

FILED
COURT OF APPEALS
DIVISION II

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Docket No. 38781-6-II

STATE OF WASHINGTON
BY WAW
DEPUTY

IN THE COURT OF APPEALS
FOR THE STATE OF WASHINGTON

WILLIAM SCHEIDLER

Plaintiff/Appellant,

v.

KITSAP COUNTY ASSESSOR,

Defendant/Respondent,

APPELLANT'S BRIEF

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ORIGINAL

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I. INTRODUCTION

This matter involves a purely legal question: Whether Kitsap County (“County”) is properly implementing tax relief available to retirees, disabled persons and disabled veterans authorized by the Legislature under RCW 84.36. More specifically, the County is including items in a disposable income calculation that is not consistent with the definition under the RCW 84.36.383(5).

The court below dismissed Mr. Scheidler’s substantive claims challenging County’s implementation of RCW 84.36.383(5) on the County’s motion to dismiss under CR 12(b)(6). The basis of the dismissal was that Mr. Scheidler did not have standing to challenge the County’s implementation of RCW 84.36.383(5) because he had not been denied a tax exemption and he had not exhausted his administrative remedies from such an application.

The court below was incorrect. Mr. Scheidler, a disabled person, has economic interests which are directly impacted by the County’s wrongful application of RCW 84.36.383(5). Further, the County incorrectly states the law to potential applicants on its forms used to claim the exemption. In these circumstances, Mr. Scheidler has standing to bring this suit. The trial court should be reversed and his suit reinstated.

II. ASSIGNMENTS OF ERROR

Assignment of Error No. 1: The trial court erred in dismissing Mr. Scheidler's case.

Assignment of Error No. 2: The trial court erred in awarding costs against Mr. Scheidler.

III. ISSUES RAISED

Whether Mr. Scheidler has standing to bring a challenge to the County's implementation of tax relief available to retirees, disabled persons and disabled veterans under RCW 84.36?

IV. STATEMENT OF THE CASE

The matter was brought by Mr. William Scheidler, a pro se litigant and a man who suffers from a disability.¹ In his Complaint, Mr. Scheidler contested County's application of "Property Tax Relief Act"² which allows a real property tax exemption for retirees, disabled persons and disabled veterans if certain conditions are met. CP 1-13. In particular, Mr. Scheidler's Complaint alleges that the County's application of the statutory definition of "disposable income" under RCW 84.36.383(5) is inconsistent with the statutes above cited. CP 11.

¹ A supplemental designation of Clerk's Papers has been made for the documents sealed at the trial court relating to Mr. Scheidler's disability.

² The Property Tax Relief Act as herein referenced includes the following statutes: RCW 84.36.379, RCW 84.36.381, RCW 84.36.383, RCW 84.36.385, RCW 84.36.387, and RCW 84.36.389

In his Complaint, Mr. Scheidler alleged that the County's application of the statutory scheme incorrectly inflates a person's calculated income and, thus, denies taxpayers who are entitled to the exemption from the tax relief envisioned by the Legislature. CP 1-11. In his Complaint, Mr. Scheidler alleged that the County's application of the exemption process was (1) unconstitutionally vague, and in violation of the due process clause of the Fifth Amendment; (2) violated the equal protection clause of the Fourteenth Amendment of the Federal Constitution; (3) violated the Fourth Amendment to the United States Constitution, (4) constituted a violation of the Americans with Disabilities Act, 42 U.S.C. § 12-120, 101 and 28 C.F.R. 35 Ch. 1 Part 35(b), and he sought declaratory relief under RCW 7.24.010 et seq. CP 1-11.

On December 3, 2008, Mr. Scheidler moved for a preliminary injunction to enjoin County from misapplying the statutory exemption process. CP 14-27. In a partial response to that motion, the County filed a motion to dismiss under Civil Rule 12(b) on December 11, 2008 on the basis that Mr. Scheidler lacked standing to bring a challenge to County's implementation of the exemption process as he had not made an application for that exemption and, therefore, had suffered no loss. CP 114-158. The County also

contended that: (1) Mr. Scheidler's action would have required it to violate state law, (2) that the Court was being asked to issue an advisory opinion on any application that Mr. Scheidler might make, (3) the Complaint presented a non-justiciable controversy, (4) Mr. Scheidler had failed to comply with CR 19 and (5) Mr. Scheidler had failed to serve the Washington Attorney General under RCW 7.24.110 as Mr. Scheidler, in the mind of the County, had shown questioned the constitutionality of the statutory scheme cited above. CP 114-146. The County further claimed the application of RCW 7.24.060 (allowing for a denial of declaratory judgment if the controversy would not be resolved in so doing), and a violation of RCW 4.92.020. CP 147-158. Mr. Scheidler responded to the motion in writing. CP 28-63.

