



The basic requirements for a Deed (and for most other instruments) are:

- Operative words (in a Deed the usual word is “grant”);
- Define parties who are identified in the heading of the Deed;
- A grantee who can own property (deceased persons and business firms that are just fictitious names cannot own property);
- A complete legal description (a street address does not give the exact location of the boundaries of the property and so is not adequate);
- A Deed must be delivered to the control of the grantee before it takes effect (the signed Deeds in our files waiting for the escrow to close are not effective because they have not been delivered).

GRANT DEEDS AND QUITCLAIM DEEDS

Grant Deeds and Quitclaim Deeds have pretty much the same effect. Grant Deeds are usually used for a sale of property or to transfer a specific interest. A Quitclaim Deed is usually used to clear up some indefinite claim on the property.

GIFT DEEDS

A Gift Deed is just as effective as any other Deed in transferring property. There are taxes due from the gift that have to be paid or they are a lien on the property. We sometimes question whether the Deed was delivered because people frequently make a Gift Deed and mean for it to take effect after they die and this is legal.

“BONA-FIDE PURCHASER FOR VALUE”

There are many title problems that are cured when property is deeded to a “bona-fide purchaser for value” who does not know about the problem. If a person acquires property without paying value for it, he is subject to all sorts of possible problems such as an unrecorded Deed of Trust made by his grantor.

WHAT A DEED TRANSFERS

A Deed not only transfers ownership of the land, but also the buildings on the land plus the equipment and fixtures in the building that are fastened down. A Deed also transfers all appurtenances to the property such as easements that are for the benefit of the property, the right to collect rent from the tenants, etc.

CORRECTING ERRORS

Deeds and other instruments are complete once they are signed. We can't change them in any major respect. When a Deed is wrong, the only way to correct it is to get a new Deed or have the grantors initial changes on the old one.

SIGNATURE

A Deed has to be signed by the grantor the same way his name appears at the heading of the Deed. This is important because we usually have no other way of being sure that the grantor is the same as the person signing.

MINORS OR INCOMPETENT PERSONS

You can deed property to minors or to incompetent or insane persons. But they cannot sign a Deed or any other instrument themselves. They have to have a Guardian appointed in court to sign for them. An Escrow Officer is frequently the only one who can tell if a seller is a minor or is unable to understand what he is doing because the Escrow Officer is usually the only one to see the seller.