

## **FAQs – Wisconsin Register of Deeds Association**

### ***What help can the Register of Deeds office provide for drafting my own real estate documents?***

The Register of Deeds office is charged with the duty of being an independent custodian of records relating to real estate. As such, the only area we can assist you in is general process questions. We cannot assist you in the actual drafting of documents. We highly recommend that you obtain legal counsel for these transactions.

Although several legal documents have been developed into "fill-in-the-blank" style forms and appear to be very easily completed, it is the answers to those fill-in-the-blank questions that are critically important. Those answers can vary widely from person to person. Determining the correct answer for your situation constitutes "legal advice" we are not licensed to practice real estate law. Even if we were, our role as custodian of the records would still prevent us from assisting in the creation of the records.

### ***I am considering buying a parcel of real estate. How can I find out what liens, if any have been filed against it?***

If you are borrowing money from a financial institution in order to make the purchase, a title search will be ordered by that financial institution well in advance of the closing. This search will reveal any outstanding liens.

If no financial institution is involved, then you will want to contract directly with a title company for a complete title search.

### ***Can I do my own title search?***

Strictly speaking, the answer is "yes". Practically speaking, however, the answer is probably "no".

The records in the Register of Deeds office are open for public inspection. However, unless you are familiar with how real estate records are organized and how to perform a "Grantor/Grantee" and a "Tract Index" search, it will be easier for you to find the proverbial "needle in a haystack". Additionally, there may be documents on file with other county offices that may impact the property you are interested in.

It is our experience that the expertise a professional title searcher offers is well worth the money you will spend – especially when you compare it to the value of the transaction you are about to enter.

### ***Can the Register of Deeds tell me if I have good and clear title?***

No. The Register of Deeds office is not authorized to render opinions regarding the status of title. Professional title examiners or abstractors use the records in our office as well as searching records in other county offices to determine if the title is good and clear.

### ***How do I change my deed so that it reflects my current name?***

This question is more complex than it seems at first. In its simplest form, you are not required to take any action. When you sell the property at some point in the future, simply indicate on the deed, for example: "Mary Smith, nka (now known as) Mary Jones hereby grants...etc."

However, there are many other details that impact the answer to this question. The most important of which is Wisconsin's Marital Property law. This law assumes that property used by a couple during the course of a marriage is jointly owned unless specified otherwise.

If you wish to remain the sole owner of the property and do not intend to convey any interest in the property to your spouse, steps must be taken prior to and during the marriage to assure that this occurs.

If, however, you intend for your spouse to share in the ownership of the property, there are a number of ways a married couple can hold title to property and each one has distinct legal implications. Depending on your financial status, age and other factors, a trust might even be advisable.

As you can see, it is best to seek the help of an attorney to draft a deed that will accomplish your goals.

***If one trustee of a trust dies, is it necessary to take any immediate action?***

According to a member of the Probate and Real Property Section of the Wisconsin State Bar Association that we conferred with, the answer is "No." The trust remains in effect. However, it is prudent to review the trust with your attorney periodically to determine if modifications to the trust would be advisable

***We recently paid off the mortgage on our home. When will we get a new deed showing that we no longer owe the bank anything?***

Under Wisconsin law, you only ever receive one deed to your property and you should have received it shortly after you closed on your property.

If you take a look at your deed, you will notice that your name appears as a "grantee" but the bank is never mentioned. So, when you pay your mortgage in full, it is not necessary to update your deed.

What does need to be done is to have a "Satisfaction of Mortgage" document recorded with the Register of Deeds office. Financial institutions are required to record such a document within a specified timeframe. If you received a "Satisfaction of Mortgage" endorsed with a time, date and document number from a Register of Deeds office, nothing further needs to be done. If you have not received the endorsed satisfaction, you should check with your lender to be certain they processed the appropriate paperwork.

***I paid off a Federal Income Tax Lien but it is still showing on my credit report. Why?***

While Federal Income Tax Liens are recorded in the Register of Deeds office we have no jurisdiction over the lien itself or any release documentation once the lien is satisfied. We cannot record a Release unless one is presented to us for recording.

The IRS changed their procedures several years ago and now consider their liens to be "self releasing" after a certain number of years. As a result they do not record Release of Lien documents as they used to do.

It is our observation that credit-reporting agencies generally do not read documents, they only look at the index. However, if you contact the IRS, their staff may prepare a Certificate of Release that you can record. This should clear your credit report. Contact the manger in charge of preparation of federal tax liens at 414-297-1216 and ask for assistance.

***I have been told I need to get a "legal description" of my property. Where do I get that?***

The legal description of your property appears on your deed.

While this seems simple enough, it can be complicated by two factors. If your property consists of a number of small parcels that have been combined over time, a simple concise legal description may not exist. The opposite can also be a problem. Your property may have previously been a large parcel from which smaller parcels were sold off. In both of these cases, several documents and some interpretation may be required to construct a legal description.

If the history of your parcel fits into either of the above descriptions, you should contact a registered land surveyor for professional assistance in writing an accurate, updated legal description.