A hearing was held on December 19, 2008. On January 2, 2009, the trial court issued a memorandum opinion dismissing Mr. Scheidler's action. CP 64-65. The Court cited two primary reasons for its decision in granting the motion to dismiss:

- 1) Procedurally, the matter is not yet ripe for controversy. The Plaintiff has not yet been denied the enjoyment of any right. Additionally, he has failed to exhaust the available administrative remedies.
- 2) Substantively, the Plaintiff claims that the construction of RCW 84.36.381 is ambiguous and the

manner that it is interpreted by the County goes against the federal tax code. However, the statute is designed for the purposes of determining eligibility for a local property tax. Using the term “capital gain” as defined in the federal code as a starting point in this analysis, it is the State’s prerogative to set the income threshold at a particular level as they, in fact, have the power to assess and collect taxes and exemptions are the statutory exceptions to this rule. In laying forth the guidelines in RCW 74.36.381 [*sic*], the State has extended a benefit to certain citizens and has charged the County with overseeing the implementation. Requiring certain documents assist the County Assessor in reviewing exemption applications so that exemptions are properly given to those who meet the statutory guidelines.

CP 64-65. The Court then denied Mr. Scheidler’s application for a preliminary injunction and granted the County’s motion to dismiss.

CP 65.

Thereafter, Mr. Scheidler moved for reconsideration, which motion was denied. CP 66-76. Further, the court awarded the County \$250 in statutory costs and disbursements under RCW 4.84. CP 110-111. This appeal followed. CP 103.

V. ARGUMENT

A. STANDARD OF REVIEW

The standard of review of a trial court’s dismissal of a plaintiff’s case under CR 12(b)(6) is as follows:

We review dismissal of a claim under CR 12(b)(6) *de novo*. *Reid v. Pierce County*, 136 Wn.2d 195, 200-01, 961 P.2d 333 (1998); *Cutler v. Phillips Petroleum Co.*,

124 Wn.2d 749, 755, 881 P.2d 216 (1994). Dismissal is appropriate only if the complaint alleges no facts that would justify recovery. *Reid*, 136 Wn.2d at 200-01, 961 P.2d 333. We accept the plaintiffs' allegations and any reasonable inferences as true. *Id.* at 201, 961 P.2d 333. And for that reason CR 12(b)(6) motions should be granted sparingly and with care. *Cutler*, 124 Wn.2d at 755, 881 P.2d 216.

Wright v. Jeckle, 104 Wn. App. 478, 481, 16 P.3d 1268 (2001).

Any hypothetical situation conceivably raised by the complaint defeats a CR 12(b)(6) motion if it is legally sufficient to support plaintiff's claim.

Save Columbia Committee v. Columbia Community Credit Union,

___ Wn. App. ___, ___ P.3d ___, 2009 WL 1383607 ¶¶27 (Div. 2

Docket No. 372732-0-II, May 19, 2009).

In undertaking such an analysis, a plaintiff's allegations are presumed to be true and a court may consider hypothetical facts not included in the record.

(Citation omitted.) *Holiday Resort Comm. Assoc. v. Echo Lake*

Assoc., LLC, 134 Wn. App. 210, 135 P.3d 499 (2006).

Under this standard, it is proper to assume that Mr. Scheidler can prove all the elements of a declaratory judgment action against the County as follows:

1. A justiciable controversy;
2. An issue of major public concern; and,
3. Standing.

Bercier v. Kiga, 127 Wn. App. 809, 103 P.3d 232 (2004).

The sole question presented by this appeal is whether the law allows Mr. Scheidler to raise these claims, not whether his arguments are correct as a substantive issue.

RCW 7.24.010, the Declaratory Judgment Statute, is a broad statute and provides:

Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declarations shall have the force and effect of a final judgment or decree.

The statute is liberally construed. RCW 7.24.120 provides:

This chapter is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

In interpreting a statute, Washington courts follows certain rules of construction, to wit:

This argument ignores the fact that this court has held that under any rule of statutory construction, whether strict or liberal, the legislative intention, when clearly apparent, must prevail. *Shorts v. City of Seattle*, 95 Wash. 531, 164 P. 239. Furthermore, the rules of liberal construction do not contemplate that a statute shall be so interpreted as to ignore the obvious meaning of the words therein employed. *Boyd v. Sibold*, 7 Wn.2d 279, 109 P.2d 535.

