



February 7, 2007

Anne Dunn  
Director of Assessing  
11 Lincoln St.  
Plymouth, MA 02360

Re: Cl.41C Exemption – Ownership of Other Real Estate  
Our File No. 2007-34

Dear Ms. Dunn:

This is in reply to your letter asking for a formal opinion on the issue of whether an applicant's joint tenancy of real estate other than her domicile with another person whose guardian she is must be taken into account in determining her eligibility for an exemption under GL ch.59 §5 Cl.41C. The applicant claims she had to be a co-tenant with the ward (her son) in order for him to obtain title to the property. This question has been the topic of an earlier e-mail from our office (EM2006-1083).

In the absence of any explanation or argument supporting the applicant's claim, it is difficult to say much more than we said in our e-mail. As a joint tenant of the parcel, the applicant is a co-owner of the property, and will own it outright if her son dies before her. If title were in his name alone, she could act with respect to the property only in her capacity as his guardian, not as owner, and the parcel would pass to her son's estate rather than her if the son dies before her. In terms of the statutory eligibility criteria, this seems to us a critical distinction. There may have been some legal or practical obstacle to taking title to the property in the name of the son alone. The fact remains that she has an ownership interest in the property, and we see no basis in the statute for excluding it from her whole estate.

Very truly yours,

A handwritten signature in black ink that reads "Kathleen Colleary".

Kathleen Colleary, Chief  
Bureau of Municipal Finance Law

KC/CH