# REGISTER OF DEEDS

## Glossary of Terms

**Abstract of Title:** A written history, synopsis or summary of the recorded instruments affecting the title to real property.

**Acknowledgment:** The process of establishing the fact that each signature on an instrument is genuine. In most cases, the signatures on documents must be authenticated or acknowledged before the recorder may accept them. An acknowledgment is a type of authentication often performed by a notary public.

**Appurtenance:** Anything so annexed to land or used with it that 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.

**Assignment:** The transfer in writing of interest in a bond, mortgage, lease, or other instrument.

**Assumption of Mortgage:** Acquiring title to property on which there is an existing mortgage and agreeing to be personally liable for the terms and conditions of the mortgage, including payments.

**Authentication:** The process of establishing the fact that each signature on an instrument is genuine. In most cases, the signatures on documents must be authenticated or acknowledged before the recorder may accept them.

**Certified Copy:** A copy of a document that is certified by the official records authority who has affixed his/her certification and seal to the copy.

**Chain of Title:** The succession of conveyances, from some accepted starting point, whereby the present holder of real property derives his or her title.

**Chattel:** Moveable items considered to be personal property and not real property.

**Cloud on the Title:** Any document, claim, unreleased lien, or encumbrance that may impair the title to real property or make the title doubtful, usually revealed by a title search and removed by either a quit claim deed or suit to quiet title.

**Condemnation:** A judicial or administrative proceeding to exercise the power of eminent domain, through which a government agency takes private property for public use and compensates the owner.

**Condition:** A provision in a deed that upon the happening or failure to happen, the deed will be limited, enlarged, changed or terminated.

**Conditions and Restrictions:** A common term used to designate the uses to which land may not be used and providing penalties for failure to comply. Commonly used by land subdividers on newly platted areas.

**Condominium:** The absolute ownership of an apartment or a unit (generally in a multi-unit building) based on a legal description of the airspace the unit actually occupies, plus an undivided interest in the ownership of the common elements, which are owned jointly with the other condominium unit owners.

**Consideration:** That which is received by the grantor in exchange for his or her deed.

**Contract:** An agreement to sell and purchase under which title is withheld from the purchaser until such time as the required payments to the seller have been completed.

**Contract for Deed:** Agreement between buyer and seller of real property, setting forth the price and terms of the sale. Note that such an instrument is not a deed, merely an agreement to create a deed in the future. A deed, not a contract for deed, is required to convey an interest in property.

**Covenant:** A written agreement between two or more parties.

**Conveyance:** A written instrument which evidences a transaction in which any interest in land is created, alienated, mortgaged, assigned or "otherwise affected in law or in equity."

**Dedication:** The voluntary transfer, or transfer as a condition of subdivision approval, of private property by its owner to the public for some public use, such as for streets or park land.

**Deed:** A written instrument by which the ownership of land is transferred from one person to another.

**Deed of Trust:** An instrument used as a mortgage. Property is transferred to a trustee by the borrower in favor of the lender, and reconveyed upon payment in full.

**Deed Restrictions:** Clauses in a deed limiting the future uses of the property.

**Document:** Any written instrument meeting all statutory requirements which may be recorded or filed with the Recorder of Deeds; the image or original document is stored and accessible through various indexes by the general public unless the document is confidential.

**Document Copy:** An exact reproduction of a document.

**Easement:** A right to use the land of another for a specific purpose, such as for a right-of-way or utilities; an incorporeal interest in land. An easement appurtenant passes with the land when conveyed.

**Encumbrance:** Any lien — such as a mortgage, tax, or judgment lien; an easement; a restriction on the use of the land — that may diminish the value of the property.

**Equitable Title:** The interest held by a vendee under a land contract; the equitable right to obtain absolute ownership to property when legal title is held in another¹s name.

**Escrow:** A procedure by which a disinterested third party handles legal documents and funds on behalf of a seller and buyer.

**Execution:** The signing and delivery of an instrument. Also, a legal order directing an official to enforce a judgment against the property of a debtor.

**Fee Simple Estate:** The maximum possible estate or right of ownership of property, continuing forever.

**File:** To place on file within the office of the Recorder of Deeds documents which are accepted by the recorder and are time-stamped, assigned a unique document number and indexed.

**Financing Statement:** An instrument filed with the Recorder of Deeds in order to give notice of a security agreement regarding personal property. Fixtures and personal property related to a business may affect interest in real estate associated with the business. See also, Uniform Commercial Code.

**Foreclosure:** A legal procedure whereby property used as security for a debt is sold to satisfy the debt in the event of default in payment of the mortgage. The foreclosure procedure brings the rights of all parties to a conclusion and passes the title of the mortgaged property to either the holder of the mortgage or a third party who may purchase the realty at the foreclosure sale.

**Filing:** To record an original instrument in the office of the Recorder of Deeds.

**Grantee:** A person who receives a conveyance of real property from the grantor. More generally, one to whom a grant is made; often, a buyer of property.

**Granting Clause:** Words in a deed of conveyance that state the grantor¹s intention to convey the property at the present time.

**Grantor:** The person transferring title to or an interest in real property to a grantee. More generally, one who grants property or property rights.

**Improvement:** An improvement on land is any structure, usually privately owned, erected on a site to enhance the value of the property. An improvement to land is usually a publicly owned structure, such as a curb sidewalk, street or sewer.