Public Hosp. Dist. No. 2 of Okanogan County v. Taxpayers of Public Hosp. Dist. No. 2 of Okanogan County, 44 Wn.2d 623, 628-629, 269 P.2d 594 (1954).

As is shown below, Mr. Scheidler has standing to bring the present action.

B. A JUSTICIABLE CONTROVERSY EXISTS—THE COUNTY MISAPPLIES THE DEFINITION OF “DISPOSABLE INCOME”

In order to have standing to seek declaratory judgment under the UDJA, a party must present a justiciable controversy, which is

(1)... an actual, present and existing dispute, or the mature seeds of one, as distinguished from a possible, dormant, hypothetical, speculative, or moot disagreement, (2) between parties having genuine and opposing interests, (3) which involves interests that must be direct and substantial, rather than potential, theoretical, abstract or academic, and (4) a judicial determination of which will be final and conclusive.

(Citations omitted.) *South Tacoma Way, LLC v. State*, 146 Wn. App. 639, 648, 191 P.3d 938 (2008).

As described above, there is an actual dispute—Mr. Scheidler contends that the County is incorrectly applying the statutory framework and proves his argument with a copy of the Application which does not correctly summarize the statute. The County disagrees and stated at the trial court that it is required to

follow state law. CP 114-146. This is not a theoretical, hypothetical or speculative argument but one which is actual, present and existing.

Additionally, Mr. Scheidler's economic interests are clearly distinct from that of the County's and are direct and substantial, not hypothetical or academic. A judicial determination of the question presented is necessary to correct the obvious wrong.

1. Mr. Scheidler Seeks To Correct The County's Erroneous Implementation of a Tax Exemption Available To Retirees and The Disabled

The issue raised by Mr. Scheidler is a narrow one: he contests the County's determination of those who qualify for an exemption from or reduction in real property taxes available to retirees under Const. Art. 7, §10. Pursuant to the Property Tax Relief Act, retirees, disabled persons and veterans who suffer a 100 percent service-connected disability are entitled to tax relief if they meet the standards set forth in the statute. This is an actual and real dispute.

More specifically, RCW 84.36.381 provides for an exemption from "all or a portion of the amount of excess and regular real property taxes" for persons "retired from regular gainful

employment by reason of disability”. RCW 84.36.381(3)(a). Under RCW 84.36.381(4) provides in part:

The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383.

The term “combined disposable income” is defined as:

the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the residence for the assessment year, less amounts paid by the person claiming the exemption or his or her spouse or domestic partner during the assessment year for:

- (a) Drugs supplied by prescription of a medical practitioner authorized by the laws of this state or another jurisdiction to issue prescriptions;
- (b) The treatment or care of either person received in the home or in a nursing home, boarding home, or adult family home; and
- (c) Health care insurance premiums for medicare under Title XVIII of the social security act.

RCW 84.36.383(4). The term “disposable income” is defined as follows:

“Disposable income” means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are: **not included in or have been deducted from adjusted gross income:**

- (a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits, other than:
 - (i) Attendant-care payments;
 - (ii) Medical-aid payments;
 - (iii) Disability compensation, as defined in Title 38, part 3, section 3.4 of the code of federal regulations, as of January 1, 2008; and
 - (iv) Dependency and indemnity compensation, as defined in Title 38, part 3, section 3.5 of the code of federal regulations, as of January 1, 2008;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

(Emphasis added.) RCW 84.36.383(5). Mr. Scheidler contends that the County ignores the above bolded language in its application of the statute but the following language contained in its

Senior Citizen or Disabled Persons Exemption from Real Property

Taxes application (“Application”):

If you file a tax return with the IRS and your return included any deductions for the following items or if any of these items or if any of these items were not included in your adjusted gross income, they must be reported on your application for purposes of the exemption:

- Capital gains (cannot offset with losses)
- Dividends
- Interest on state and municipal bonds (non-taxable interest)
- Social Security benefits
- Pensions & annuity receipts
- Veterans benefits
- Railroad retirement benefits
- Military pay & benefits
- Amounts deducted for loss
- Amounts deducted for depreciation³

Mr. Scheidler contends that this language, preferred by the County and applied by it, incorrectly sets forth the conditions for an exemption as stated in RCW 84.36.383(5). First, the application

³ A copy of this Application is attached as Appendix A. It is a part of the sealed documents for which a Supplemental Designation of Clerk’s Papers has been made.

does not note the exception contained in RCW 84.36.383(5)(a) allowing for reinvestment into a new principle residence:

Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence

Second, the language “Capital gains (cannot offset with losses)” as stated in the application inappropriately suggests that any gain recognized on a capital asset, before losses properly attributable to that capital asset are calculated under the Internal Revenue Code 26 U.S.C. Subchapter P – Capital Gains and Losses, must be reported. This language is inconsistent with the manner of calculating a capital gain under the Internal Revenue Code. As an example of this is that RCW 84.36.383(5)(a) specifically excludes capital gains which are reinvested into a principle residence but the Application makes no reference to this exclusion.

