been determined Appellant was receiving a homestead exemption on the Weiser property, so the Boise property was ineligible. The notice further stated the Assessor's office was required to seek recovery of the associated property taxes and apprised Appellant of the opportunity to appeal the assessor's decision to the Ada County Board of Equalization (BOE).

Appellant appealed to the BOE, which ultimately resolved to accept a recovery amount equal to the taxes due for tax years 2021 and 2022, and to waive recovery for the 2016 through 2020 tax years. Both Appellant and Respondent disagreed with the BOE's decision so each appealed to this Board, with Appellant arguing the BOE erred in its decision to order recovery of any property taxes, and Respondent arguing the BOE erred in not ordering recovery of the full amount for the entire 2016 through 2022 period.

Appellant's core argument centered on the homestead application Husband filed on the Weiser property in March 2006 bearing only Husband's name and signature, not

Appellant's. Appellant stressed the Weiser property was Husband's separate property at the time the homestead exemption application was filed and approved in 2006, and at no time since have Husband or Appellant, either together or separately, signed another exemption application on the Weiser property. Citing Idaho Code § 63-602G(2), which states to qualify for the homestead exemption an applicant cannot have made application on any other homestead inside or outside the county, Appellant reasoned the homestead exemption on the Boise property was not improperly claimed or approved because Appellant had never applied for the exemption on the Weiser property.

Respondent disagreed and instead contended the homestead exemption was improperly claimed or approved on the Boise property for the years in question because Appellant was an owner of the Weiser property and it was receiving the exemption. Adding Appellant to the title on the Weiser property in 2007 transformed it into a community property asset, so when the Weiser property continued to receive the homestead exemption in subsequent years, Respondent argued Appellant's eligibility for the homestead exemption on the Boise property was lost. Respondent emphasized in the case of community real property, either spouse may exercise control over the property and may sign the homestead exemption application on behalf of the other. In the present case, as Husband signed the homestead application for the Weiser property in 2006, Respondent argued Appellant's actual signature on the application was unnecessary. And because Appellant, as an owner of the Weiser property, received the benefit of the homestead exemption on that property for the relevant years, Respondent contended Appellant ineligible for the homestead exemption on the Boise property. As such, Respondent maintained recovery of property taxes from 2016 through 2022 was the

proper remedy under Idaho Code and argued the BOE erred in its decision to not order recovery of the amount due for the full seven (7) year period.

Respondent additionally questioned whether the Boise property was Appellant's primary dwelling place and pointed to several factors suggesting it might instead be the Weiser property. Of particular importance to Respondent was Appellant's driver's license issued in 2018 and several vehicle registrations issued in 2020, 2021, and 2022, all bearing the address of the Weiser property. Respondent cited Idaho Code §§ 49-119(12) and 49-401B(5), which in short requires an owner to ". . . give his physical domicile residence address . . ." when registering a vehicle, and argued Appellant's primary dwelling place was therefore the Weiser property because that was the address reflected on the vehicle registrations. Respondent further noted the Weiser address has been used for Appellant's and Husband's joint income tax returns since 2010. Lastly, Respondent provided an email inquiry from the Air Quality Board to Appellant regarding emissions testing for a vehicle registered in Appellant's name. In response to the inquiry from the Air Quality Board, Appellant provided a utility bill showing Husband's name and the Weiser property's address. In Respondent's view, the totality of the above factors support the conclusion Appellant's primary dwelling place was not the Boise property and petitioned the Board to find the same.

Appellant explained the Weiser property's address was used for joint income tax filings due to increased complexities associated with Husband's business. For the 2010 tax filing, Appellant and Husband hired an accountant to prepare the joint tax return, which continued for subsequent annual tax filings. Using the Weiser property's address on the joint returns was simply a matter of convenience, as that was the location of Husband's

business. Appellant further argued an address reflected on a tax return is nothing more than a mailing address and is not a definitive statement about a person's primary dwelling place. Appellant insisted using the Weiser address on the joint tax returns was not a declaration that Appellant's primary dwelling place was the Weiser property.

Regarding the vehicle registrations, Appellant similarly explained the Weiser address was used as a convenience, as it is quicker to process registrations at the Weiser DMV office because it is generally less busy than the Boise office. Appellant was unaware Idaho Code § 49-401B(5) required an owner provide his or her physical domicile residence address when registering a vehicle and did not intend to declare domicile at the Weiser property by listing that address on the vehicle registration form.

To counter Respondent's position that Appellant's primary dwelling place was the Weiser property, Appellant pointed to a couple factors supporting the opposite. Specifically, according to the Ada County Clerk's office, Appellant has been registered to vote at the Boise property's address starting in 2012 and has participated in at least three (3) elections since. And in response to an email inquiry from Respondent concerning utilities at the Boise property, the City of Boise Public Works Department stated, "We have had services [at the Boise property] in the name of [Appellant] since 1/1/1980 . . . ." Based on these various factors, and the fact Appellant has maintained full-time employment in Boise for years, Appellant argued the Boise property became her primary dwelling place when it was purchased in 1995 and has continuously served as such throughout the years at issue.

## CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value in fee simple interest or, as applicable, exempt status. This Board, giving full opportunity for all arguments and having considered all the testimony and documentary evidence, hereby enters the following.

The central issue in this appeal is whether the homestead exemption on the Boise property was improperly claimed or approved for the tax years 2016 through 2022. For the reasons below, the Board finds the Boise property qualified for the homestead exemption for the relevant tax years and thus it was not improperly claimed or approved.

The homestead exemption is found in Idaho Code § 63-602G, which provides in pertinent part,

- (2) The exemption allowed by this section may be granted only if:
  - (a) The homestead is owner-occupied and used as the primary dwelling place of the owner . . . and . . .
  - (c) The owner has certified to the county assessor that:
    - (i) He is making application for the exemption allowed by this section;
    - (ii) The homestead is his primary dwelling place; and
    - (iii) He has not made application in any other county for the exemption and has not made application for the exemption on any other homestead in the county.
  - (d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code  
. . .
  - (f) For the purpose of this section, the definition of "primary dwelling place" shall be the same definition set forth in section 63-701(8), Idaho Code.

(g) For the purpose of this section, the definition of "occupied" shall be the same definition set forth in section 63-701(6), Idaho Code . . . .

Respondent argued the Boise property was ineligible for the homestead exemption for the relevant years because Appellant was receiving the exemption on the Weiser property. According to Respondent, the homestead exemption on the Boise property should have been lost following Appellant's addition to the Weiser property's title in 2007, which was an ownership change. As the homestead exemption on the Weiser property continued to remain in place after the change in ownership, Respondent contended Appellant did not qualify for the exemption on the Boise property because an owner is entitled to claim only one (1) homestead exemption. While the Board agrees an owner may apply for only one (1) homestead exemption, we disagree Appellant's application for the exemption on the Boise property was improperly claimed or approved.

Prior to getting married in January 2006, Appellant was the record owner of the Boise property and Husband was the record owner of the Weiser property. After getting married, Appellant and Husband continued to hold separate titles to the Boise and Weiser properties and continued to maintain those properties as their respective separate primary dwelling places. In 2007, the ownership character of the Weiser property changed from Husband's separate property to Appellant's and Husband's community property when Appellant was added to the title by way of quit claim deed. That Appellant became an owner of the Weiser property does not itself disqualify Appellant from the homestead exemption on the Boise property. Ownership is certainly an important element for the homestead exemption, but where multiple ownership interests are involved between and among spouses, further analysis is needed.



The homestead exemption does contemplate married couples owning separate properties and does allow each spouse to apply for the exemption on their separately held properties in certain instances. In the context of the homestead exemption, this type of spousal living arrangement is referred to as a *dual residency couple*, defined in Property Tax Administrative Rule 610.02 as, “. . . a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules.” IDAPA 35.01.03.610.02.

With respect to a dual residency couple where the couple owns a residence as community property and one (1) spouse also holds title to a different residence as separate property, the homestead exemption is available only to the property for which a valid application is filed first. Regarding dual residency couples, Rule 610.05 offers an illustrative example in which a dual residency couple each maintains a different primary dwelling place, as follows, “[o]ne (1) [property] is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner’s exemption for the residence in which he or she resides.” According to Rule 610, “[t]he [homestead] exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify.” IDAPA 35.01.03.610.05.b. To further clarify, if one (1) spouse files a homestead application for the community property parcel, no subsequent application on the separate property owned by the other spouse is allowed. By contrast, if the spouse holding title to the separate property is the first to file a valid

application on such separate property, then a subsequent application by either spouse for the exemption on the community property parcel is invalid.

In the case at bar, Respondent effectively argued the Boise property did not qualify for the homestead exemption because Husband filed for the exemption on the Weiser property. The problem with this position is Husband filed an application for the homestead exemption on the Weiser property in 2006, more than one (1) year prior to the Weiser property becoming a community property asset when Appellant was added to the title. This action amounted to a change of ownership and should have required a new application on the Weiser property for the next tax year. This was confirmed in a February 2023 email from the Washington County Assessor who shared, “[t]he quit claim deed from [Husband] to [Husband and Appellant] should have constituted a change of ownership and should have required a new [application].” No subsequent homestead exemption application was ever filed on the Weiser property, though due to an administrative error the exemption continued in place throughout the years at issue. In the Board’s view, a processing error on the part of the Washington County Assessor’s Office regarding the Weiser property has no bearing on the eligibility status of Appellant’s separately owned Boise property.

