

BEFORE THE IDAHO BOARD OF TAX APPEALS

HOYT PATTON,	)	
	)	
Appellant,	)	APPEAL NO. 18-A-1001
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
_____	)	

**HOMESTEAD EXEMPTION APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization effectively concluding homestead exemption on Parcel No. RP58N02W121164A was improperly granted. The decision on exempt status in turn bears on the validity of a property tax recovery action or “back billing” for 2016 property taxes.

This matter came on for hearing June 6, 2018 in Sandpoint, Idaho before Hearing Officer Cindy Pollock. Appellant Hoyt Patton was self-represented. Chief Deputy Assessor Al Ribeiro represented Respondent.

Board Members David Kinghorn, Leland Heinrich and Kenneth Nuhn join in issuing this decision.

**On appeal the pivotal issue is whether certain property originally granted a homestead exemption was qualified to receive such exemption pursuant to Idaho Code § 63-602G.**

**The decision of the Bonner County Board of Equalization to uphold the Assessor’s back billing for 2016 property taxes is affirmed.**

FINDINGS OF FACT

In this appeal Appellant challenges Respondent's determination certain property did not qualify for a homestead exemption in 2016 and 2017. The parcel associated with this appeal is one (1) acre of land improved with an older brick schoolhouse decommissioned

in 1984, which Appellant has endeavored to restore for residential use, and a newer residence and outbuilding, constructed in 2007 and 2009, respectively. The parcel is located in or near Sandpoint, Idaho.

What is deemed the subject property in this appeal is the newer 2007 residence and its associated land. This property is also known as 76 Green Timblin Lane. This dwelling has 1,094 square feet of improved living area.

In a letter from the Bonner County Assessor, dated November 27, 2017, Appellant was informed the homestead exemption did not apply for the 2017 tax year and that the county was pursuing a "back billing" for 2017 property taxes.

Another letter from the Bonner County Assessor, dated December 5, 2017, was also sent to Appellant. This correspondence largely mirrored the first letter, however, specifically referenced the 2016 homeowners exemption and back billing for 2016 property taxes. Appellant then filed an appeal with the Bonner County Board of Equalization (BOE) to contest the Assessor's actions. On review the BOE determined the subject property did not qualify for the homestead exemption for tax year 2016<sup>1</sup> and on January 31, 2018, issued a final decision letter upholding the Assessor's 2016 back billing in the amount of \$566.04.

Appellant maintained the homestead exemption was properly granted in the past.

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<sup>1</sup>Though the BOE's decision letter indicated the exemption at issue was for tax year 2016, the bulk of the evidence presented before the BOE and again at hearing before this Board, concerned qualification for the 2017 tax year. Though Appellant received letters from the Assessor referencing the tax years 2016 and 2017, there is no BOE decision in record concerning 2017. Therefore this decision ultimately reviews and decides matters connected with the 2016 tax year.

At the time Appellant purchased the parcel, the only notable improvement was the decommissioned schoolhouse and Appellant intended to renovate this for residential or other uses. Due to complexities associated with the rehabilitation, the project stretched over several years.

In 2007, a residence was constructed on the property which allowed Appellant to live on-site and continue to work on the schoolhouse. In 2012, Appellant filed an application for the homestead exemption listing the newer 2007 residence as the qualifying dwelling. The exemption remained in place until the Idaho State Tax Commission in late 2017 provided notice to the Bonner County Assessor's office of information contained in Appellant's 2016 income tax return. The tax return indicated [365] days of rental income for the subject property during 2016.

In addition to tax return information, Respondent provided a copy of a lease agreement concerning the 2007 residence. The lease agreement was dated April 17, 2015 for a term of "1 year or more" with tenancy to begin June 10, 2015 or earlier. This latter date is presumably when Appellant may have begun using the schoolhouse as a residence. Appellant claimed to have lived in the schoolhouse until sometime in late June or early July of 2016, at which time this building was leased to a third party and Appellant moved to another state.

Respondent argued the subject property was not entitled to the homestead exemption since its lease began in 2015. Respondent contended the schoolhouse did not qualify for the exemption because an application was never filed for the schoolhouse.

Appellant claimed the term "homestead" includes all buildings, any of which can be used as a residence to satisfy the requirements of the homestead exemption. As such, Appellant argued a separate application for the schoolhouse was not necessary because it was already part of the same homestead and the exemption effectively "transferred" when Appellant occupied the schoolhouse as his primary dwelling place.

