No. 98824-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

CITY OF SEATTLE,

Petitioner,

v.

STEVEN G. LONG,

Respondent

ON APPEAL FROM KING COUNTY SUPERIOR COURT
Honorable Catherine Shaffer

PETITIONER LONG'S ANSWER TO AMICUS CURIAE BRIEF OF THE WASHINGTON STATE ASSOCIATION OF MUNICIPAL ATTORNEYS

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I. INTRODUCTION

Long slept on the ground for 21 days because his home was unlawfully withheld from him and scheduled for forced sale until he arranged to pay $547.12. This violated his homestead rights. The brief filed by the Washington State Association of Municipal Attorneys (hereinafter, "WSAMA") misapplies homestead law and misconstrues the lower court's decision. WSAMA's contentions that (1) cities can *threaten* to conduct forcible sales of homesteads, so long as they do not actually carry out such threats; (2) that an impound sale is not a sale "for debts"; and (3) that parking violators have somehow "consented to" the sale of their impounded vehicles are all incorrect on the law and against the clear public policy that underlies the Homestead Act.

II. ARGUMENT

A. Long's Homestead Act rights were violated, and the statutory application of the Act to Long's vehicular home is clear.

WSAMA contends that Long and the Court of Appeals somehow rewrote the Homestead Act, WSAMA, at 4, 11, 20. But it is WSAMA that rewrites the language of the Homestead Act. The text and purpose of the Act demonstrates that Long's homestead rights were violated.

The general purpose of the Homestead Act is to allow individuals to retain their homes, "free from the claims of creditors." *Algona v. Sharp,* 30

Wn. App. 837, 843, 638 P.2d 627, 630 (1982). In furtherance of that purpose, the Act prohibits homesteads from being attached, executed upon, or forcibly sold. RCW 6.13.070(1). It also prohibits liens from operating on fully exempt homestead property, allowing them to attach only where there is excess value. RCW 6.13.090; *In re DeLavern*, 337 B.R. 239, 241 (Bankr. W.D. Wash. 2005). The statutory definition of a homestead includes vehicles used as homes, RCW 6.13.010, Final B. Rep. on Substitute S.B. 5068. RCW 6.13.080 lists the types of liens and sales where homestead does not apply. Impound liens and sales are not on this list.[1]

Since Long was living in his vehicle, his vehicle was his homestead. CP 105, ¶ 3; RCW 6.13.010. After his home was impounded, a lien was attached and a forced sale was scheduled to satisfy his impound debts. RCW 46.55.140(1) (lien), RCW 46.55.130 (sale). Since Long could not afford to pay the debts to lift the lien or stop the sale, he was without possession of his home for 21 days. CP 109, ¶22; RCW 46.55.120(1)(f) (vehicle only released by payment), SMC 11.30.120 (B) (same). His home accrued additional $27/day storage fees during this time. CP 536.

At his impound hearing, Long twice told the Magistrate that the vehicle was his home, CP 490:8-15, 495:14-16. The Magistrate told Long

[1] This has been conceded previously by the City. City of Seattle Answer to Amicus Center for Justice, June 21, 2019, at 3 (instead contending that impound sales are not forced sales).

the only way he could get his home back was if he entered into a payment plan, and the order releasing his home was contingent upon this. CP 500:8-14, CP 535. Under threat of forced sale of his home, Long felt he had "no real choice but to agree" to a payment plan he could not afford. CP 109, ¶19. Had he not "agreed," the lien would have remained, and his home would have been sold mere days later. *Id.*, ¶20. Since Long's home was exempt from forced sale for his debts, the lower court held that withholding it and threatening to sell it until he agreed to pay violated the Homestead Act. *City v. Long*, 13 Wn. App.2d 709, 715, 467 P.3d 979 (2020).

