



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

OCT 08 2015
OPINION 15-0074

125 – TAXATION – Homestead Exemption
La. Const. art. VII, § 20

Bobby W. Edmiston
Bossier Parish Assessor
204 Burt Blvd.
P.O. Box 325
Benton, LA 71006-0325

A surviving spouse occupying property that was formerly the separate property of the deceased spouse and holding a usufruct in that property may claim a homestead exemption under La. Const. art. VII, § 20.

Dear Mr. Edmiston:

You have requested an opinion from this office concerning the eligibility of a surviving spouse to retain or receive the homestead exemption under La. Const. art. VII, § 20. Specifically, your request states that a husband and wife lived in and occupied a mobile home, which was classified as the homestead for the couple. The mobile home was the separate property of the husband; however, the husband is now deceased. Your request indicates that the wife was granted a usufruct over the mobile home in the succession proceeding, and that the children received naked ownership. The surviving spouse is still occupying and living in the mobile home. You are now asking this office whether the wife is entitled to claim a homestead exemption, although she was granted the usufruct in the succession proceeding and never held an ownership interest in the mobile home.

La. Const. art. VII, § 20(A)(2) specifically states:

The homestead exemption shall extend and apply fully to the surviving spouse or a former spouse when the homestead is occupied by the surviving spouse or former spouse and title to it is in the name of (a) the surviving spouse as owner of any interest or either or both of the former spouses, (b) the surviving spouse as usufructuary, or (c) a testamentary trust established for the benefit of the surviving spouse and the descendants of the deceased spouse or surviving spouse, but not to more than one homestead owned by either the husband or wife, or both.

Under the clear language of La. Const. art. VII, § 20(A)(2), the homestead exemption applies to the surviving spouse when the surviving spouse is occupying the homestead and has a usufruct interest in the property. Nothing in La. Const. art. VII, § 20 appears

to require that a surviving spouse holding a usufruct on the property also have an ownership interest in the property prior to the other spouse's death. Given this clear language, it would appear that the homestead exemption applies to the circumstances presented in your request, as the surviving spouse is occupying the mobile home and has a usufruct on the mobile home.

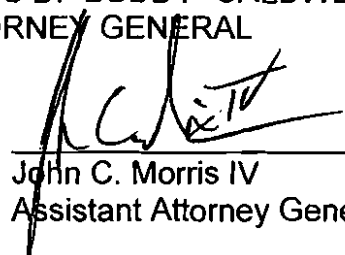
Accordingly, it is the opinion of this office that a surviving spouse occupying a mobile home as her homestead and also holding a usufruct on the property may claim the homestead exemption under La. Const. art. VII, § 20, even though the mobile home was the separate property of the deceased spouse.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By:



John C. Morris IV
Assistant Attorney General

JDC/JCMIV