### 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, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The pivotal issue in this appeal concerns whether the subject property, the newer 2007 residence, qualified for a homestead exemption in 2016. Also addressed is qualification for exemption in 2017.

We first consider the 2016 homestead exemption. To begin, in order to qualify for this exemption, a claimant must have occupied the dwelling as his or her primary dwelling place on January 1 or before April 15 of the applicable tax year. Idaho Code § 63-701(8)(a). Formal application is also necessary. A claimant must "establish the dwelling . . . 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 . . . ."

Appellant argued his primary dwelling place was the schoolhouse until about mid-2016, a position not contested by Respondent. Though the parties did not present much information concerning the schoolhouse as Appellant's primary dwelling place for more than six (6) months during 2015, the lease agreement for the newer 2007 residence began on June 10, 2015, which presumably represents the approximate time Appellant began to occupy and use the schoolhouse. From this evidence, it appears Appellant satisfied the occupancy requirements necessary for a 2016 homestead exemption on the schoolhouse. The inquiry, however, does not stop there.

While an occupancy requirement appears satisfied, Appellant failed to satisfy a fundamental requirement for this exemption; namely that a timely application be filed with the county assessor's office. Respondent furnished a copy of Appellant's only application for the homestead exemption which identified the 2007 residence as the qualifying dwelling with a 2008 occupancy date. The application was marked received by the assessor's office on December 12, 2012. No subsequent application was filed when Appellant began occupying the schoolhouse, nor at any time since.

Appellant argued the term "homestead" referred to the entire property and therefore the exemption was in place for any dwelling or appurtenant buildings, and pointed to Idaho Code § 55-1001 for support. As such, Appellant reasoned a subsequent application connected with using the schoolhouse was not required. We disagree.

In this instance, reliance on section 55-1001, Idaho Code, is misplaced. The homestead exemption is governed by Idaho Code § 63-602G, which would rely on the

definition of “homestead” provided in Idaho Code § 63-701. This definition reads in part, “. . . the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant . . . .” *Id.* The correct definition of “homestead” for this exemption is limited to the owner-occupied primary dwelling place of the claimant plus up to one (1) acre of land surrounding such dwelling, and does not extend to all other buildings or residences which may be situated about the property.

The amount of a granted homestead exemption necessarily depends on the value of the primary dwelling place. As such, it follows if a property has multiple potential dwellings the claimant must make application identifying the specific primary dwelling place. To later switch the exemption to a different dwelling on the same parcel, an owner must first submit an application specifically identifying the second dwelling. Applied here, Appellant needed to file a homestead exemption application for the schoolhouse. As Appellant never filed such application, it is apparent to the Board the schoolhouse, and the now rented newer residence, would not qualify for a homestead exemption in tax year 2016.

To the record made by the parties we now turn to the homestead exemption for tax year 2017. Similar to the conclusion regarding qualification in 2016, we find the subject property and the schoolhouse did not qualify for a homestead exemption in 2017. Firstly, there was never an application for a homestead exemption for the schoolhouse after Appellant began using and living in it. And secondly, Appellant did not satisfy the occupancy requirements set forth in Idaho Code § 63-602G(2), which requires the property-

owner occupy the primary dwelling as of January 1, 2017. The record is clear, Appellant moved out of Idaho in mid-2016 and therefore did not occupy the schoolhouse, nor the subject property, during the relevant period applicable to the 2017 tax year.

“Exemptions are never presumed. The burden is on a claimant to establish clearly a right to exemption . . . It must be in terms so specific and certain as to leave no room for doubt. An exemption claim cannot be sustained unless it is shown to be within the spirit as well as the letter of the law.” *Bistline v. Bassett*, 47 Idaho 66, 71, 272 P. 696, 698 (1928). In this case, Appellant failed to show clear entitlement to the claimed homestead exemption for the schoolhouse for tax years 2016 and 2017. Given the newer 2007 residence’s use as a rental, this property, though a prior application on it had been filed with and received by the Assessor, did not qualify for a 2016 or 2017 homestead exemption.

This Board hears appeals from final decisions made by a county board of equalization. In the present case, the Bonner County Board of Equalization issued a decision related to back billing for 2016 property taxes connected with an erroneously granted homestead exemption. Having fully considered the matter, this Board will affirm the decision of the Bonner County Board of Equalization.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization, upholding a back billing of 2016 property taxes for Parcel No. RP58N02W121164A, be, and the same hereby is, AFFIRMED.

DATED this 27<sup>th</sup> day of August, 2018.