

Massachusetts Bankruptcy Court Holds That Homestead Protection is Available for Certain Home Offices

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The U.S. Bankruptcy Court for the District of Massachusetts recently issued a decision in the case of *In re Catton*, shedding light on the Massachusetts homestead statute and its application to home offices. The Massachusetts homestead statute, found at Mass. Gen. Laws c. 188, permits an owner to declare a homestead on a “single-family dwelling, including accessory structures appurtenant thereto” for the purpose of protecting it from the debtor’s creditors up to a certain amount. In *Catton*, the trustee objected to the debtor’s claim of a homestead exemption on his home, due to the fact that the property also served as the debtor’s insurance agency office. Because the municipal tax assessor described the property as an “office” and taxed the property at a split tax rate, and the debtor’s own appraiser described the property as a “two unit mixed use property,” the trustee contended that the Massachusetts homestead statute was unavailable to the debtor.

In examining the applicability of the homestead statute to the debtor’s property, the bankruptcy court noted that the “point where a single family dwelling with a self-contained commercial use crosses the line from residential to commercial and thus becomes ineligible for homestead protection is not identified in the [homestead] statute,” and recognized that no Massachusetts court had yet appeared to have tackled this issue. Ultimately, the bankruptcy court adopted an approach focusing on “predominance” and determined that a fact-intensive, case-by-case inquiry into the predominant use of the property was necessary in deciding the applicability of the homestead statute.

In holding that the predominant use of the debtor’s property was residential, the bankruptcy court observed that over sixty percent of the property’s square footage served as the debtor’s dwelling. Additionally, the property was zoned such that a home occupation is only permitted where the commercial use is “clearly incidental and secondary to the use of the premises for residential purposes.”

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