In addition to certain qualifying criteria, the property owner must also make application for the homestead exemption. Here, the only homestead applications ever filed by Appellant concerned solely the Boise property, as Appellant’s separate property. The last such application was filed by Appellant in 2010, following a change in Appellant’s last name. And as neither Husband nor Appellant filed an application for the homestead exemption on the Weiser property following the 2007 change in ownership, Appellant’s

2010 application for the exemption on the Boise property was the first valid application filed by either spouse for either property since the Weiser property became community property. The rules regarding dual residency couple are clear that the first application filed on either property is the valid application, which in this case was Appellant's 2010 application on the Boise property. And as Appellant continued to maintain the Boise property as her separate primary dwelling place throughout the years at issue, the Boise property qualified for the homestead exemption.

In addition to the issue of multiple homestead exemptions, Respondent questioned whether the Boise property was Appellant's primary dwelling place. Respondent argued that by using the Weiser property's address on Appellant's driver's license, vehicle registrations, and income tax returns, Appellant was establishing residency in multiple counties, which brings into question whether the Boise property was Appellant's primary dwelling place. While the Board appreciates Respondent's concerns in this regard, it was evident in the record the Boise property served as Appellant's primary dwelling place throughout the relevant period.

For purposes of the homestead exemption, the term *primary dwelling place* means, ". . . 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." Idaho Code § 63-701(8)(a). The Board is unaware of any specific guidance from the courts on the interpretation of primary dwelling place in the context of the homestead exemption, but the statutory definition of primary dwelling place is strikingly similar to how courts describe domicile. The court in *In re Newcomb* espoused the following with respect to domicile:

As domicile and residence are usually in the same place, they are frequently used, even in our statutes, as if they had the same meaning, but they are not identical terms, for a person may have two places of residence, as in the city and country, but only one domicile. Residence means living in a particular locality, but domicile means living in that locality with intent to make it a fixed and permanent home . . .

The existing domicile, whether of origin or selection, continues until a new one is acquired and the burden of proof rests upon the party who alleges a change. The question is one of fact rather than law, and it frequently depends upon a variety of circumstances, which differ as widely as the peculiarities of individuals . . . In order to acquire a new domicile there must be a union of residence and intention. Residence without intention, or intention without residence is of no avail. Mere change of residence although continued for a long time does not effect a change of domicile, while a change of residence even for a short time with the intention in good faith to change the domicile, has that effect . . . Residence is necessary, for there can be no domicile without it, and important as evidence, for it bears strongly upon intention, but not controlling, for unless combined with intention it cannot effect a change of domicile.

There must be a present, definite and honest purpose to give up the old and take up the new place as the domicile of the person whose status is under consideration . . . A change of domicile may be made through caprice, whim or fancy, for business, health or pleasure, to secure a change of climate, or a change of laws, or for any reason whatever, provided there is an absolute and fixed intention to abandon one and acquire another and the acts of the person affected confirm the intention.

*In re Newcomb*, 192 N.Y. 238, 251; 84 N.E. 950, 954 (1908) (citations omitted).

In concurrence with the above, the Idaho Supreme Court has stressed, “[f]or a change of domicile to occur, the fact of physical presence at a dwelling place and the intention to make it a home must concur. And when such domicile is established, it persists until another is legally acquired.” *Kirkpatrick v. Transtector Systems* 114 Idaho 559; 759 P.2d 65; citing *In re Estate of Cooke*, 96 Idaho 48, 524 P.2d 176 (1973).

In the case at bar, the Boise property became Appellant’s primary dwelling place when Appellant purchased the property in 1995. Since that time, Appellant has continuously maintained the Boise property as her primary dwelling place, even after

getting married in 2006 and after becoming an owner of the Weiser property in 2007, as evidenced by several notable factors. First, Appellant's full-time employment was in Boise, so only weekends were spent in Weiser. Second, since at least 2012, Appellant has been registered to vote at the Boise property's address and has participated in several elections. Third, the utilities provided to the Boise property have been in Appellant's name since 1980. Lastly, and most importantly, the record did not evidence a clear intention by Appellant to abandon the Boise property and to establish a permanent living place at the Weiser property. And as the courts have made clear, physical presence in a new place must be accompanied by a good faith intention to establish domicile at the new place. Here, there was no intent by Appellant to abandon the Boise property as her primary dwelling place in favor of the Weiser property. Quite the opposite, it is clear to the Board that Appellant intended to maintain the Boise property as her primary dwelling place, and that Appellant did in fact maintain the Boise property as her primary dwelling place, throughout the years at issue here. Accordingly, the Board finds the requirements for the homestead exemption on the Boise property were satisfied and Appellant was entitled to the benefit of the exemption.

Based on the above, the decision of the Ada County Board of Equalization is modified to grant the homestead exemption on the Boise property for the entire 2016 through 2022 period. As such, there are no unpaid property taxes to recover from Appellant.

**FINAL ORDER**

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to grant the homestead exemption for tax years 2016 through 2022.

DATED this 23<sup>rd</sup> day of October, 2023.