Further, the parenthetical phrase “(cannot offset with losses)” inappropriately combines RCW 84.36.383(5)(a) with RCW 84.36.383(5)(b). Further, RCW 84.36.383(5)(b) is set forth later in the list on the application. Thus, under the County’s application of RCW 84.36.383(5), certain income is counted twice in its determination of disposable income for retirees, disabled persons

and disabled veterans, and thus artificially inflates their income for purposes of determining eligibility for the tax exemption.

This case presents a justiciable controversy. Thus, Mr. Scheidler did not ask for an advisory opinion.

2. The Case Involves an Issue of Major Public Concern: The Correct Calculation of Tax Exemptions for Retirees and the Disabled

When determining whether a matter involves an issue of major public concern,

This analysis comprises three factors: (1) whether the issue is of a public or private nature; (2) whether an authoritative determination is desirable to provide future guidance to public officers; and (3) whether the issue is likely to recur.

Philadelphia II v. Gregoire, 128 Wn.2d 707, 712, 911 P.2d 389, 391 (1996). Additionally,

[w]here a controversy is of serious public importance and immediately affects substantial segments of the population and its outcome will have a direct bearing on the commerce, finance, labor, industry or agriculture generally, questions of standing to maintain an action should be given less rigid and more liberal answer.

Yakima County (West Valley) Fire Protection Dist. No. 12 v. City of Yakima, 122 Wn.2d 371, 380-381, 858 P.2d 245 (1993) *citing* *Washington Natural Gas Co. v. PUD 1*, 77 Wn.2d 94, 96, 459 P.2d 633 (1969).

The cases in which this “liberal” standing theory has been applied have been cases where the plaintiff whose standing was challenged was the only plaintiff in the case and the “liberal” standing analysis was necessary to assure that the important public issues raised in those cases did not escape review. See *Seattle v. State*, 103 Wn.2d 663, 668, 694 P.2d 641 (1985) (allowing a city to raise an equal protection challenge to a portion of an annexation statute); *Farris v. Munro*, 99 Wn.2d 326, 330, 662 P.2d 821 (1983) (allowing a taxpayer to challenge the constitutionality of the State Lottery Act); *Vovos v. Grant*, 87 Wn.2d 697, 701, 555 P.2d 1343 (1976) (allowing the public defender to raise an issue of public importance to juveniles who would have “difficulty ... [in] vindicat[ing] their rights on their own”).

Yakima County (West Valley) Fire Protection Dist. No. 12 v. City of Yakima, 122 Wn.2d 371, 380-381, 858 P.2d 245 (1993).

Here, the County is misrepresenting the statute to the retired and disabled public and is wrongfully gaining from such misrepresentation in violation of the legislative mandate contained in RCW 84.36.379 and extended to the disabled under RCW 84.36.381.

**3. Mr. Scheidler Has Standing to Bring the Action:
His Economic Interests are Directly At Issue**

RCW 7.24.020 describes who may bring a declaratory judgment action to a court, *i.e.*, who has standing under the Uniform Declaratory Judgment Act (“UDJA”):

A person interested under a deed, will, written contract or other writings constituting a contract, or

whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, **may have determined any question of construction or validity** arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

Economic interests are sufficient to meet the standing requirement under the UDJA.

Parties whose financial interests are affected by the outcome of a declaratory judgment action have standing.^{FN3}

FN3. *Yakima County Fire Protection Dist. No. 12 v. City of Yakima*, 122 Wn.2d 371, 379, 858 P.2d 245 (1993) (citing *Seattle School Dist. No. 1 v. State*, 90 Wn.2d 476, 493, 585 P.2d 71 (1978)).

Casey v. Chapman, 123 Wn. App. 670, 676, 98 P.3d 1246 (2004).

However, every taxpayer will be fairly presumed to be injured when a municipal corporation undertakes to enter an illegal contract. *Barnett v. Lincoln*, 162 Wash. 613, 299 P. 392 (1931).