Contrary to WSAMA's assertions, Long does not maintain that the Homestead Act prohibits the impoundment of vehicular homes for traffic violations.[2] Long also does not maintain that the Homestead Act erases *all* of his impound debts. Neither did the Court of Appeals below. *Id*. at 715. But under the Homestead Act, Long should have been allowed to get his home back *right away* without the need to enter into a forced payment arrangement. The appropriate remedy under the Act is to void the payment plan that the Magistrate forced Long to agree to under threat of forced sale. In addition, under the homestead defense, the Court should vacate all of the

[2] WSAMA at 1 (incorrectly claiming Long's view will always prohibit vehicles used as homes from being towed in the first place).

storage fees which only accrued while his home was unlawfully withheld.[3] Long separately maintains that, under the circumstances present in this case, impoundment itself and *all* the fees, both towing and storage, violated Long's rights under the Excessive Fines Clause and Wash. Const., art. I, §7, because impoundment itself was grossly disproportionate for parking more than 72 hours in one spot, because the fees imposed were excessive, and because impounding a person's home and only shelter when it is not blocking traffic or endangering anyone is an unreasonable seizure.

B. WSAMA incorrectly applies the holding of *Chicago v. Fulton* to this case to make an incorrect argument about statutory construction.

WSAMA devotes a portion of its brief to a newly decided bankruptcy case, *City of Chicago v. Fulton,* 141 S. Ct. 585, 589 (2021).

[3] Actions done in violation of the Homestead Act are typically void. *See Sharp*, 30 Wash. App. at 843. WSAMA argues that by voiding the payment plan the Court of Appeals erased all of Long's debts. WSAMA at 6-7. It does not necessarily follow from the lower court's decision that voiding the plan erases *all* the debts if the City wants to attempt to bill Long for them. The Court of Appeals held that "the City violated the Act by withholding the truck subject to auction unless he paid the impoundment costs or agreed to a payment plan." *City v. Long*,13 Wn. App.2d at 714. Since the Act was "violated" when Long's home was *unlawfully withheld,* Long should not be required to pay for the costs – the storage charges – incurred as a result of that unlawful act. Likewise, the City should not be able to collect on any late fees or collection costs that may have accrued under a voided payment plan. Long maintains under the Homestead Act that while an initial impound fee could be charged, storage charges may *not* be. The Magistrate's order imposed $547.12 on Long with no explanation of the charges. At the very least, the $547.12 includes *some* portion of storage fees that Long should not have to pay under his homestead defense. The base towing costs with a $35 city fee and including the first 12 hours of storage appears to be $313.26 from the final tow receipt, and the remainder of costs appear to be storage. CP 536. A different form lists the base towing costs differently as $576.71, but a comparison to the final tow receipt shows this amount had incorrect calculations, listing eight days of storage when it had been less than six days in the impound lot, and the receipt lists the $576.12 total, including incorrectly calculated storage costs, on the incorrect line. Compare CP 113 and CP 536.

WSAMA at 5-7. But *Fulton* is inapposite because it concerns a federal statute unlike our Homestead Act. Moreover, even if it were analogous, *Fulton* does not support WSAMA's position. *Fulton* involved a challenge to Chicago's policy of retaining possession of impounded vehicles. Fulton challenged the retention of a car used as transportation (not as a home) under a very specific bankruptcy statute and stay which forbids creditors, after a bankruptcy petition is filed, from doing an affirmative act to exercise control over a debtor's property. The Court simply decided that this specific statute only prohibited later affirmative acts that "would disturb the status quo of estate property *as of the time when the bankruptcy petition was filed*." (Italics added). *Id*. at 590. Since the cars were already in the impound lot as of the time the bankruptcy petition was filed, the statute did not apply to the impound because it did not disturb the status quo at the time of filing. *Id.* The protections of the Homestead Act do not have analogous language and do not turn on whether the impound precedes or follows the filing of a bankruptcy petition or any other kind of legal action.

