

# Memo

**To:** Mayor and Town Council  
Via - Kirk Blouin  
cc: Ben Alma & Carla Marcote  
**From:** John C. Randolph, Esq.  
**Date:** June 10, 2022  
**Re:** Follow-up to Foreclosure Proceedings re 226 & 287 Pendelton Avenue

Dear Mayor and Town Council,

Attached is my memo regarding the 226 & 287 Pendelton Avenue foreclosure matter. This was written prior to the receipt of the memos from Jacqueline Miller.

In my memo I recommended in favor of foreclosure of the liens at 226 Pendelton and against foreclosure at 287 Pendelton. This recommendation was based on my understanding that Susan Gibson had abandoned her homestead at 226 and that she was claiming 287 as her homestead.

Ms. Miller alleges, as does Susan Gibson in her affidavit, that she has only temporarily vacated 226 Pendelton and that she intends that 226 be her homestead and permanent home. If those facts are accurate, foreclosure would not be appropriate against 226.

Ms. Miller also contends that the 287 property is protected from foreclosure since the homestead status of that property under the ownership of Susan Lee, inured to the benefit of Susan Gibson as the sole surviving heir of Susan Lee. I believe this contention is problematic as I don't believe a person can claim a constitutional homestead exemption at two separate properties. I believe, rather, the exemption applies to the property in which the owner resides. Ms. Gibson asserts she resides at 226 Pendelton, not 287 Pendelton. Ms. Miller argues Ms. Gibson is entitled to the homestead exemption on both properties; 287 because Susan Lee's homestead exemption automatically passed to her upon Susan Lee's death and at 226 because that is where she resides.

Based upon the above, it appears that foreclosure is most appropriate on the 287 Pendelton property. However, I believe the best course of action, because of the dispute as to the facts and the law, is for the Council to authorize the Town's Attorney to institute foreclosure proceedings against one or both of the properties in the Town Attorney's discretion, depending upon the resulting facts and the law pertaining to the properties.

Thank you.

John C. Randolph, Esq.

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