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- location
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No. 28

Everything You Need to Know About Real Estate Transfer Deeds

BY ANAND SRINIVASAN
KAPLAN REAL ESTATE EDUCATION

The ownership of every piece of land in the United States is recorded and held at the County Recorder's office. When ownership changes hands, this also needs to be reflected in the public records. This process of transferring interest over a real estate asset is known as conveyance.

A transfer deed is a document that acts as the proof of conveyance. In other words, it's the transfer of the ownership of a property. It has a property description that adheres to legal norms and identifies the current and subsequent owners. It also acknowledges the transfer between them in a language that legally specifies it as a deed.

It should be noted that a deed is dif-



ferent from a title. It is the vehicle through which the transfer of ownership takes place and not a legal right to the property, partial or complete.

When Is a New Deed Required?

Aside from selling the property to a new buyer, a transfer deed might be required in a few other scenarios. For instance, transfer

deeds are required as proof of transfer if someone is planning to transfer property to a family member or to a business at no cost or if someone is planning to fund a living trust. Changes in the names of the title of the property may also require a transfer deed as documentation.

Transfer deeds are usually carried out between the buyer and the seller with the help

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of a lawyer. In either case, if you are the real estate agent for the buyer, it's a good idea for the buyer to include you in the process as a witness. The witness is an important role should there be a conflict over the transaction in the future.

Types of Deeds

There are essentially three types of transfer deeds that are based on the particulars of the deed, such as what the grantor can convey and the warranties included in the deed.

A general warranty deed is one of

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AG James and DA Gonzalez Partner to Expand Housing Protection Initiative

BROOKLYN: New York Attorney General Letitia James and Brooklyn District Attorney Eric Gonzalez recently announced that they will be expanding their joint homeowner protection initiative to include protections for renters in New York City. The "Protect Our Homes" initiative, launched in January 2020 to educate New Yorkers about deed theft and other housing scams, will now include support for New Yorkers threatened with illegal evictions and other issues plaguing renters. In the wake of the COVID-19 pandemic and economic recession, more New Yorkers are struggling to remain in their homes, and as a result, there is an increased risk for illegal evictions, deed theft, and other housing scams.

In January 2020, Attorney General James launched the office's "Protect Our Homes" initiative with the formation of an interagency taskforce to focus on deed theft and homeowner fraud issues. The taskforce includes District Attorneys from all five boroughs in New York City and the New York City Sheriff's Office. The taskforce will now expand its efforts to in-



Attorney General James

clude issues targeting renters and evictions.

"In the wake of the COVID-19 pandemic, we are on the verge of an acute housing crisis in New York," said Attorney General James. "Longtime homeowners in New York City were already grappling with deed theft fraud, and economically challenged renters will soon be facing evictions. I am committed to working with District Attorney Gonzalez and our other government and legal service partners to use a combination of education and enforcement to help our neighbors stay in their homes."

"The impending housing crisis in Brooklyn will have devastating effects on our

community," said Brooklyn District Attorney Gonzalez. "We must do everything in our power to protect homeowners and renters from unscrupulous actors. I look forward to continue working with Attorney General James to ensure every Brooklynite can be safe in their home."

As housing courts begin to reopen and the eviction moratoriums lift, New Yorkers who lost their jobs and income due to the COVID-19 pandemic are at high risk for eviction. The taskforce will discuss emerging trends that are putting people at risk of displacement, review complaints, and take appropriate action as needed. The taskforce will also work to educate renters facing eviction about their rights, and, as appropriate, connect them with lawyers through New York City's Right to Counsel law. ■

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- Advise you on the best type of deed to use (there are many types of deeds).

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What's the Difference Between a Real Estate Agent and a Broker?



BY KAPLAN REAL ESTATE EDUCATION

When thinking about your long-term career goals in real estate, it's important to take some time to explore every option. Once you have a vision for your future in real estate, you can start planning how you will accomplish your goals.

A popular goal for many real estate agents is to become a real estate broker. You may already be aware that once you get your real

estate license, you can't work as an independent agent. You will need to join a brokerage in order to sell property. But what if your long-term goal is to work independently or to supervise other real estate agents? Maybe you would like to own a brokerage one day. In order to do that, you will need to become a real estate broker. In this article, we'll take a look at what a real estate broker does and how to plan to become a real estate broker in the future.



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BRIAN FIGEROUX, ESQ.