Notably, *Fulton* specifically left open the possibility that retaining a vehicle and also demanding payment could have violated bankruptcy statutes, but the Court did not reach that issue. *Id*. at 592 n.2. Likewise, Justice Sotomayor's concurrence took care to note that even though the specific statute at issue did not require return of the vehicles to their owners, there is another provision of the bankruptcy code that *likely does*. *Id.* at 592 (Sotomayor, J., concurring). Justice Sotomayor also noted that acts to enforce a lien or to try and sell impounded cars "may very well" violate

these provisions. *Id.* at 592-595. In Long's case, his property was retained, payment was demanded, a lien was attached, and it was scheduled for forced sale. This not only would likely violate the other bankruptcy provisions mentioned in *Fulton,* these acts certainly violated the Homestead Act.

C. WSAMA misapplies the concept of harmonious statutory construction and ignores the fact that Homestead statutes are by definition "exemptions" that protect debtors from the uniform application of other statutes in instances where the property at issue is a home.

In addition to citing an inapposite bankruptcy case, WSAMA argues that the Homestead Act under RCW 6.13 and the impound laws under RCW 46.55 must be read "harmoniously," and that the lower court's decision "presupposes that one statute's public policy is superior to another's." WSAMA at 7, 17. In doing so, WSAMA disregards the basic principle that homestead statutes, are by their very definition, considered to be "exemptions" that exempt homesteaders from the application of other debt collection laws when those laws *affect property that is a home. See Webster v. Rodrick,* 64 Wn.2d 814, 816, 394 P.2d 689, 691 (1964) ("The homestead exemption must be used as a shield to protect the homesteader and his dependents in the enjoyment of a domicile."). WSAMA's analysis also ignores the fact that the homestead statutes "do not protect the rights of

creditors; they are in derogation of such rights." *Id*. at 816 (citing *First Nat'l Bank of Everett v. Tiffany*, 40 Wn.2d 193, 242 P.2d 169 (1952)).

City of Algona v. Sharp is directly on point regarding this issue. In this case, a homeowner was assessed a debt as part of a municipal assessment for the installation of sewers. 30 Wn. App. 837, 838. The homeowner did not pay for several years and the City took action to assert and then foreclose on a lien for these unpaid debts. The lien and the assessment and foreclosure were statutorily allowable and set out in city and state statutes, just like the impound lien and sale in Long's situation is statutorily set out. *Id*. at 840 and 840 n. 2.

Algona argued that it was merely following the applicable statutes and that a specific provision of those statutes said the lien was superior to any other encumbrances. *Id*. at 840. In spite of this, the court decided in favor of the homeowner, holding that the owner's exemption took precedence over the City's attempt to collect its debts, because the City's lien and sale were not on the list of exceptions to homestead rights, just like Long's impound lien and sale are not. *Id*. at 842-43. The court thus quashed the notice of sale without requiring any payment plan. *Id*. at 843. This was the case even though the homeowner would have been given a two-year redemption period to still reside in his home and pay off the debts. *Id*.

Long's case is obviously quite analogous, although he faced a far harsher and more expedited debt collection process.

D. Long's Homestead rights were violated when his home was scheduled for forced sale and when he was required to enter a payment arrangement to stop that sale.

1. Threatening to sell a homestead and withholding a home until someone pays debts violates the Homestead Act.

WSAMA takes the position that a "threatened sale" of homestead is not prohibited under the Homestead Act, even though a forced sale is. WSAMA at 14-15.[4] A general legal maxim states that "the law should not be construed to do indirectly what it cannot do directly." *Pierce Cty. v. State*, 159 Wn.2d 16, 48, 148 P.3d 1002, 1020 (2006); *Lien v. Hoffman*, 49 Wn.2d 642, 649, 306 P.2d 240, 245 (1957) (applying this concept to a homestead case). If it would be unlawful to forcibly sell something to recoup debts, how is it lawful for someone to threaten to forcibly sell something to recoup debts? Holding otherwise would "nullify the purpose" of the Act. *Id*.

