

Trust Deeds & Reconveyances



Trust Deeds and Reconveyances: Who Are The Players?

Some of the most common types of documents title companies find when searching real property records are trust deeds (sometimes referred to as deeds of trust) and reconveyances. We find however that many owners and buyers do not understand how a trust deed works, who is involved or what rights and duties are created thereby. Having a basic knowledge of these instruments can help sellers and buyers understand better why certain items are shown or not shown on a preliminary report.

Simply put a trust deed is an arrangement among three parties: the borrower, the lender, and an impartial trustee. In exchange for a loan of money from the lender, the borrower places legal title to real property in the hands of the trustee who holds it for the benefit of the lender, named in the deed as the beneficiary.

The three parties on a trust deed are:

The Trustor -

The person (the borrower) conveying the property in trust.

The Trustee -

The fiduciary (an entity who has a position of trust and good faith) holding title to property for the benefit of another.

The Beneficiary - The lender secured by the trust deed.

It is customary for lenders of money to exact a written promise from their borrowers to repay money loaned to the borrower. This written promise to repay usually takes the form of a negotiable promissory note. Additionally, a real property security instrument such as a deed of trust is executed for the purpose of securing the payment of the note.

In California, the two party real property security instrument, called a mortgage, has been generally replaced by a three party security instrument called a deed of trust. In a deed of trust an owner of real property, called a trustor, conveys the property which is to serve as security, to a trustee, in trust.



The terms and conditions of the trust are for the purpose of securing trustor's performance (generally repayment of money) to a person called the beneficiary of the trust (generally a lender of money).

A deed of trust is satisfied when the debt it secures is paid or when the obligation it secures is fulfilled. A deed of trust is no longer a lien on the property if the debt or obligation it secures has been satisfied but it will remain a cloud on title until removed from the chain of title.

A reconveyance is a document that extinguishes the lien of a deed of trust and reconveys the title to the real property encumbered by the trust deed to the trustor or their successor.

When the debt or obligation secured by a deed of trust has been satisfied, the beneficiary, or successor, must execute a request for full reconveyance and any other documents necessary to cause the deed of trust to be reconveyed and submit these documents to the trustee. The trustee will then issue a reconveyance which is then recorded in the county wherein the deed of trust was recorded.

A common problem that sellers and title companies face is when an obligation secured by a trust deed has been paid off, but no reconveyance has been recorded. In some cases the beneficiary can no longer be found. If you face such a situation your real estate agent can contact your title company to discuss what options are available to you so as to be able to proceed with your transaction.