

Consumer Claims for Homestead Protection

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What is a Legal Aid case?

- What we used to see: FHA, VA, USDA, Home Equity, servicing complaints, family disputes (i.e. divorce/probate), and everything else;
- What we see now: wrap-around loans, owner-financed, HOA foreclosures, PID foreclosures, reverse mortgages, tax lien transfer loans, family disputes, and everything else;

Typically my clients are in crisis:

- death,
- divorce,
- disability,
- sick kids,
- victims of human trafficking,
- victims of predatory lenders...

and then a notice comes...

The role of a Legal Aid attorney is:

- Advise (most);
- Limited Services: Pro Se documents & brief transactional (some);
- Litigate (few);

Homestead Rights

Lender No-No's:

- In Texas “[n]o mortgage, trust deed, or other lien on the homestead shall ever be valid unless it secures a debt described by [Section 50].” Tex. Const. art. XVI, §50(c).

The purpose of the homestead exemption matters:

- Non-Compliant Mortgages, Trust Deeds or Other Liens – void (or invalid until cured).
- Judgments – termination of exemption subjects property to liability for debts (but proceeds exemption period may apply).
- Conveyance – If spouse is not joined, unenforceable as long as homestead character is maintained

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