Mincks v. City of Everett, 4 Wn. App. 68, 73, 480 P.2d 230 (1971); see also *City of Seattle v. King County*, 68 Wn.2d 811, 416 P.2d 84 (1966) (City had standing to bring claim under the UDJA seeking exemption from assessment imposed by off street parking statute); *Pasco v. Miller*, 50 Wn.2d 229, 310 P.2d 863 (1957) (taxpayer who meets requirements of RCW 7.24.020 has standing under the UDJA to bring a claim); *City of Sequim v. Malkasian*, 119 Wn. App.

654, 79 P.3d 24 (2003) (City had standing under UDJA to challenge voter initiative adopted into an ordinance which initiative impacted the issuance of revenue bonds); see generally 15 WASHINGTON PRACTICE §42.2 *Standing to sue—Generally*.

Here, Mr. Scheidler's economic interests are directly at issue in this case. He is a disabled person entitled to claim an exemption from property taxes. However, the manner in which the County has (or will) calculate his income for purposes of that exemption is incorrect. His economic interests are directly at issue.

D. MR. SCHEIDLER NEED NOT EXHAUST ANY ADMINISTRATIVE REMEDIES IN ORDER TO HAVE STANDING TO BRING THIS SUIT

The trial court agreed with the County that since Mr. Scheidler did not exhaust his administrative remedies, that this matter was not ripe. CP 64-65. This was error.

In *Hartman v. Washington State Game Commission*, 85 Wn.2d 176, 532 P.2d 614 (1975), a case on point with the legal issue presented here, the Washington Supreme Court was asked to decide the validity of a Game Commission regulation relating to fishing which challenge was brought by licensed fishermen. On the issue of a challenge to the fishermen's standing to bring the case, the court stated:

When the state chose to authorize fishing by licensing and otherwise regulating the taking of fish, it conferred upon licensed fishermen a privilege sufficient to give status to such persons to challenge the regulations.

Id. at 182. The same is true here. When the Legislature decided to confer a tax exemption upon retirees, disabled persons and disabled veterans under Property Tax Relief Act if certain conditions are met, it likewise conferred upon those individuals the right to bring a claim relating to its implementation. Exhaustion of administrative remedies is not required; nor has the County cited a case that so requires it. CP 122-127.

E. THE COUNTY'S REMAINING CLAIMS ARE RED HERRINGS

As to the County's remaining claims, they are red herrings.

First, the County's assertion that Mr. Scheidler's claims would require it to violate state law is a substantive argument in appropriate to its procedural challenged under CR 12(b)(6). Had the County intended to have Mr. Scheidler's claim determined on the merits, the County should have brought a summary judgment motion under CR 56. Had that occurred, this Court would implement a different standard of review.

Second, as to the County's claim that Mr. Scheidler failed to name the State of Washington and/or serve the Attorney General

misdirects the Court. Mr. Scheidler does not complain of the language of RCW 84.36.383(5), but rather, the County's application of it. The State is not a necessary party to such a dispute. Thus, Mr. Scheidler has not violated RCW 7.24.060 nor RCW 4.92.020.

VI. CONCLUSION

The measure of a society is how it treats its young, its old and its infirm. Here, the County is choosing to inflate the income of retirees, disabled persons and disabled veterans thereby disqualifying them obtaining benefits under the Property Tax Relief Act. Neither these individuals nor present economic circumstances warrant such wrongful and unjust conduct.

Trial court should be reversed, Mr. Scheidler's claim reinstated and award of costs pursuant to RCW 4.84 should be vacated.

Dated this 4th day of June, 2009.

THE LAW OFFICE OF CATHERINE C. CLARK, PLLC

By: 

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DIVISION II

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STATE OF WASHINGTON

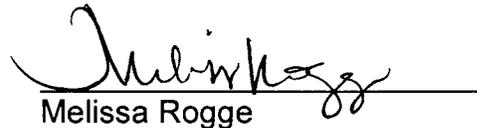
~~DEPUTY~~

Certificate of Service

I hereby certify that I caused the foregoing document to be served upon the below named individual in the identified manner on this 4th day of June, 2009:

Via Hand Delivery

Mr. Alan L. Miles, Esq.
Senior Deputy Prosecuting Attorney
Kitsap County Prosecuting Attorney's Office
614 Division Street, MS-35A
Port Orchard, WA 98366-4676


