**Quitclaim Deed**

A quitclaim deed transfers only the interest the grantor has in the land, and not the land itself. If the grantor of a quitclaim deed has complete ownership at the time of the execution of the deed, a quitclaim deed will pass complete ownership to the grantee. A quitclaim deed contains no covenants or warranties of title. If a grantor of a quitclaim deed conveys land that is encumbered or land not owned by the grantor, the grantee usually, absent some evidence of fraud, is without claim against the grantor. Quitclaim deeds often are found in other forms of deeds, such as foreclosure deeds (deeds received from foreclosures of property by mortgage or tax foreclosures), executor’s deeds (deeds executed by the executor of an estate), administrator’s deeds (deeds executed by an administrator of an intestate estate), and trustee’s deeds (deeds executed by the trustee of a trust). A quitclaim deed is referred to in some states as a release deed or bargain and sale deed. Independent investigation of the title to the land is essential in a transaction that involves a quitclaim deed.

Generally speaking, purchasers of land will want the best kind of deed: the general warranty deed. The type of deed typically is negotiated within the contract for sale of the land, and every effort is made to obtain the best deed.

**BASIC REQUIREMENTS OF A VALID DEED**

The basic requirements of a valid deed are (a) written instrument, (b) competent grantor, (c) identity of the grantee, (d) words of conveyance, (e) adequate description of land, (f) consideration, (g) signature of grantor, (h) witnesses, and (i) delivery of the completed deed to the grantee. Written Instrument A deed must be in writing, but no generally prescribed form is essential to the validity of a deed. Even a letter could constitute a valid deed in most states, provided all the requirements were met. Some states—for example, New York—prescribe by statute the form of a deed and the specific language that must be used for the deed to be valid. The law of the state in which the real property to be transferred is located will control as to the form required for the deed. Paralegals should review the appropriate law before a deed is prepared.

**Competent Grantor**

The deed must be signed by a party who is competent. Deeds executed by minors (people under the age of eighteen years) are voidable, and deeds executed by mentally incompetent people usually are void. Partnership deeds should be executed by all the partners, and corporate deeds should have proper corporate authority from the board of directors. The grantor also must be the owner or have an ownership interest in the land conveyed by the deed.

**Identity of the Grantee**

A deed must identify with certainty the grantee. A deed to a nonexistent grantee is thought to be void. Every effort should be made to correctly identify the name of the grantee for both individual and corporate deeds. For corporations, the correct name is obtained from the corporate records division of the secretary of state’s office in the state of incorporation.

**Words of Conveyance**

A deed must contain words of conveyance that indicate the grantor’s intent to make a present conveyance of the land by the instrument. No special words are needed, but words such as grant, convey, assign, set over, transfer, and give have all been held to express the intent to pass title and are sufficient to make an instrument a deed.

**Description of the Property**

The deed must describe the land being conveyed with specificity. A platted description, government rectangular survey description, or metes and bounds description based upon a registered land surveyor’s survey should be used. A deed conveys only the land described in the deed. The deed will convey all improvements, buildings, air rights, mineral rights, fixtures, and other appurtenances that belong to the owner of the land unless excluded by express reference.

**Consideration**

A deed must have consideration to be valid. Consideration is defined as something of value given for the deed. This value is the purchase price of the land being conveyed, although gift deeds for love and affection are recognized in all states. A recital of consideration is sufficient. A typical recital of consideration may be “for Ten Dollars and other good and valuable consideration.”

**Signature of Grantor**

The grantor is the only person required to sign the deed. Deeds are not signed by the grantee. Some states, however, require that the grantee sign if the grantee is assuming the payment of a mortgage on the land or is purchasing a condominium and intends to be bound by the covenants and restrictions of the condominium. Although a few states dictate where the deed must be signed, deeds typically are signed in the lower right-hand corner. States that recognize dower or curtesy require a signature of the grantor’s spouse in order for the dower or curtesy interest to be released from the conveyed property.

**Witnesses of Deeds**

The requirement for the witnessing, attestation, or acknowledgment of the grantor’s signature to a deed varies from state to state. Some states require that deeds be witnessed only to permit the deed to be recorded. In these states, a deed is valid between the parties without recordation and therefore valid without witnessing. Other states require that the grantor’s signature must be witnessed for the deed to be valid. Therefore, within these states, all deeds must be witnessed. Each state has its own witnessing requirements in terms of number and who may be a witness to a deed. A witness may be a notary public or other disinterested person. An interested witness, such as the grantee, cannot witness the grantor’s signature to a deed. The usual number of required witnesses is two. Some states do not require that the grantor’s signature be witnessed. States that do not require witnesses usually require that the signature be authenticated by a notary public.

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