

TITLE TALK

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Disclaimer

PLEASE NOTE: the information in this hand out is not being presented by a licensed attorney, nor shall be construed as legal advice, and although deemed accurate, is only provided for the purpose of discussion for today's presentation. Also, nothing in this presentation is intended to contradict any advise from your county attorney.

What does a cake and title have in
common?



FEE TITLE

EQUITABLE

LIFE ESTATE

LEASEHOLD

MINERAL RIGHTS

REVERSIONARY RIGHTS

OPTIONEES RIGHTS

EASEMENT

- **EQUITABLE:** a buyer purchasing property on an agreement for sale and will receive fee title upon payment in full via a payoff title from seller.
- **LIFE ESTATE:** this interest holder has the right to occupy the property even though someone else owns the fee title.
- **LEASEHOLD:** tenant rights granted by a written or verbal lease
- **MINERAL:** someone else owns the minerals under or on the surface of the property and they may or may not have the right of surface entry to remove said minerals.
- **REVERSIONARY RIGHTS:** Deed restrictions/CCR's may contain a provision for the title to revert to the Declarant due to a violation on one or more items contained in said document.
- **OPTIONEES RIGHTS:** the holder of this interest has the right to purchase or re-purchase property by written agreement.
- **EASEMENT:** the holder of this interest has a right to use all or portion of the property for a specific purpose(s), such as ingress, egress, utilities, encroachment(s), scenic/view, drainage, avigation, etc.

FEE (AKA FEE SIMPLE) -

This is the most common type of title interest. Fee is a complete ownership of land. It is also the highest form of ownership.

Complete fee does not have any other title interests of record in the property. Most fee title owners are subject to other types of previously recorded interests.

Assessor does not insure title and title companies do not have coverage for acts of the assessor, such as unwillingness to process a conveyance or split.

Although the above is true, it is beneficial for both to work with each other for the benefit of the taxpayer/insured owner.

Title Issues Can Affect Value - (Some are curable and some are not)

Examples:

1. Lack of legal access
2. Easements

Trusts

When title to property is held in a Trust, there are times that when said property is sold/conveyed the Trustee may be a different than the acquiring Trustee due to death, resignation and termination of said original Trustee. Said Trust is bound by the Trust agreement and any amendments thereof. This document can be sensitive and private, therefore not usually recorded, making it impossible for the Assessor to view the succession of Trustees.

Affidavits of Value

- One of many documents created in the course of a typical escrow.
- Information derived from the sales contract and input from buyer and seller.
- We consider the “date of sale” to occur when there is a “meeting of the minds” being the date of mutual acceptance by buyer and seller of the contract.
- Close of escrow date is considered the date of recording of the closing documents, being the date that all items required to consummate the contract have been completed.

Ways to Take Title in Arizona

Community Property:

Since Arizona is a community property state, by statute all property acquired by husband and wife is presumed to be community property unless stipulated otherwise. Community property ownership can apply only to married persons. The interest of a deceased spouse may pass either by Will or by Intestate Succession.

Community Property With Right of Survivorship:

Community Property with Right of Survivorship is co-ownership by husband and wife providing for the surviving spouse to retain full title after the death of the other spouse. Allows for a stepped-up tax basis for Capital Gains Taxes to a surviving spouse.

Joint Tenancy With Right of Survivorship:

Joint Tenancy is a method of co-ownership that gives title to the last surviving Joint Tenant.

Ways to Take Title in Arizona (Cont.)

Tenants In Common:

A method of co-ownership where the parties do not have survivorship rights and each owns a specific undivided interest in the entire title.

Sole and Separate:

Real property owned by a spouse prior to marriage or acquired after marriage by gift or devise, descent or specific intent. When a married person acquires title as Sole and Separate Property, his/her spouse must execute a Disclaimer Deed.

Ways to Take Title in Arizona (Cont.)

Corporation:

Title may be taken in the name of a corporation provided the corporation is duly formed and in good standing in the States of its corporation.

General Partnership:

Title may be taken in the name of a General Partnership duly formed under the laws of the State of the formation of the Partnership. A partnership is defined as a voluntary association of two or more parties as co-founders in a business for profit.

Questions???

The End