

REAL ESTATE TERMS

Abstract of Title — A condensed history or summary of all transactions affecting a particular tract of land.

Acknowledgment — The act by which a party executing a legal document goes before an authorized officer or notary public and declares the same to be his or her voluntary act and deed.

Acre — A tract of land 208.71 feet square and containing 43,560 square feet of land.

Administrator — A person appointed by a probate court to settle the affairs of an individual dying without a will. The term is “administratrix” if such a person is a woman.

Affidavit — A sworn statement in writing.

Agent — A person or company that has the power to act on behalf of another or to transact business for another, e.g., a title agent under contract with Old Republic Title to issue policies of title insurance.

Air Rights — The right to ownership of everything above the physical surface of the land.

ALTA — American Land Title Association, a national association of title insurance companies, abstractors and attorneys specializing in real property law.

ALTA Settlement Statement — The most common form of an ALTA Settlement Statement is the Combined Settlement Statement which itemizes all of the credits and costs associated with a real estate transaction for both buyer and seller. It's divided up into sections so buyers and sellers can see the types of fees and costs they are paying.

Appurtenance — Anything so annexed to land or used with it that it will pass with the conveyance of the land.

Assessment — The imposition of a tax, charge or levy, usually according to established rates.

Assignee — One to whom a transfer of interest is made. For example, the assignee of a mortgage or contract.

Assignor — One who makes an assignment. For example, the assignor of a mortgage or contract.

Attorney in Fact — One who holds a power of attorney from another allowing him or her to execute legal documents such as deeds, mortgages, etc., on behalf of the grantor of the power.

C & R 's — Covenants, Conditions and Restrictions.

Chain of Title — A term applied to the past series of transactions and documents affecting the title to a particular parcel of land.

Clear Title — One which is not encumbered or burdened with defects.

Closing — Also known as “escrow” or “settlement.” The process of executing legally binding documents, such as deeds and mortgages most commonly associated with the purchase of real estate and the borrowing of money to assist in the purchase.

Closing Disclosure (Buyer) — The Closing Disclosure is a five-page form that describes, in detail, the critical aspects of a mortgage loan, including purchase price, loan fees, interest rate, estimated real estate taxes and insurance, closing costs and other expenses.

Closing Disclosure (Seller) — When a mortgage loan is involved, the Seller receives a Closing Disclosure. The Seller's Closing Disclosure shows the purchase price and then a line item breakdown of every cost paid by the seller in two columns of whether it was paid before or at closing.

Clouded Title — An encumbered title.

Commitment to Insure — A report issued by a title insurance company, or its agent, committing the title insurance company to issue the form of policy designated in the commitment upon compliance with and satisfaction of requirements set forth in the commitment.

Condemnation — Taking private property for public use through court proceedings.

Condition or Conditions — A proviso in a deed or will that, upon the happening or failure to happen of a certain event, limits, enlarges, changes or terminates the title of the purchaser or devisee.

Condominium — A system of individual fee ownership of units in a multi-unit structure, combined with joint ownership of common areas of the structure and land.

Conservator — See “Guardian.”

Contract for Deed — An agreement to sell and purchase under which title is held as security by the seller until such time as the required payments to the seller have been completed.

Convey — The act of deeding or transferring title to another.

Conveyance — An instrument by which title is transferred; a deed. Also, the act of transferring title.

Cooperative — A residential multi-unit building owned by a corporation in which each unit is occupied by a member of the corporation pursuant to a lease or occupancy agreement.

Covenant — An agreement written into deeds and other instruments promising performance or non-performance of certain acts, or stipulating certain uses or non-uses of the property.

Deed — A written document by which the ownership of land is transferred from one person to another.

Deed of Trust — See “Mortgage.”

Devise — The disposition of real property by will.

Earnest Money — Advance payment of part of the purchase price to bind a contract for property.

Easement — An interest in land owned by another that entitles its holder to a specific limited use, such as laying a sewer, putting up electric power lines, or crossing the property.

Eminent Domain — The power of the state to take private property for public use upon payment of just compensation.

Encroachment — A trespass or intrusion onto another’s property, usually by a structure, wall or Fence.

Encumber — To burden a parcel of land with a lien or charge, e.g., a mortgage.

Encumbrance — A lien, liability or charge upon a parcel of land.

Escrow — A procedure whereby a disinterested third party handles legal documents and funds on behalf of a seller and buyer, and delivers them upon performance by the parties.

Estate — A person’s possessions. The extent of a person’s interest in real property.

Examination of Title — The investigation and interpretation of the record title to real property based on the title search or abstract.

Exception — In legal descriptions, that portion of land to be deleted or excluded. The term often is used in a different sense to mean an objection to title or encumbrance on title.

Executor — A person appointed by the probate court to carry out the terms of a will. The term is “executrix” if that person is a woman.

Fee Simple Estate — The greatest interest in a parcel of land that it is possible to own. Sometimes designated simply as “Fee.”

Fixtures — Any item of property so attached to real property that it becomes a part of the real property.