Melissa Rogge

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Appendix A

**SENIOR CITIZEN OR DISABLED PERSONS EXEMPTION FROM
REAL PROPERTY TAXES**

New Application

TAX YEAR 2008

1. Name & Address		County Use Only	
↑Claimant's Name (last, first, middle)	↑Date of Birth	B/Yrs	
↑Spouse or Co-tenant (last, first, middle)	↑Date of Birth	Transfer	
↑Telephone Number	↑Email Address	A/O D/A O/B	
↑Mailing Address	City	State	Zip
Please check appropriate box:		APPROVED / DENIED	
<input type="checkbox"/> At least 61 years of age on or before December 31, 2007.		ZONING:	
<input type="checkbox"/> Retired from regular gainful employment by reason of disability (Proof required)		Comb / Seg	
<input type="checkbox"/> Surviving spouse of a person approved for this exemption AND at least 57 years old.		A B C	
		Processed by	

Note: A change in residence requires a new application to be filed.

2. Type of Residence: (Check one)

Single Family Dwelling Cooperative Housing One unit of a Multi-Unit Dwelling Mobile Home (On leased land)

3. Type of Ownership: (Check appropriate boxes)

Owner Co-tenant Life Estate AF# _____ Lease For Life AF# _____

Contract Purchase Revocable Trust (Must attach Declaration of Trust) Irrevocable Trust (Must have Life Estate)

4. Description of Property:

Tax Account Number(s): _____ Acres or Lot Size: _____

Date Home Purchased: _____ Date Home Occupied: _____

Property Address: _____

Yes / No: I have sold property within the last year. Yes / No: I own more than one piece of property.

5. All Gross Income of Claimant, Spouse and Co-tenant: (Please see instructions for completing Income)

Yes / No (Circle One): I file an Income Tax Return with the IRS. (Must provide a complete copy including all schedules.)

Please report combined taxable and non-taxable gross annual income, regardless of source.

INCOME		EXPENSES	
(A) <u>Gross</u> Social Security (Before Medicare deduction)	\$ _____	(G) In-Home Care Expenses (Non-reimbursed)...	(_____)
(B) Pension, Annuities, IRA, Retirement Bonds, Military Retirement/Veterans Benefits...	\$ _____	(H) Nursing Home, Boarding Home, Adult Family Home, or Assisted Living Expenses (Non-reimbursed)...	(_____)
(C) Interest & Dividends...	\$ _____	(I) Prescription Drugs (Non-reimbursed)...	(_____)
(D) Wages...	\$ _____	(J) Medicare Premiums under Title XVIII of the Social Security Act...	(_____)
(E) Investment Income...	\$ _____	IRS Adj Gross Income Deducts (Pg.1 - Lines 23-35):	(_____)
(F) All Other Income...	\$ _____		
INCOME SUBTOTAL	\$ _____	TOTAL INCOME LESS EXPENSES:	\$ _____
TOTAL Combined Income For	2007	Maximum Income Limit	\$35,000

Continued on the back

THIS CLAIM IS SUBJECT TO AUDIT BY THE DEPARTMENT OF REVENUE

Any exemption granted through erroneous information shall be subject to the correct tax being assessed for the last three years, plus 100 percent penalty. I swear under the penalties of perjury that all of the foregoing statements are true.

Signature of Claimant

Date

Deputy Assessor

IMPORTANT NOTE Must provide documentation of Income:

Please attach copies of all source documents (See Instructions for required documentation), such as your Federal IRS tax return, year-end social security statements, W-2 statements, etc. Also, non-reimbursed expenses such as in-home care, nursing home, and prescription drugs, etc.

Eligibility in this program is determined by the combined disposable income of the claimant, spouse and/or co-tenant(s) during the application year – the year prior to the exemption. Proof of income is required.

**INSTRUCTIONS FOR COMPLETING THE SENIOR CITIZEN
AND DISABLED PERSONS EXEMPTION APPLICATION**

The item numbers listed below relate to the numbers on the front of this form.