More specifically, WSAMA's position does not accord with case law. Most homestead cases involve someone *stopping a scheduled sale*. *See, e.g.*, *Algona v. Sharp* at 843 (quashing and voiding scheduled sale), *Clark v. Davis*, 37 Wn.2d 850, 851–52, 226 P.2d 904, 905 (1951) (court restrained sheriff's advertised sale because of homestead). Further, other

[4] WSAMA argues that the Court of Appeals added the word "threat" to the statute.

state courts have found that homestead also protects against a threatened forced sale.[5] The concept that someone can "threaten" a forced sale of homestead is a frightening assertion. Otherwise, a court could simply ignore homestead exemptions and require someone to enter into a payment arrangement to prevent sale, which logically negates the exemption. In other contexts, installment plans can be a violation of debt exemptions as well.[6]

2. The scheduled sale of Long's home was "forced" and "for his debts."

WSAMA also argues that there would have been no "forced sale for the debts of the owner," since Long's sale was an operation of impound law. WSAMA at 15. WSAMA cites *People v. Allen*, 767 P.2d 798, 800 (Colo Ct. App. 1988) in support of this proposition, but this case is not analogous. *Allen* involved the forfeiture of a home that had been declared a public nuisance due to criminal activity. *Id.* The homeowner did not owe money and could not pay to get his home back. *Id*. In Long's situation, the scheduled forced sale was *for debts*. It is the only reason Long's home continued to be held. *See supra* at 1-3.

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[5] *See, e.g., Hyser v. Mansfield*, 72 Vt. 71, 47 A. 105, 105 (1899) (homesteader is entitled to have threatened sale of homestead enjoined); *Corn v. Hyde*, 26 N.M. 36, 188 P. 1102, 1102 (1920) (enjoining threatened sale)

[6] *See, e.g., City of Richland v. Wakefield*, 186 Wn.2d 596, 380 P.3d 459 (2016) (requiring individual to pay $15 a month violated the anti-attachment provisions of the Social Security Act); *Sears, Roebuck & Co. v. Harris*, 854 P.2d 921, 923 (Okla. Civ. App. 1993) (cannot require installment payments from future pension amounts which are exempt).

It is also obvious that the scheduled sale was "forced" and not "voluntary." WSAMA cites only to *Felton v. Citizens Fed. Savings & Loan Ass'n,* 101 Wn.2d 416, 423, 679 P.2d 928 (1984), WSAMA at 13, in support of this argument. But *Felton* involved a nonjudicial foreclosure sale that the homeowner had affirmatively consented to as a possible eventuality when contracting in the purchase of their home. *Id*. The very language in *Felton* also defines a forced sale as including instances where "the element of compulsion is based upon legal factors." *Id*. at 422.[7] Here, Long's sale was in fact compelled based on legal factors, the impound statutes.[8]

E. In its attachment analysis, WSAMA completely ignores Homestead precedent relating to liens.

Long's home was also unlawfully attached. While this Court need not reach Long's attachment argument since it can decide on forced sale, if it does reach this issue, it should decide in favor of Long.[9] WSAMA argues that attachment does not apply to Long's situation since the dictionary definition of attachment generally involves a process where the initial

[7] *See also* WSAMA at 13 (defining a forced sale as a "nonconsensual sale to recover a debt."). The sale here was nonconsensual and to recover a debt.

[8] Most exceptions to Homestead that are statutorily laid out involve a homeowner voluntarily agreeing or contracting to the eventuality of sale as part of a purchase or whether the homeowner has gained some benefit from a type of debt. RCW 6.13.080 (mortgages and automobile repair, for example, do not fall under homestead protection. They involve voluntary, contractual transactions or other issues of public policy.)

[9] *See Pinebrook Homeowners Ass'n v. Owen*, 48 Wn. App. 424, 430–31, 739 P.2d 110, 114–15 (1987) (court deciding a homestead case alternately based on execution instead of reaching the issue of forced sale).

seizure of property occurs because of debts. WSAMA at 13-14. Long maintains that even under a general definition of attachment where property is seized and withheld, "for the purpose of providing security to satisfy a debt," WSAMA at 16, his home was attached because it was withheld from him in order to get him to pay off debts.

