



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Miss Evelyn Lincoln Archer
County Attorney
Aransas County
Rockport, Texas

Dear Miss Archer:

Opinion No. O-5510

Re: Homestead exemption of
head of a family subse-
quent to dissolution of
the family.

Your opinion request of August 5, 1943, reads
in part as follows:

"The question of exempting homes of
single men or not, has been brought to my
attention in connection with making up the
tax rolls for our county. The cases under
question are surrounded by the following
facts:

"A case where the man is now single,
having become a single man through death
of the wife, and there being no children
in the home to create the family unit af-
ter such death of wife. The single men
now live in these homes. Is it not true
that the homestead character has been set
so as to exempt them from State tax up to
the Statutory amount, or not?

" "

We assume the following facts in connection
with your inquiry:

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(a) That the properties involved formerly constituted residence homesteads by virtue of their being occupied as such by qualified family units.

(b) That such residence homesteads formerly were entitled to the exemption from State taxation provided by Section 1a of Article VIII of our Constitution.

(c) That the properties have continued to be occupied as homes by widowers who are the surviving members of their former families and who formerly were the heads of their families.

In *Woods v. Alvarado State Bank*, 19 S.W. (2d) 35, our Supreme Court was confronted with the question of whether or not a homestead in which a divorced father and two minor children had lived would continue to be such after the children had attained their majority and moved away leaving the father the sole occupant of the property. After a scholarly review of the history of homestead legislation and of the prior cases in this and other jurisdictions, the court, speaking through Chief Justice Cureton, said at p. 36:

"In view of our constitutional and statutory provisions concerning homestead rights, we have concluded that in this state the homestead is to be regarded as an estate created not only for the protection of the family as a whole, but for the units of the family, including those who survive, and embracing the head of the family at the time of its dissolution, whether the dissolution has been brought about by death or by dispersal, as distinguished from a mere privilege accorded the head of the family for the benefit of the family as a whole."

Similar in facts and identical in conclusion is the case of *Daniel v. Cook, et al.*, 70 S.W. (2d) 1024 (Civ. App.).

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Consequently, you are respectfully advised that the properties under consideration remain entitled to the exemption provided by Section 1a of Article VIII of our Constitution despite the dissolution by death of the families of the present occupants of the land.

Your letter also contained an inquiry with respect to the travelling expenses of officers conveying patients to state hospitals. We feel that this inquiry is answered by our Opinions 0-3671 and 0-3284; consequently, we are enclosing copies of those opinions herewith.

Trusting that the foregoing discussion and the enclosed opinions satisfactorily answer your inquiries, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

R. Dean Moorhead

R. Dean Moorhead
Assistant

RDW:ff
Encls.

APPROVED AUG 20, 1943

Gerald C. Mann
ATTORNEY GENERAL OF TEXAS

