

Tex. Prop. Code § 12.0071

Section 12.0071 - Motion to Expunge Lis Pendens

- (a) A party to an action in connection with which a notice of lis pendens has been filed may:
- (1) apply to the court to expunge the notice; and
 - (2) file evidence, including declarations, with the motion to expunge the notice.
- (b) The court may:
- (1) permit evidence on the motion to be received in the form of oral testimony; and
 - (2) make any orders the court considers just to provide for discovery by a party affected by the motion.
- (c) The court shall order the notice of lis pendens expunged if the court determines that:
- (1) the pleading on which the notice is based does not contain a real property claim;
 - (2) the claimant fails to establish by a preponderance of the evidence the probable validity of the real property claim; or
 - (3) the person who filed the notice for record did not serve a copy of the notice on each party entitled to a copy under Section 12.007(d).
- (d) Notice of a motion to expunge under Subsection (a) must be served on each affected party on or before the 20th day before the date of the hearing on the motion.
- (e) The court shall rule on the motion for expunction based on the affidavits and counteraffidavits on file and on any other proof the court allows.
- (f) After a certified copy of an order expunging a notice of lis pendens has been recorded:
- (1) the notice of lis pendens and any information derived or that could be derived from the notice:
 - (A) does not:
 - (i) constitute constructive or actual notice of any matter contained in the notice or of any matter relating to the action in connection with which the notice was filed;
 - (ii) create any duty of inquiry in a person with respect to the property described in the notice; or
 - (iii) affect the validity of a conveyance to a purchaser for value or of a mortgage to a lender for value; and
 - (B) is not enforceable against a purchaser or lender described by Paragraph (A)(iii), regardless of whether the purchaser or lender knew of the lis pendens action; and
 - (2) an interest in the real property may be transferred or encumbered free of all matters asserted or disclosed in the notice and all claims or other matters asserted or disclosed in

the action in connection with which the notice was filed.

(g) The court in its discretion may require that the party prevailing in the expunction hearing submit an undertaking to the court in an amount determined by the court.

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Amended by Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 47, Sec. 1, eff. 9/1/2017.

Added by Acts 2009, 81st Leg., R.S., Ch. 297, Sec. 2, eff. 9/1/2009.