Regardless, Long also separately argued below that a lien was unlawfully attached to his home. *City v. Long*, 13. Wn.App.2d at 736-28. In general, liens are only allowed to attach, or operate, upon homestead property for which there is excess value above the exemption. *See, e.g.*, *Locke v. Collins*, 42 Wn.2d 532, 535, 256 P.2d 832 (1953) (lien cannot operate upon or attach to homestead); *In re DeLavern* at 241. This is a longstanding principle for homesteads.[10]

The Court of Appeals recognized that liens cannot attach to property below the exemption. However, the court ultimately rejected Long's

[10] *See Mahalko v. Arctic Trading Co., Inc.*, 99 Wn.2d 30, 35–39, 659 P.2d 502, 504–06 (1983), *overruled on other grounds by Felton v. Citizens Fed. Sav. & Loan Ass'n of Seattle*, 101 Wn.2d 416, 679 P.2d 928 (1984) (collecting cases and discussing the general principle that liens should not attach to homestead property unless the type of lien is listed as a statutory homestead exception). *Mahalko* held that you could not even create the appearance of liens on homestead property, unless it had excess value, without going through a special statutory appraisal process. This was decided in part because the Homestead Act was intended to ensure that debtors have the right to not only possess, but to freely sell or convey their property. The Legislature overturned *Mahalko* in part by subsequently enacting RCW 6.13.090 which allowed judgments to be recorded and attach to the excess value of homestead property, without special statutory appraisal. One case has recognized that portions of the *Mahalko* opinion are still good law, and liens can regardless still only be attached to excess value. *In re Deal*, 85 Wn. App. 580, 584–85, 933 P.2d 1084, 1087 (1997).

argument by concluding, somewhat circuitously, that since Long's home could not be attached with a lien, it must not have been attached with a lien. *City v. Long*, 13. Wn.App.2d at 727-28.[11] In doing so, the Court disregarded the fact that the lien in Long's situation was a special type of possessory lien that created an automatic judgment and completely deprived him of ownership.[12] In such a case, clearly the lien had "operated upon" or "attached" to his home in violation of the Homestead Act.

This difference is key. "A judgment lien does not create any right of property" but gives the future right for someone to foreclose on the lien. *Fed. Intermediate Credit Bank of Spokane v. O/S Sablefish*, 111 Wn.2d 219, 226, 758 P.2d 494, 498 (1988) (quotation to other sources omitted). Thus, where someone has a completely exempt homestead, a judgment lien has no operation on the homestead except for a simple notation of its existence, it has no value, and it may not be acted upon.[13] By contrast, the type of lien

[11] The Court of Appeals stated that "because Long's truck did not have value above the homestead exemption, there was no property to which the RCW 46.55.140(1) lien could attach. For these reasons, we reject Long's argument that the attachment of a lien to his truck violated the Homestead Act."

[12] The possessory type of lien in Long's case operates like an automatic judgment, and decisions regarding tow costs are referred to as judgments within the tow statutes. RCW 46.55.120(3)(e). Likewise, another type of possessory lien was exempted from the protection of Homestead, automobile repair liens, while impound liens were not. RCW 6.13.080 (1).

[13] At most this is a "cloud on title." But even the appearance of a judgment lien on a completely exempt homestead could also be removed, as at least one court has suggested, by a quiet title action. *See In re DeLavern* at 243.

that operated on Long's property deprived him of the entire possession and use of his home. It accords that if a general judgment lien should not operate on exempt homestead property if there is no excess, a possessory lien should not operate to deprive someone of the use of their home. WSAMA disregards this analysis and instead makes erroneous policy arguments that Long's lien position would undermine real estate lien law. Long's argument would have no effect on this process.[14]

F. Long did not need to file a declaration to assert his homestead rights.

1. WSAMA exaggerates the importance and practical effect of such a declaration.

WSAMA is incorrect, on both statutory language and general principle and purpose, that Long needed to file a declaration of homestead to get the benefit of his homestead rights. First, it is important to note what homestead declarations do. WSAMA makes much of the fact that there are "good reasons" for requiring a declaration so that municipalities are somehow on notice when a vehicle is occupied as a home. WSAMA at 10. Homestead declarations often do not serve this notice purpose. Since declarations can be claimed at *any time before sale*, and because the declaration provision that WSAMA argues applies does not require it to be

