

Neal Groover

From: Chris Rouse <chris.rouse@roco.pro>
Sent: Monday, April 13, 2026 7:54 PM
To: Neal Groover
Cc: Jennifer Keyes
Subject: RE: Homesteads and Auxiliary Dwelling Unit

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Neal and Jennifer,

I looked to OCGA § 48-5-40 (Definitions) to answer this question.

A “homestead” means the real property owned by and in possession of the applicant on January 1 to which the applicant has a right of possession.

The statute also explicitly states that in the event the applicant owns two or more dwelling houses, he shall be allowed the exemption granted by law on only one of the houses. This appears to make some sort of distinction between owning houses vs. owning real property. The statute seems to say that if you have one lot, with two houses on it, you can claim the homestead exemption only as to one of the houses. The outlines and boundaries of this distinction are not clear.

The statute requires that the homestead exempted must be actually occupied as the permanent residence and place of abode by the applicant. This seems consistent with somehow “carving out” the ADU from the homestead exemption.

The statute also specifically states that “occupied primarily as a dwelling” includes occupying only a portion of the property as a home.

The final sub-section of the statute addresses claiming multiple exemptions on the same real property, but that does not appear to be the concern of your question.

Based on this, assuming a typical residential lease, the applicant would not have a right of possession in the ADU. They would have turned over the right of possession to their tenant. They also can’t claim the exemption on both houses/structures.

In short, it appears that they could claim the homestead exemption, but only as to the house they occupy. That leaves the nitty-gritty problem of what the “carved out” value is that no longer gets the freeze. The lease agreement might contain actual boundaries. But then you have issues about the value of an ADU, since it really has no value but as a part of the total lot at issue. Not sure if your training has any guidance there?

Best,