



TRUSTEE DEED VS. WARRANTY DEED

SPECIALIZING IN LUXURY HOMES, CONDOMINIUMS, AND SENIOR REAL ESTATE SERVICES

There's a lot of paperwork in the world of buying and selling real estate; the various types of deeds alone are enough to cause confusion. One size does not fit all when it comes to deeds like warranty deeds and trustee deeds. For instance, when dealing with the complicated matter of property that is held by a trust, there's a significance to which deed is appropriate when selling or otherwise transferring the title.



FUNCTIONS

The uses for warranty deeds and trustee deeds are the largest difference between the two documents. You can infer what each is used for from their names: warranty deeds provide a warranty on the title of the property to the grantee from the grantor, while trustee deeds are used to convey ownership of real estate that is being held in trust. Both documents essentially sign over ownership, but warranty deeds are extremely thorough in promising that the title is currently clear, and if complications on the title come to light in the future, the grantor guarantees that he will be responsible for clearing up the problems or compensating the grantee.

EXECUTORS

Because of the different functions of warranty deeds versus trustee deeds, there's a difference in who executes each one. Warranty deeds are a transaction between a grantor and a grantee, in most cases a buyer and seller. Trustee deeds can be executed only by the trustee of the trust that holds the real estate being conveyed.

ARE THEY INTERCHANGEABLE?

If there is no trust involved, a trustee deed cannot be used. However, in a case where real estate is being held in trust, either a trustee deed or a warranty deed can be used. A trustee deed is still the typical, preferred document to be used when property in a trust is sold or transferred, but if the sales contract specifies that a warranty deed is the desired document to convey ownership, the trustee can sign the warranty deed. It is essential that the sales contract and the warranty deed clearly state that the trustee is acting under the authority of his role as trustee of a particular trust.

RECORDING DEEDS

Usually it's vital that both types of deeds be recorded. There is a place on both documents for an official to notarize them, but once either deed is recorded there is no question as to who has legal title of the property. If a deed is left unrecorded, the property may have to go into probate upon the death of the owner of the real estate to clear the title, no matter which deed was used.

TITLE INSURANCE

Whether you obtain title to your property via a trustee deed or a warranty deed, you may purchase title insurance to assure the title is clear and that judgments do not exist against the property. The title insurance company conducts a title search before you purchase the property to ensure no outstanding home equity loan exists and that no creditor has placed a lien on the property. A title search will also identify any previous owner's heirs who may have prior claim to the property.

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