[14] The automatic real estate lien statutes already operate according to homestead principles. For example, RCW 4.56.190 specifically states that judgments automatically become liens and real estate of a debtor can be used to satisfy owed money where that property is "not exempt by law." And RCW 6.13.190 already dictates allowable process under Homestead. Similarly, WSAMA's position that ruling for Long would somehow disallow nuisance abatement is simply incorrect and not at issue in this case.

recorded anywhere generally, declarations serve little advance notice. *See* RCW 6.15.060(d).

One example of a case involving a real property declaration demonstrates this point. In *Clark v. Davis*, a daughter jointly owned a piece of property with her mother. 37 Wn.2d 850, 851–52.[15] The daughter brought a partition suit against her mother which caused the property to be ordered sold. Right before sale, the daughter filed a declaration of homestead and stopped the sale, stating that she now intended to occupy the property. *Id*. Notably, this declaration did not provide any sort of advance notice and involved a sale the homeowner "she herself had instituted." *Id*. Clearly, declarations do not always provide clarity or advance notice. Similarly, real property, even when occupied, is not always "obvious" as a home. People may own multiple homes, and real property has other complications as well. *See, e.g.*, *Baker v. Baker*, 149 Wn. App. 208, 210–11, 202 P.3d 983, 984 (2009) (considering whether one parcel out of five connected to a house would be considered part of homestead property for divorce debts owed). A declaration in an impound proceeding thus serves none of the purpose that WSAMA claims. And since Long does not maintain that homestead

[15] This case took place prior to some changes involving when real property had to be declared as a homestead.

rights would prevent impound, the litany of horrors WSAMA claims will happen will never come to pass.[16]

2. Long did not need to file a declaration under the statutory requirements of the Act and the Court of Appeals appropriately applied canons of construction relating to homesteads.

Regardless, Long maintains the statutory language did not require him to file a declaration. The beginning of RCW 6.13.040 states that "property described in RCW 6.13.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.13.070 from and after the time the real or personal property is occupied as a principal residence by the owner." *See* Appendix A & Appendix B. The first sentence of the definitional section of homestead referenced, RCW 6.13.010, says that a homestead "consists of real or personal property that the owner uses as a residence." The plain language of the statute makes personal property that the owner uses and occupies as a principal residence a protected homestead.

[16] As another amicus brief from Northwest Justice Project and Northwest Consumer Law Center have separately and aptly pointed out, even if a declaration were required for Long, which it is not, he satisfied most of the requirements already by telling the Magistrate that the vehicle was his home and the remainder of the requirements are largely met. Amicus Brief of NJP and NWCLC at 11-13. And even if Long's home were above the statutory exemption amount, sale of it would have required a different set of procedures and additional process involving appraisement to ensure that if it was sold, he recouped the value of his homestead exemption. RCW 6.13.100, RCW 6.15.060(4)(b). Long's home thus still could not have been threatened with sale.

The catch-all phrase at the end of RCW 6.13.040, "any other personal property," can only refer to property not already described earlier in the statute. For example, it encompasses personal property not yet being used as a principal residence, and it operates as a catch-all provision that merely provides administrative convenience in certain debt proceedings where an officer is coming to collect on multiple forms of a debtor's personal property, a means by which the debtor can note when property is a home. Some debtors own multiple pieces of property, such as a house and a boat, or a boat and a car, or reside in multiple residences. A declaration might be necessary in such a case in order to distinguish which piece of property is actually the homestead. But none of this applies to Long. Only the first part of the statute applies to him, since he occupied his property as his principal residence. It was his only shelter.