1. **Name and address:** Enter your name, spouse and/or co-tenant name, date of birth, telephone number and mailing address. Check only the boxes that apply. Attach proof of disability.
2. **Type of Residence:** (Check one). (REV 64 0010 must be filed on Cooperative Housing).
3. **Type of Ownership:** (Check appropriate boxes). (REV 64 0010 for Life Estate and Lease for Life must be filed if you have not provided a copy of the Deed or Lease). (REV 64 0085 Must be filed for all Trusts.)
4. **Description of Property:** Tax account number can be obtained from your latest tax statement or your county assessor. Capital Gain/Loss Worksheet must be completed if home purchased/sold during application income year. **If your residential parcel is larger than one (1) acre and your local zoning and land use regulations require more than one (1) acre per residence in the area where you live, you may be eligible for an exemption for your entire parcel, up to five (5) acres.**
5. **Income:** All gross income from whatever source of the claimant, his or her spouse and any co-tenants must be reported. The actual amount expended for attendant care and medical aid may be deducted from veterans and military benefits. Non-reimbursed nursing home, boarding home or adult family home expenses incurred by the claimant and his or her spouse may be deducted from the gross income. The non-reimbursed amounts paid for the care or treatment of the claimant and his or her spouse in the home may be deducted from gross income. **For additional information on calculating income see Instructions for completing Section 5 (Income).** In-home care or assistance means medical treatment or care received in the home; items such as food, oxygen, or meals on wheels that are part of a necessary or appropriate in-home service; special needs furniture or attendant care and light housekeeping tasks. Payments for in-home care must be reasonable and at a rate comparable to those paid for similar services in a nursing home. The person providing the care or treatment does not have to be specially licensed. Non-reimbursed prescription drug costs incurred by the claimant and his or her spouse may be deducted from income. Insurance premiums for Medicare under Title XVIII of the Social Security Act may be deducted from income.
 - Indicate by marking the checkbox whether you file a tax return with the IRS.
 - Co-tenant means a person who resides with the claimant and who jointly owns the residence.

Eligibility Certification and Declaration: Be sure to read this entire form before signing. This form may be signed by the applicant, by his/her attorney, by the holder of the mortgage or contract, or by any authorized agent of the claimant.

Tax Relief: The appropriate tax reduction will begin with tax year 2008. There are three levels of tax reduction, based on income:

- **Income up to \$25,000** – Exempt from voted levies and a \$60,000 or 60% reduction in assessed value, whichever is greater.
- **Income of \$25,001 - \$30,000** – Exempt from voted levies and a \$50,000 or 35% reduction in assessed value (not to exceed \$70,000), whichever is greater.
- **Income of \$30,001 - \$35,000** – Exempt from voted levies only.

Instructions for Completing Section 5 (Income) of the Application

Eligibility in this program is determined by the combined disposable income of the applicant during the assessment year. RCW 84.36.383 describes how to calculate combined disposable income. All income for the applicant, his/her spouse, and any co-tenants must be reported. Co-tenant means a person who resides with the claimant and who jointly owns the residence. **If you file a tax return with the IRS and your return included any deductions for the following items or if any of these items were not included in your adjusted gross income, they must be reported on your application for purposes of this exemption program:**

- Capital gains (cannot offset with losses)
- Dividends
- Interest on state and municipal bonds (non-taxable interest)
- Social Security benefits
- Pensions & annuity receipts
- Veterans benefits
- Railroad retirement benefits
- Military pay & benefits
- Amounts deducted for loss
- Amounts deducted for depreciation

Income Deductions

- 1) Capital gains you receive from the sale of your principal residence, **IF** the gain is reinvested in a replacement principal residence,
- 2) Insurance premiums for Medicare under Title XVIII of the Social Security Act may be deducted from income,
- 3) Non-reimbursed prescription drug expenses may be deducted from gross income,
- 4) Non-reimbursed nursing home, boarding home, or adult family home expenses incurred by the claimant, his/her spouse, or co-tenants, and
- 5) Non-reimbursed amounts paid for the care or treatment of the claimant, his/her spouse, or co-tenants in the home.

In-home care or assistance means medical treatment or care received in the home, including medical treatment, physical therapy, Meals on Wheels (or similar meal delivery service), and household and personal care, including assistance with preparing meals, getting dressed, eating, taking medications, or areas of personal hygiene; Also included are special needs furniture and equipment, such as wheelchairs, hospital beds and oxygen.

Payments for in-home care must be reasonable and at a rate comparable to those paid for similar services in the same area. The person providing the care or treatment does not have to be specially licensed.

Exceptions

If the person claiming the exemption was retired for two months or more of the assessment year, the income is calculated by multiplying the average monthly income (during the months such person was retired) by twelve.

If the income of the applicant is reduced for two or more months of the assessment year because of death of their spouse, or when a substantial change in income occurs that will continue indefinitely, the income is calculated by multiplying the average monthly combined disposable income after the occurrences by twelve.

You may contact the county assessor for assistance on reporting instructions.

Documentation

Documentation of all income receipts must be provided to the Assessor. To the extent your return includes any of the following forms or schedules, a copy must be included with your application.

