From:	Chris Rouse <chris.rouse@roco.pro>
Sent:	Wednesday, May 29, 2024 3:56 PM
To:	Jennifer Keyes
Cc:	Heather Mckenzie
Subject:	RE: Homestead Exemption

Jennifer,

O.C.G.A. §48–5–40 (Definitions) defines an "applicant." The definition is broad, and includes anyone who is unmarried and occupies the house, married living with her spouse, or living in the home with her children. There is no language that excludes the situation where other people are also living with the owner, though.

The statute also defines "homestead." In part, it must be the home of the applicant's family, which includes where "the applicant or members of his family occupy a portion of the property as a home." O.C.G.A. §48–5–40(3)(C) and (6)(B). Here, she does occupy a portion of the property as her home, and there are cases allowing part of the home to be used in a farming enterprise and still fall under the homestead exemption. Part is a residence, and part is for farming uses, but it would all fall under the homestead exemption statute. But the statute also specifically requires that "the applicant has a right of possession." Typically a lessor gives up the right of possession when granting a leasehold or usufruct. Perhaps the owner in this case can show that she has not given up the right of possession to the leased part of her property, but that would be unusual in a residential lease situation. You should review her lease agreement to see if it has language giving her rights to come and go on the leased portion of the house whenever and wherever she wishes—that would be very surprising, but I suppose it's not impossible. Otherwise, she does not have a right to possession of all of the house.

In short, the Owner here appears to lack a right of possession to the full property. She is therefore not entitled to the homestead exemption.

Best,

-Chris

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1