The argument that Long needed to file a declaration also creates several logical inconsistences. WSAMA's reading would require the Court to effectively disregard the first sentence of RCW 6.13.010 when determining what "property described in RCW 6.13.010" means, and this also creates confusion over the phrase "any other." This reading further undermines another section of the Homestead Act. A similar phrase also appears in 6.13.030 which states, in part, that:

> ...homestead exemption amount shall not exceed the lesser of the sum of one hundred twenty-five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or *the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010.*

Appendix C.

This statutory section must presume that "other personal property described in RCW 6.13.010" is general "personal property that the owner uses as a residence."[17] Read any other way, it would be completely superfluous. Thus, applying a definition that property described in RCW 6.13.010 does not refer to general personal property renders other portions of the statute superfluous and problematic. We are left with both Long and the City arguing that their reading of the statute is the appropriate plain language. While Long maintains his plain reading of the statute is correct, it was appropriate for the Court of Appeals to resort to other sources and canons of statutory construction when it determined the statute was "susceptible to more than one reasonable meaning." *Long* at 725.

[17] In addition to adding "any other personal property" to the end of RCW 6.13.040 in 1993, the Legislature also added "real or personal" property to the beginning of the statute, clearly envisioning some instances where the newly added personal property homesteads could be both automatically exempt, and some instances where a declaration might be required. *See* SSB 5068 (1993), available at http://lawfilesext.leg.wa.gov/biennium/1993-94/Pdf/Bills/Session%20Laws/Senate/5068-S.SL.pdf?cite=1993%20c%20200%20%C2%A7%203

For instance, caselaw says that homesteads are typically created automatically once they are occupied as a principal residence. *Nw. Cascade, Inc. v. Unique Constr., Inc.*, 187 Wash. App. 685, 697-98, 351 P.3d 172 (2015). The bill report says that the intent of adding personal property to the statute was to protect cars used as homes, which Long's car was. Final B. Rep. on Substitute S.B. 5068. Likewise, the Legislature did not add impound liens to the list of exceptions to Homestead in 1993. RCW 6.13.080. And canons of statutory interpretation are special in the instance of homestead law. Homestead law requires liberal construction so that the statutes achieve their purpose of protecting homes. *In re Dependency of Schermer*, 161 Wash.2d 927, 953, 169 P.3d 452 (2007). And "limitations on homestead rights must be specific, clear, and direct." *Viewcrest Condo. Ass'n v. Robertson*, 197 Wn. App. 334, 339, 387 P.3d 1147, 1149 (2016). Here, there was no specific and clear provision requiring Long to file a declaration. Even if there were, he clearly tried to assert his homestead rights at his impound hearing and the declaration serves little purpose.

G. WSAMA essentially argues that forcing someone to pay hundreds of dollars in impound fees is more important than depriving someone of their only shelter for weeks.

Homestead laws are enacted "in the interest of humanity." *Macumber v. Shafer*, 96 Wn.2d 568, 570, 637 P.2d 645, 646 (1981). Here, because Long could not afford to pay hundreds of dollars, he was deprived

of his home for weeks. The City's actions served little purpose here. Long ended up sleeping in the same spot on the ground. CP 108, ¶16, CP 109, ¶22. He had been saving up for other housing and became further behind in this goal because he now owed hundreds of dollars, had an unaffordable payment plan, he had to decline work while struggling without his shelter, and he had to pay more of his money to replace some items he was without while his home was in impound. CP 108, ¶¶ 17-22, 27. By WSAMA's logic, a municipality's efficiency in collecting hundreds of dollars in parking debts is more important than someone's only shelter. Straightforward application of the Homestead Act proves that this contention is incorrect. And on policy, this Court should not agree.[18] Sometimes people owe money, but our laws have special protections that ensure this money is not collected in ways that would deprive someone of their only shelter.

[18] *See. e.g., Algona* at 842 n. 3 (disregarding a municipality's contention that their debt collection was more important) ("government would not cease to operate if LID assessments were inferior to homestead rights, and thus uncollectible in some cases.")

Respectfully submitted this 26th day of February 2021.

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APPENDIX A

RCW 6.13.010

Homestead, what constitutes—"Owner," "net value" defined.