- IRS Form 1040
- IRS Form 1040A
- IRS Form 1040EZ

Continued on back

- Schedule B - Interest & Ordinary Dividends
- Schedule C - Profit & Loss from Business (Sole Proprietorship)
- Schedule D - Capital Gains & Losses
- Schedule E - Supplemental Income & Loss
- Schedule F - Profit & Loss from Farming
- Form 4797 - Sales of Business Property
- Form 6252 - Installment Sale Income
- Form 8829 - Expenses for Business Use of your Home
- Social Security Statement (Generally, SSA 1099)
- 1099-G – Unemployment Compensations, State & Local Income Tax Refunds, Agricultural Payments
- 1099-Int - Interest Income
- 1099-Misc - Contract Income, Rent & Royalty Payments, Prizes
- 1099-R - Distributions from Pensions, Annuities, IRA's, Insurance Contracts, Profit Sharing Plans
- 1099-S - Proceeds from Real Estate Transactions
- RRB-1099 - Railroad Retirement Benefits
- SSA-1099 - Social Security Benefits

The following 1099's:

- 1099-B - Proceeds from Broker & Barter Exchange
- 1099-Div - Dividends & Distributions
- 1099-G – Unemployment Compensations, State & Local Income Tax Refunds, Agricultural Payments
- 1099-Int - Interest Income
- 1099-Misc - Contract Income, Rent & Royalty Payments, Prizes
- 1099-R - Distributions from Pensions, Annuities, IRA's, Insurance Contracts, Profit Sharing Plans
- 1099-S - Proceeds from Real Estate Transactions
- RRB-1099 - Railroad Retirement Benefits
- SSA-1099 - Social Security Benefits

Non-IRS Filers: For applicants who do not file an IRS return, you must provide documentation of all income that would have been reported on a federal return by you, your spouse, and any co-owners living with you. Standard federal documents used by others to report income they paid out, including but not limited to, the following:

1. W-2's - Wage & Tax Statement
W-2-G - Certain Gambling Winnings
2. 1099's
 - 1099-B - Proceeds from Broker & Barter Exchange
 - 1099-Div - Dividends & Distributions

Other types of payments may be found listed in the IRS Publication "Instructions for Forms 1099, 1098, 5498, and W-2G".

If you have income from other sources that you did not receive a W2 or 1099 for (e.g. tips, cash earned from yard sales or odd jobs, rental income, groceries purchased for you in return for a room in your house, etc.), or do not have any income reported to you on W2s or 1099s, a copy of all your monthly bank statements and a statement describing the type of income received and the dollar amounts of income that were not placed in the bank for the year the application is being filed must be submitted with your application.

PROOF OF EXPENSES

You also need proof (e.g. invoices, bills or cancelled checks) for nursing home, boarding home, or adult family home care, in-home care, or prescription drugs purchased by you or your spouse, provided these amounts were not reimbursed by a government program or insurance. You can ask for a print out of prescription drug expenses from your pharmacy.

Application Checklist

TAXPAYER: _____ ACCT. NO: _____

When submitting your application, make sure the application packet is complete and that you verify the following information:

Application Information:

- Name, Mailing Address, Telephone Number, email address, if any, and Birthdate(s)
- Proof of Disability Form (If not age 61 or older)
- Yes/No - If Life Estate or Lease for Life Box Checked –
Copy of Document or Auditor File Number on Application
- Yes/No - If Revocable or Irrevocable Trust Box Checked –
Signed Declaration of Trust AND copy of Trust Document
- Date Home acquired and date occupied
- Property address – if different from mailing address
- Yes/No Checkbox – Sold Property during application income year
- Yes/No Checkbox – Applicant owns more than one piece of property
- Yes/No Checkbox – IRS Tax Return Filed (**If Yes, Must provide a complete copy of tax return**)
- Proof Of Income & Expenses – Copies of all income documents must be submitted with application. If deducting for allowable expenses, you must submit proof of expenses.
- Signature on Application

Income Sources – Please indicate if you, your spouse or co-tenant receives any of the following:

Yes / No: Social Security Benefits

Yes / No: Supplemental Social Security Benefits

Yes / No: State Cash and/or Food Assistance

Yes / No: Non-taxable Veteran's Disability Benefits

Yes / No: Non-taxable Military Benefits

Yes / No: L & I Worker's Compensation

Yes / No: Unemployment Benefits

Yes / No: Other Non-Taxable Income Sources

Yes / No: Tax-Exempt Interest from State or Municipal Bonds (Look at Line 8 on tax return)

COPIES OF ALL INCOME AND EXPENSE DOCUMENTS ATTACHED.