**Indexing:** To provide a system for all recorded and filed documents which indicates where they can be found.

**Instrument:** A legal document which effects some change in rights and interests; often related to real estate. Many different types of instruments are recorded daily in the office of the Recorder of Deeds.

**Joint Tenancy:** Ownership of real estate between two or more parties named in one conveyance as joint tenants. Upon the death of a joint tenant, his or her interest passes to the surviving joint tenant or tenants by the right of survivorship.

**Judgment:** The formal decision of a court upon the respective rights and claims of the parties to an action or suit. In practice, this is the lien or charge upon the lands of a debtor resulting from the Court¹s award of money to a creditor.

**Judgment Lien:** The charge upon the lands of a debtor resulting from the decree of a court properly entered in the judgment docket.

**Landmark:** Any conspicuous object that helps establish land boundaries.

**Lease:** A grant of the use of lands for a term of years in consideration of the payment of a monthly or annual rental fee.

**Legal Description:** A description of a specific parcel of real estate complete enough for an independent surveyor to locate and identify it. The description is by subdivision name, lot and block in a platted subdivision, by certified survey map and lot number, or in unplatted lands, it is identified according to the township, section, range associated with the Public Land Survey System or Private Claims or Government Lots.

**Lessee:** One who takes land upon a lease.

**Lessor:** One who grants land under a lease.

**Lien:** A hold, a claim or a charge allowed a creditor upon the lands of debtor. Some examples are mortgage liens, judgment liens, and 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 an action affecting a particular property has been filed in either a state or a federal court.

**Lot:** A measured parcel of land having fixed boundaries.

**Marketable Title:** Good or clear title, reasonably free from the risk of litigation over possible defects.

**Mechanic's Lien:** A lien allowed by statute to contractors, laborers and material-men 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.

**Monument:** A fixed natural or artificial object used to establish real estate boundaries for a metes-and-bounds description.

**Mortgage:** A pledge of real estate as security for the payment of a debt. Also, the document creating a mortgage lien.

**Mortgagee:** A lender in a mortgage loan transaction. The mortgagee receives the mortgage document and keeps it until the loan is satisfied.

**Mortgagor:** A borrower who uses his or her property as security for a loan.

**Notary:** One authorized to attest deeds and other documents.

**Ownership:** The right to possess and use property to the exclusion of others.

**Patent:** A document issued for the purpose of granting public lands to an individual.

**Plat:** A map representing a piece of land subdivided into lots indicating the location and boundaries of individual properties.

**Power of Attorney:** A written instrument authorizing a person to act as agent on behalf of another person to the extent indicated in the instrument.

**Priority of Liens:** The priority of liens is determined by the chronological order in which the lien documents are recorded, except for tax liens which have priority even over previously recorded Liens.

**Probate:** A legal process by which a court determines who will inherit a decedent¹s property and what the estate¹s assets are.

**Quiet Title:** An action in District Court to remove record defects.

**Quit Claim Deed:** A conveyance by which the grantor transfers whatever interest he or she has in the real estate, without warranties or obligations.

**Range:** A strip of land six miles wide, extending north and south, and numbered east and west according to its distance from the principal meridian in the Public Land Survey System.

**Real Estate:** Land, including all things permanently attached thereto, whether by nature or by a person; any and every interest in land.

**Real Property:** Land and that which is affixed to it, as well as the interests, benefits, and rights inherent in real estate ownership.

**Recording:** The act of entering or recording documents affecting or conveying interests in real estate in the office of the Recorder of Deeds. Documents are recorded to protect the interests of persons involved and to provide constructive notice of rights and interests in land. Documents accepted for recording are time stamped, receive a unique document number, are indexed, the image is captured and the original document is sent back to the returnee.

**Restriction:** A limitation on the use of real property, generally originated by the owner or subdivider in a deed. Also termed a deed restriction.

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

**Satisfaction:** A document acknowledging the payment of a debt, such as a satisfaction of a mortgage.

**Section:** A portion of a township that is approximately one mile by one mile and 640 acres. A township is divided into 36 sections.

**Subdivision:** A tract of land divided by the owner, known as the subdivider, into blocks, building lots, and streets according to a recorded subdivision plat, which must comply with state regulations and the local subdivision ordinance.

**Subscribe:** To sign or write one's signature.

**Survey:** The process by which boundaries are measured and land areas are determined; usually performed by a land surveyor.

**Tenant:** Any person in possession of real property with the owner's permission.

**Tenants in Common:** A form of co-ownership by which each owner holds an undivided interest in real property as if he or she were sole owner. Each individual owner has the right to ask for partition. Unlike joint tenants, tenants in common have right of inheritance.

**Title:** The right to or ownership of land or the evidence of ownership of land.

**Title Insurance:** A policy insuring the owner against loss by reason of defects in the title to a parcel of real estate, other than encumbrances, defects, and matters specifically excluded by the policy.

**Township:** The principal unit of the Public Land Survey System. A township is square with approximately six mile sides and an area of 36 square miles.

**Uniform Commercial Code:** A codification of commercial law, adopted in most states, that attempts to make uniform all laws relating to commercial transactions, including chattel mortgages and bulk transfers. Security interests in chattels are created by an instrument known as a security agreement. To give notice of the security interest, a financing statement must be recorded.

**Vendee:** A buyer; often in a land contract.

**Vendor:** A seller; often in a land contract.

**Warranty Deed:** A deed in which the grantor fully warrants good clear title to the property. Used in most real estate deed transfers, a warranty deed offers the greatest protection of any deed.