(1) The homestead consists of real or personal property that the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter, the term "owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

(3) As used in this chapter, the term "net value" means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

[1999 c 403 § 1; 1993 c 200 § 1; 1987 c 442 § 201; 1981 c 329 § 7; 1945 c 196 § 1; 1931 c 88 § 1; 1927 c 193 § 1; 1895 c 64 § 1; Rem. Supp. 1945 § 528. Formerly RCW 6.12.010.]

NOTES:

Severability—1981 c 329: See note following RCW 6.21.020.

APPENDIX B

RCW 6.13.040

Automatic homestead exemption—Conditions—Declaration of homestead—Declaration of abandonment.

(1) Property described in RCW 6.13.010 constitutes a homestead and is automatically protected by the exemption described in RCW 6.13.070 from and after the time the real or personal property is occupied as a principal residence by the owner or, if the homestead is unimproved or improved land that is not yet occupied as a homestead, from and after the declaration or declarations required by the following subsections are filed for record or, if the homestead is a mobile home not yet occupied as a homestead and located on land not owned by the owner of the mobile home, from and after delivery of a declaration as prescribed in RCW 6.15.060(3)(c) or, if the homestead is any other personal property, from and after the delivery of a declaration as prescribed in RCW 6.15.060(3)(d).

(2) An owner who selects a homestead from unimproved or improved land that is not yet occupied as a homestead must execute a declaration of homestead and file the same for record in the office of the recording officer in the county in which the land is located. However, if the owner also owns another parcel of property on which the owner presently resides or in which the owner claims a homestead, the owner must also execute a declaration of abandonment of homestead on that other property and file the same for record with the recording officer in the county in which the land is located.

(3) The declaration of homestead must contain:

(a) A statement that the person making it is residing on the premises or intends to reside thereon and claims them as a homestead;

(b) A legal description of the premises; and

(c) An estimate of their actual cash value.

(4) The declaration of abandonment must contain:

(a) A statement that premises occupied as a residence or claimed as a homestead no longer constitute the owner's homestead;

(b) A legal description of the premises; and

(c) A statement of the date of abandonment.

(5) The declaration of homestead and declaration of abandonment of homestead must be acknowledged in the same manner as a grant of real property is acknowledged.

[1993 c 200 § 3; 1987 c 442 § 204; 1981 c 329 § 9. Formerly RCW 6.12.045.]

NOTES:

Severability—1981 c 329: See note following RCW 6.21.020.

APPENDIX C

RCW 6.13.030

Homestead exemption limited.

A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of one hundred twenty-five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, in which event there shall be no dollar limit on the value of the exemption.
[2007 c 429 § 1; 1999 c 403 § 4; 1993 c 200 § 2; 1991 c 123 § 2; 1987 c 442 § 203; 1983 1st ex.s. c 45 § 4; 1981 c 329 § 10; 1977 ex.s. c 98 § 3; 1971 ex.s. c 12 § 1; 1955 c 29 § 1; 1945 c 196 § 3; 1895 c 64 § 24; Rem. Supp. 1945 § 552. Formerly RCW 6.12.050.]

NOTES:

Purpose—1991 c 123: "The legislature recognizes that retired persons generally are financially dependent on fixed pension or retirement benefits and passive income from investment property. Because of this dependency, retired persons are more vulnerable than others to inflation and depletion of their assets. It is the purpose of this act to increase the protection of income of retired persons residing in the state of Washington from collection of income taxes imposed by other states." [1991 c 123 § 1.]

Severability—1981 c 329: See note following RCW 6.21.020.

Severability—1971 ex.s. c 12: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 12 § 5.]

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington that I am over the age of 18 years, not a party to the above-entitled action, and competent to be a witness herein. On the date stated below, I filed the above document via the Appellate Court E-File Portal by way of which counsel for all parties will be served.

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DATED this 26th day of February 2021

s/ *Cheryl Seelhoff*
Cheryl Seelhoff, Legal Assistant

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