How are Real Estate Agents and Real Estate Brokers Different?

A real estate agent is an individual who has fulfilled all of their state's salesperson licensing requirements and has earned his or her real estate license. States have different requirements, but all require completing a certain amount of prelicensing education and passing an exam. After earning licensure, a real estate agent must be hired by a brokerage in order to perform real estate work. The brokerage provides the agent with the support, guidance, and sometimes the resources necessary to do their work. In return, the brokerage takes a split from the real estate agent's sales commission.

Real estate brokers earn not only their agent license but their state's broker license, as well. The additional licensure allows brokers more freedom and possibilities than real estate agents. Brokers can work under

a brokerage while supervising other agents (usually called a Broker Associate) or work independently while owning their own business (Broker Owner). While operating independently, they might decide to hire real estate agents to work under them in order to become more profitable. Ultimately, brokers have the opportunity to shape their own career path, with or without oversight from a brokerage.

This freedom is ideal for many prospective real estate agents. The career path of a real estate broker offers control, flexibility, and the potential to earn much more money. ■

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Real Estate Transfer Deeds/ *continued from page 1*

the most common forms of transfer deeds. It provides the greatest conveyance and protection to the buyer because it explicitly states that the property is free of liens and the seller holds no claims to its ownership. The buyer also reserves the right to sue the seller should this claim turn out to be false. A special warranty deed guarantees less than the general warranty deed. In this type of transfer deed, there is no guarantee against title defects or encumbrances that may have been present when the seller received the property nor does it obligate the seller to do anything further once the title is transferred. Special warranty deeds are frequently used by temporary holders of real estate assets such as corporations, trusts, or other fiduciaries who do not use or occupy the land for their own benefit.

A quitclaim deed is a particular type of special warranty transfer deed that carries no warranties at all. It merely conveys the interest that the grantor had in the property, whatever that may be. Quitclaim deeds are used to transfer rights where there is ambiguity over what those rights are in the first place. This is mostly commonly used to clear up title problems or to transfer property within a family or between spouses (especially after a divorce).

Joint Tenancy and Tenancy in Common

When more than one person is purchasing a property, it is important to determine how



these joint owners will take the title. There are two common types of shared ownership—joint tenants and tenants in common. The type makes no difference in most of the rights and duties of the co-owners, but it does affect how the asset would be treated upon the death of a co-owner.

In the case of joint tenancy, when one of the co-owners dies, the share of the deceased passes automatically to the surviving joint tenants, regardless of the existence of the deceased owner's will. In contrast to this, in the case of tenancy in common, the share in title of a dead co-owner is passed on to their heir or the people named in the deceased's will.

Recording the Deed

The last step in the conveyancing process is recording the deed, mortgage, or any other instrument in the county where the property is located. Even though it is commonly called the county recorder's office, land registry office, registrar or register of deeds, the name of the county office in-

involved with recording real estate instruments varies from state to state.

This last step of recording the deed is extremely important because the owner's interests are not fully protected unless and until the document is recorded. In addition to this, the sequence in which the deeds and other documents are recorded also determines the priority of various claims against the property.

Conclusion

Transfer deeds form the legal backbone to a buyer's or owner's right to a property. Poorly made transfer deeds or the absence of one could severely impact the right to property ownership. Even though these documents are generally short, as a real estate agent, it is important for you to understand their value and acknowledge their significance in the legal system. ■

Anand Srinivasan is the founder of Hubbion

Statement on Decision to End Fair Housing Rule



Congresswoman Ocasio-Cortez

Chhaya unequivocally condemns the Trump administration's decision to end the Affirmatively Furthering Fair Housing rule pursuant to the Fair Housing Act of 1968. As a housing counseling agency with 20 years of experience serving immigrant communities, Chhaya has seen the important role fair housing protections play in addressing discrimination as well as the work that remains to be done. Our counselors see dozens of cases of discrimination every year. Housing segregation continues to persist and needs to be addressed by all levels of government. The President's racist and classist tweet exclaiming suburban residents will be unburdened by affordable housing development, promising rising home values, and reduced crime as a result, is a full-blown endorsement of segregation and underscores exactly why the AFFH rule is needed.

