

Property Tax - Opinion - Homestead and Flood Damage

From: Hyman, Dale [IDR]

Sent: Wednesday, September 10, 2008

To: IA Property Tax Administrators

Subject: Homestead and Flood Damage

Property Tax Administrators:

We have been contacted by House of Representative's staff regarding whether a residence loses its eligibility for the homestead credit if - due to flood damage - it is currently unoccupied.

Two parts of the Iowa Administrative Code are relevant:

1. It is not a requirement that the six-month period of time be consecutive.
2. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto.

The pertinent section of the Iowa Administrative Code are:

"701—80.1(425)Homestead tax credit.
80.1(1)Application for credit.

a. No homestead tax credit shall be allowed unless the first application for homestead tax credit is signed by the owner of the property or the owner's qualified designee and filed with the city or county assessor on or before July 1 of the current assessment year. (1946 O.A.G. 37) Once filed, the claim for credit is applicable to subsequent years and no further filing shall be required provided the homestead is owned and occupied by the claimant or the claimant's spouse on July 1 of each year and, in addition, the claimant or the claimant's spouse occupies the homestead for at least six months during each calendar year in which the fiscal year for which the credit is claimed begins. It is not a requirement that the six-month period of time be consecutive. ...

g. For purposes of the homestead tax credit statute, the occupancy of the homestead may constitute actual occupancy or constructive occupancy. However, more than one homestead cannot be simultaneously occupied by the claimant and multiple simultaneous homestead tax credits are not allowable. (Op.St.Bd.Tax Rev.No.212, February 29, 1980.) Generally, a homestead is occupied by the claimant if the premises constitute the claimant's usual place of abode. Once the claimant's occupancy of the homestead is established, such occupancy is not lost merely because the claimant, for

some valid reason, is temporarily absent from the homestead premises with an intention of returning thereto (1952 O.A.G. 78).

This rule is intended to implement Iowa Code chapter 425 as amended by 2006 Iowa Acts, House File 2794."

It would behoove assessors to gather all the facts before canceling Homestead Exemptions for flood damaged property because they are currently unoccupied.

Dale Hyman, Administrator
Property Tax Division
Iowa Department of Revenue
dale.hyman@iowa.gov
515/281-3362

From: Hyman, Dale [IDR]

Sent: Friday, September 19, 2008

To: IA Property Tax Administrators

Subject: Attorney General's Opinion

Assessment administrators:

The [attorney general's opinion](#) (pdf) was cited in the administrative rules sent to you last week regarding qualifications for homestead credits. Each case is to be determined on the facts.

Dale Hyman, Administrator
Property Tax Division
Iowa Department of Revenue
dale.hyman@iowa.gov
515/281-3362