

8)

(1) The issue is what characteristics a homestead must possess to be considered an urban homestead.

Pursuant to the Texas Property Code, a single or married individual may claim up to 10 contiguous acres of an urban homestead. To be considered urban, the homestead must be located within a municipality or jurisdiction and is served by police and paid or volunteer fire departments. The homestead must also be served by at least three of the following utilities: water, sewer, storm sewer, electricity, or natural gas.

(2) The issue is what characteristics a homestead must possess to be considered a rural homestead.

Pursuant to the Texas Property Code, a rural homestead is one that does not qualify as a urban homestead. A single individual may claim up to 100 non contiguous acres, so long as the homestead is maintained on one part and the other part is used to support the homestead. A married couple may claim up to 200 non contiguous acres, so long as the homestead is maintained on one part and the other part is used to support the homestead.

(3) The issue is whether Rob's lease of his homestead property to Chris changed its homestead character.

In Texas, a homestead is afforded great protection. Whether a property is a homestead depends on three factors: (1) intent to make the property a homestead, or acts of preparation to do so; (2) whether the homesteader is single or married; and (3) whether the property is considered urban or rural. Here, assuming Rob's homestead is within a municipality and served by utilities, the homestead would qualify as an urban homestead. Rob's homestead is 8 acres and he is single. As to the intent, Rob is out of the country on a temporary work assignment. The fact that this is a temporary assignment and that the lease to Chris is for a fixed term, which will terminate after 12 months, shows that Rob still has the intent to make the property his homestead. The property was established as his homestead before the entering into the contract. Because Rob intends to come back, and the lease will end after 12months, the lease did not change the characterization of the homestead.

END OF EXAM

8)
1.

At issue is what characteristics must a homestead possess to be considered an urban homestead.

In order to be an urban homestead, the first question is whether a single adult or family is residing on the property. Here, Rob, is a single adult. As a result, for an urban homestead, he is limited to 10 acres. Since Rob's property is only 8-acres, this would satisfy this requirement. Next, it must be shown that the property is within the extraterritorial jurisdiction or municipality of a city or a platted subdivision. The facts do not indicate whether this requirement is present. However, assuming they are, Rob must also show that the property is served by volunteer fire protection and police safety and at least 3 of the following: Water, Natural Gas, Electricity, Sewage, and Storm Sewage. If at least three of these can be shown in addition to volunteer fire protection and police safety, along with being within the extraterritorial jurisdiction or municipality of a city or a platted subdivision, while being no more than 10 acres, then Rob would have an urban homestead. Rob can only have one homestead and it can only be designated as urban or rural. Since the question asks what would Rob's property need to be considered an urban homestead, he must designate his homestead as urban.

2.

At issue is what characteristics must a homestead possess to be considered a rural homestead.

In order to be a rural homestead, the first question is once again whether a single adult or family is residing on the property. Here, as mentioned before, Rob is a single adult. For a rural homestead, a single adult is entitled to no more than 100 acres of land. Since Rob's property is only 8-acres, this would satisfy this requirement. A rural homestead does not require any showing of extraterritorial jurisdiction or municipality of a city or a platted subdivision. Nor does it require a showing of volunteer fire protection and police safety and at least 3 of the following: Water, Natural Gas, Electricity, Sewage, and Storm Sewage. So, Rob would qualify as a rural homestead since his land is within the 100 acre limit of a single adult. Also, as mentioned before, Rob can only have one homestead and it can only be designated as urban or rural. Since the question asks what would Rob's property need to be considered a rural homestead, he must designate his homestead as rural.

3.

No, Rob's lease of his homestead property to Chris will not change its homestead character.

At issue is whether a lease will change a homestead character.

A homestead's character is designated at the time it was requested and is not affected by leases.

So, here, whether Rob designates his property as a rural or urban homestead, his lease to Chris for a 12-month term while he's on a temporary work assignment outside of the U.S. will not affect the designation.

END OF EXAM

8)
(1)

Under the Texas Property Code, a homestead is property that a person uses as his primary residence and intends for it to be his homestead. A person is not required to declare his homestead in writing. After determining that property qualifies as a homestead, you must determine if it is urban or rural. A homestead is urban if it is located within a municipality or residential subdivision, served by a police department, served by firefighters (including volunteer firefighter departments), and a municipality provides 3 of the following services to the property owner: water, sewage, electric, gas. Urban homesteads are limited to 10 acres for single adults and families. Further, the land must be contiguous. That means that allowable acres cannot be scattered across different parts of town or even down the road.

Here, Rob is a single adult. Therefore, his land can qualify for up to 10 acres. His homestead property is 8 acres, so there is no problem. Depending on where Wise County is and what kind of property this is, Rob's property may or may not qualify as an urban homestead.

(2)

Under the Texas Property Code, a rural homestead is a homestead that does not meet the above requirements for an urban homestead. Single adults are allowed 100 acres and families are allowed 200 acres. Additionally, the acres need not be contiguous. For example, if Rob has a house on one parcel of land and crops on another parcel of land down the road he can pull those parcels together.

Here, Rob is a single adult. Therefore, if his land does not qualify as an urban homestead, his 8-acre homestead is under the 100-acre maximum.

(3)

No. Rob's lease of his homestead property to Chris will not change its homestead character.

The issue is whether Rob has abandoned his homestead.

A homestead lasts as long as a person continues to use it as his primary residence. Physical presence and intent are determinative; however, absence alone is not sufficient to terminate the homestead character of a person's property. There have to be affirmative acts that show that a person does not intend on returning to his homestead property.

Here, Rob is on a temporary work assignment outside of the United States. The key word is "temporary." As long as he intends to return, he has not abandoned his property as his homestead. Mere absence alone is not enough to abandon a homestead. Further, Rob leased Chris his property for a 12-month term, but that is only for 1 year. That shows that he intends to return after the year passes. Therefore, Rob's lease to Chris does not change his homestead's character.

END OF EXAM