The landscape of housing segregation in America was intentionally designed by federal agencies, local authorities, and the real estate industry to promote wealth and financial opportunity for white Americans while relegating black Americans and other communities of color to disinvested urban and rural neighborhoods with stagnating or plummeting land values, predatory financial services, and economic destitution. The Fair Housing Act, along with other key civil rights legislation, began the process of undoing the history of redlining and discrimination that has shaped our country's segregated neighborhoods and vast racial wealth gap.

A passive interpretation and implementation of the law during the decades that followed its passage allowed discrimination in housing to continue throughout the country. In 2015, the Obama Administration promulgated the AFFH rule, calling on municipalities who receive federal funds for housing to examine housing barriers that exist in their communities, report on housing segregation trends, and develop a plan to actively reduce segregation. We know that these efforts are still needed in today's America. In 2019, *Newsday* released a detailed, investigative piece that revealed rampant housing discrimination across Long Island.

Chhaya supports Representative Ocasio-Cortez and other house leaders who have introduced an amendment to the Fiscal 2021 House Transportation-HUD spending bill that would block the President's attempt to dismantle the AFFH rule. ■

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Lawmakers Aim to Stop COVID-19 Apartment Vacancies From Upending Rent Regulation



A bed sheet hung in Crown Heights, Brooklyn, is a sign of tough economic times during the pandemic. Hiram Alejandro Durán/THE CITY



State Senator Brad Hoylman (D-Manhattan) speaks in support of a group of criminal justice reform bills during an October rally at City Hall. Ben Fractenberg/THE CITY

BY RACHEL HOLLIDAY SMITH, THE CITY

There's an outside chance rising apartment vacancies due to COVID-19 could trigger an end to rent regulation in New York City — but two local lawmakers are looking to pandemic-proof tenant rights.

Twin bills were introduced in the State Senate and Assembly on Tuesday that would seek to protect regulated apartments by taking the vacancy rate out of the equation until well after the city emerges from the wide-ranging coronavirus crisis.

Rent regulation is legally underpinned by a decades-old definition of a “housing emergency” in New York, meaning less than 5% of available apartments are vacant.

If the housing stock goes above that figure, the longstanding argument for rent regulation — which some landlords have argued violates the U.S. Constitution — could go away.

The new legislation, introduced by Manhattan Democrats Sen. Brad Hoylman and Assemblyman Harvey Epstein, would put a pause on the official count of the city's vacancy rate — completed by the city Department of Housing Preservation and Development and the U.S. Census Bureau — until two years after the state's COVID-19 emergency declaration is over.

“This would forestall any ending of the housing emergency and allow the market to stabilize,” Hoylman told THE CITY on Wednesday.

The official vacancy tally, known as the Housing and Vacancy Survey, found New York had a 3.63% vacancy rate as of 2017. The next survey is set to be completed next year and released in 2022.

Playing the Long Game

Epstein said the goal of the legislation is to avoid having the next count be affected by temporary changes caused by New Yorkers who decided “short-term, not to stay” in the city.

“We don't want that to have any impact on the structure ... around affordable housing,” he said.

The legislation was introduced a day after THE CITY reported that rents are down and vacancies are up, inching toward the 5% benchmark.

In a statement, Kimberly Winston, a spokesperson for the landlord-run groups Rent Stabilization Association of NYC and the Community Housing Improvement Program (CHIP), slammed the bills. Both groups have sued to dismantle recent rent reforms in New York.

“This shows our elected officials aren't interested in what's really happening in the housing market or in solving problems,” Winston said. “They want to continue the disastrous policies of the last 50 years by penalizing property owners and pandering to constituencies they're afraid of — and that is a terrible way to govern.”

Cea Weaver, a leader with the Housing Justice For All coalition, which successfully lobbied for the rent reforms passed in Albany in 2019, said she supports efforts to make sure rent regulation is not killed by a “temporary and probably unusual increase” in the vacancy rate.

But she's not convinced there's much of a chance for the rate to push past 5% — and is not buying CHIP's recent figures on vacancy rates, including a survey by the group that showed vacancy rates for rent stabilized units had risen to 4.66% as of July 1.

“It's in their interest to create fear around

rent regulation,” Weaver said.

It remains to be seen whether the legislation will make it to Gov. Andrew Cuomo's desk. But Epstein believes there will be plenty of support in Albany for the idea.

“We just strengthened the rent laws last year,” he said. “We're not going to just let the vacancy rate result in losing all those protections.” ■

This story was originally published on July 29, 2020 by THE CITY.

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