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MEMORANDUM

TO: ELEVENTH ANNUAL REAL ESTATE SYMPOSIUM ATTENDEES

FROM: SHERYL K. SILBERSTEIN, ESQ.

RE: HOMESTEAD EXEMPTIONS

DATE: May 4, 2004

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You have a beautiful home in Boyne Highlands that is worth about \$1 Million Dollars. You and your family spend about 10 weekends of the winter in Boyne Highlands and spend about 6 weeks of the summer there. The rest of the time is spent at your home in Grosse Ile. The Grosse Ile residence is worth about \$250,000.00. Your kids attend a private school in Grosse Ile. If you declare the Boyne Highlands home as your principal residence and file the requisite homestead affidavit with the local assessors' office, you only pay 6 mils of the state property tax instead of the 18 mils for non-homestead property. The Boyne Highland property is worth over a million dollars. A significant savings. On the other hand if you file the homestead affidavit in Boyne Highlands and if you file it in Grosse Ile, you can enjoy both exemptions and how would one assessor's office track the other office. What a deal, two tax breaks.

Think again. The State Treasury Department is cracking down. Under Proposal A, passed in 1994, principal homesteads or residences are entitled to a property tax exemption from the 18 mils paid by commercial and non-homestead properties. However, too many properties in Michigan are improperly classified as homestead property. According to the Detroit Free Press in an article from August 21, 2003, *Michigan To Clamp Down on Homestead Tax Abuse*, the state, schools and local government could be due over \$60 million dollars from individuals abusing this exemption.

Under a new law passed in July of 2003, state and county governments, as well as the Department of Treasury, will audit homestead tax claims to find out which individuals are improperly claiming their property as homestead **and** which individuals are claiming more than one homestead. The Homestead Exemption Affidavits not only include the property address and parcel Identification number, but they also include the claimant's social security number. The State Department of Treasury is working with the local and county municipalities to track those properties improperly claiming the exemption. In this age of electronic information, it is easier to cross-reference this information and the State has the incentive to do so. Interest and penalties collected by the Department of Treasury will be divided among the State, county and local assessors.

Keeping in mind the above, everyone should be aware of some of the basic issues:

A. Principal residence:

The Treasury Department is going to look at basic criteria to determine the principal residence. The criteria could include:

- Where are you registered to vote;
- What is the address on your driver's license;
- Where do your children attend school; and
- What address are your utility bills paid from.

The local agencies may not have the capabilities to cross track electronic information, however, they will look at the one basic question: Does the person actually live in the municipality where the homestead exemption affidavit was filed?

B. Filing deadlines:

The Homestead Exemption Affidavit must be filed by May 1 of the first year of the exemption in order to be considered for a reduction in taxes for that calendar year. If for example, you purchase a new home in June and file the requisite Homestead Affidavit at the time of the purchase, it will be considered for the taxes levied after December 31 of that year. If in fact you are eligible to file for the exemption by May 1, but fail to do so, you may petition the July or December Board of Review.

C. Rescission of the Exemption:

The request to Rescind/Withdraw Exemption should be filed with the Assessor's office within 90 days of the date you no longer either own or occupy the residence, whichever comes first.

There are many issues that arise regarding the homestead exemption issue. The questions are endless. However, the bottom line is one principal residence, one exemption.

If you have any questions regarding the election of a homestead exemption, please contact me at (248) 827-1887 or e-mail at skm@maddinhauser.com.