Flood Certification — A common term for a Federal Emergency Management Agency (FEMA) Standard Flood Hazard Determination Form (SFHDF). This determines whether land or a building is located within a Special Flood Hazard Area for purposes of flood insurance requirements under the National Flood Insurance Program.

Grantee — A person who acquires an interest in land by deed, grant, or other written instrument.

Grantor — A person, who, by a written instrument, transfers to another an interest in land.

Guardian — One appointed by the court to administer the affairs of an individual not capable of administering his or her own affairs.

Heir — One who might inherit or succeed to an interest in land of an individual who dies without leaving a will (intestate).

HUD 1 — The HUD-1 Settlement Statement was the standard statement used to itemize all charges for buyers and sellers in a real estate transaction until 2015. Since 2015, the Closing Disclosure has replaced the HUD-1 for most real estate closings.

Insurance — A contract of indemnity against specified perils.

Intestate — Designates the estate or condition of failing to leave a will at death. “To die intestate.”

Joint Tenancy — An estate where two or more persons hold real estate jointly for life, the survivors to take the undivided interest in the entire parcel, with both having the right to use all of it and the right of survivorship, which means that upon the death of one joint tenant, the other has title to it all.

Judgment — A decree of a court. In practice this is the lien or charge upon the lands of a debtor resulting from the Court’s award of money to a creditor. See “Judgment Lien.”

Judgment Lien — The charge upon the lands of a debtor resulting from the decree of a court properly entered into the judgment docket.

Lender’s Policy — A form of title insurance policy which insures the validity, enforceability and priority of a lender’s lien. This form does not provide protection for the owner.

Lien — A hold, claim, or charge allowed a creditor upon the lands of a debtor. Some examples are mortgage liens, judgment liens, mechanics’ liens.

Life Estate — A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

Lis Pendens — A notice recorded in the official records of a county to indicate that a suit is pending affecting the lands where the notice is recorded.

Loan Policy — See “Lender’s Policy.”

Mechanic’s Lien — A lien allowed by statute to contractors, laborers and material suppliers on buildings or other structures upon which work has been performed or materials supplied.

Metes and Bounds — A description of land by courses and distances.

Mortgage — An instrument used to encumber land as security for a debt.

Mortgagee — The mortgage lender.

Mortgagee’s Policy — See “Lender’s Policy.”

Mortgagor — The mortgage borrower.

Note — The instrument evidencing the indebtedness secured by a security instrument such as a mortgage or deed of trust.

Owner’s Policy — A policy of title insurance which

Personal Representative — A person appointed by the probate court to administer a decedent’s estate. See also “Executor” or “Administrator.”

Plat or Plot — A map representing a piece of land subdivided into lots with streets shown there on.

Policy — A written contract of title insurance.

Policy Owner — The insured on a title insurance policy.

Power of Attorney — An instrument authorizing another to act on one’s behalf as his or her agent or attorney.

Prorate — To allocate between seller and buyer their proportionate share of an obligation paid or due.

Quiet Title — An action in a proper Court to remove record defects or possible claims of other parties named in the action.

Real Property — Land, together with fixtures, improvements and appurtenances.

Right-of-Way — The right which one has to pass across the lands of another. An easement.

Second Mortgage — A second loan on real estate that a l ready has a mortgage. It is subordinate to the first mortgage. Usually of shorter term and often at a higher interest rate.

Sub-surface Right — The right of ownership to things lying beneath the physical surface of the property.

Survey — The process of measuring land to determine its size, location and physical description and the resulting drawing or map.

Tenancy by the Entirety — Ownership by married persons where each owns the entire estate, with the survivor taking the whole upon the other's death.

Tenancy in Common — An estate or interest in land held by two or more persons, each having equal rights of possession and enjoyment, but without any right of succession by survivorship between the owners.

Tenant — Any person occupying real property with the owner's permission.

Testament — Another term for a will. Commonly referred to as "last will and testament."

Testate — The estate or condition of leaving a will at death. "To die testate."

Testator — A man who makes or has made a testament or will.

Testatrix — A woman who makes or has made a testament or will.

Title — The evidence of right which a person has to the ownership and possession of land.

Title Defect — Any legal right held by others to claim property or to make demands upon the owner.

Title Insurance — Insurance against loss or damage resulting from defects or failure of title to a particular parcel of real property.

Title Search — An examination of public records, laws, and court decisions to disclose the current facts regarding ownership of real estate.

Tract — A particular parcel of land.

Trust — A property right held by one as a fiduciary for the benefit of another.

Trustee — A person holding property in trust as a fiduciary for the benefit of another.

Vest — To pass to a person an immediate right or interest.

Vestee — A non-legal term used by title insurers to indicate the owner of real property in a policy or report.

Warranty — A promise by the grantor of real property that he or she is the owner and will be responsible to the buyer if title is other than as represented.

Will — A written document providing for the distribution of property owned by a person after his or her death.

Zoning — The right of a municipality to regulate and determine the compatible character and use of property.