



Owely of Partition Refinance Workflow – Legal & Filing Steps, Templates, and Title checklist

Important: This is Texas-specific and assumes a refinance scenario before final divorce. Attorneys should always draft and review legal documents; lenders and title companies coordinate compliance and filing.

1. Initial Client & Attorney Meeting

Purpose: Determine if one spouse will keep the home and buy out the other's share.

Who's Involved: Client + Family Law Attorney

Key Actions:

- Attorney gathers property info (address, value, mortgage payoff).
 - Decide if **owelty lien** will be used instead of selling the home.
 - Attorney explains that an owelty lien:
 - Is secured against the property
 - Can be paid at refinance closing
 - Is specifically recognized by Texas Constitution, Art. XVI, Sec. 50(a)(3)
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2. Lender Prequalification

Purpose: Confirm the staying spouse can refinance and pay the owelty amount.

Who's Involved: Loan Officer, Client

Key Actions:

- Run full prequal (credit, income, assets).
 - Calculate max loan amount and equity available.
 - Communicate results to attorney so the partition agreement matches reality.
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3. Drafting the Partition Agreement

Purpose: Create a binding settlement on property division.

Who Prepares: Family Law Attorney (never the lender or title)

Key Actions:

- Agreement includes:
 - Legal description of property
 - Statement that the property is subject to an **owelty of partition lien** in favor of departing spouse
 - Exact dollar amount or formula for lien
 - Agreement states lien will be satisfied via refinance before final decree.
 - Sign and file agreement with the court (get file stamp).
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4. Preparing the Owelty Deed (Deed of Trust to Secure Owelty)

Purpose: Creates the lien against the property for the departing spouse's share.

Who Prepares: Attorney (sometimes title company's attorney will prepare final format)

Key Actions:

- Identifies grantor (departing spouse) and grantee (staying spouse).
 - References the partition agreement.
 - Describes property with full legal description.
 - Specifies lien amount.
 - States that lien is for division of community property.
 - Must be notarized by both parties.
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5. Filing the Owelty Deed

Who Files:

- **Attorney's office** will record the Owelty Deed.
- Must be recorded **prior to loan application**.

Where Filed: County Clerk in county where property is located.



6. Refinance Processing

Who's Involved: Lender + Title Company

Key Actions:

- Lender starts loan application.
 - Title orders updated title commitment showing owelty lien.
 - Appraisal ordered by lender.
 - Payoff to departing spouse set up as closing disbursement.
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7. Closing

Who Runs Closing: Title Company Escrow Officer

Key Actions:

- Both spouses may need to sign documents (depending on timing of divorce).
 - Departing spouse's lien is paid from loan proceeds.
 - Title records new deed (if applicable), deed of trust to lender, and lien release (if part of same transaction).
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8. Post-Closing

Who Handles: Title Company

Key Actions:

- Confirm lien satisfaction is recorded (if lien was separate and now paid).
 - Provide final recorded documents to all parties.
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Who Does What – Quick Reference Table

Document / Step	Prepared By	Filed By / With
Partition Agreement	Family Law Attorney	Filed with Court – get file stamp
Owely Deed (Deed of Trust to Secure Owely)	Family Law Attorney	County Clerk (Attorney)
Refinance Loan Docs	Lender	Title records new deed of trust
Owely Lien Release (after payout)	Title Company	County Clerk
Divorce Decree	Family Law Attorney	Filed with Court

1. Suggested Attorney Language for Partition Agreement

(To be reviewed/adapted by the attorney – this is just a model)

Property Division – Owely of Partition

The parties acknowledge that the marital residence located at:

[Full Property Address, City, County, TX ZIP]

Legal Description: [Insert full legal description]

is awarded to **[Name of Staying Spouse]**, subject to existing liens of record and a lien in favor of **[Name of Departing Spouse]** in the amount of **[\$[Exact Dollar Amount]** as an **Owely of Partition lien** pursuant to Article XVI, Section 50(a)(3) of the Texas Constitution and Section 9.007 of the Texas Family Code.

This lien shall be secured by a Deed of Trust to Secure Owely of Partition executed contemporaneously herewith and shall be satisfied through refinance prior to the entry of the Final Decree of Divorce, unless otherwise agreed in writing by both parties.



2. Template – Deed of Trust to Secure Owelty of Partition

(Attorney-prepared; title company often provides final form at closing)

DEED OF TRUST TO SECURE OWELTY OF PARTITION
STATE OF TEXAS
COUNTY OF [County Name]

Date: [Date]

Grantor(s): [Departing Spouse's Full Legal Name]

Grantor's Mailing Address: [Address]

Trustee: [Trustee Name – often title company attorney]

Grantee: [Staying Spouse's Full Legal Name]

Property Address: [Full Property Address]

Legal Description: [Insert full legal description]

RECITALS

Grantor and Grantee were formerly married, and in connection with the division of community property, the parties executed a Partition Agreement providing for the conveyance of Grantor's interest in the above-described property to Grantee.

As part of the consideration for such conveyance, Grantee agreed to pay Grantor the sum of **[\$Exact Amount]**, secured by this Deed of Trust to Secure Owelty of Partition.

TERMS

1. Grantor conveys to Trustee, in trust, the property described above, to secure the payment of the Owelty amount.
2. This lien is created under Article XVI, Section 50(a)(3) of the Texas Constitution and is for the purpose of an owelty of partition incident to divorce.
3. The lien shall be satisfied through refinance or other agreed means as provided in the Partition Agreement.

SIGNATURES & ACKNOWLEDGMENTS

Grantor(s) Sign Here

[Notary Block]
