

PROPERTY MANAGEMENT
AASHTO
MINNEAPOLIS, MINNESOTA

BEST PRACTICES OF DISPOSAL PROCESSES

REVIEW OF 4 COMMON DEEDS IN REAL ESTATE

As property managers and realtors we may want to review the various types of deeds and what those deed convey. Let us review the four (4) common types of deed and what they may or may not convey to the buyer.

- **GENERAL WARRANTY DEED** – A real estate buyer is best protected by a **General Warranty Deed**. The seller or grantor conveys the property with certain covenants or warranties. The grantor is legally bound by these warranties. Whether expressly written into the deed, or implied by certain statutory words, basic warranties include:
 - Covenant of seisin – which means possession, and the grantor warrants that they own the property and have a legal right to convey it.
 - Covenant against encumbrances – the Grantor warrants that the property is free of any liens or encumbrances unless they’re specifically stated in the deed
 - Covenant of quiet enjoyment – The buyer is guaranteed that the title will be good against third parties attempting to establish title to the property.
 - Covenant of further assurance – The Grantor promises, in order to make the title good, they will deliver any document or instrument necessary.
 - The covenants or warranties in a general warranty deed do not cover just the period of ownership of this grantor. They extend back to the origin of the property. Each grantor of a general warranty deed in the title chain would be liable for title problems before and through their ownership.

Question 1)

Would this be a “Best Practices of Conveyance Method” for Property Management Department/ DOT in any state?

BREAK _____

- **Special Warranty Deed Conveys** – The Grantor of a special warranty deed conveys the property with two warranties:
 - The grantor warrants that they have received title.
 - The grantor warrants, unless noted specifically in the deed, that the property was not encumbered during their period of ownership.

Question 2)

For “Best Practices of Conveyance Methods” what about this deed for conveyance?

- **Bargain and Sale Deed** – It does imply that the grantor holds title to the property. This type of deed is used frequently in tax sales and for foreclosure actions. As with the special warranty deed, other warranties can be conveyed in a bargain and sale deed if they are specifically stated.
 - Does not warrant against any encumbrances.
 - Does not warrant title.

Question 3)

For “Best Practices of Conveyance Methods” would you use this in conveying state property?

BREAK _____

- **Quitclaim Deed** – Basically conveys whatever rights or interests the grantor has in the property.
 - Provides no warranties or covenants to the buyer. (If grantor has good title, the quitclaim deed is as effective as a general warranty deed, but with none of the guarantees)
 - Quitclaim deeds are frequently used to cure defects in title.
 - Quitclaim deeds are frequently used to transfer property between family members.

Question 4)

How many states use this method of conveyance? If so why?

BREAK _____

After establishing the Deed for conveyance; what other rights or interests would the grantor state in the deed?

- The State of Florida includes:
 - A firm price stated on the contract with ten (10) percent down in a non-cancelable instrument
 - All fees associated with the parcel are tacked on to the appraised value.
 - Appraisal fee, land planner, surveying, attorney, etc.
 - Conflict of Interest statement. Buyers must disclose the name of any officer, director or agent who is also an employee of the State of Florida and/or any of its agencies. Further, all buyers must disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the buyers firm and any of its branches.
 - Default. Failure to complete or execute the sale within the stipulated time or according to the stipulated conditions shall result in FDOT declaring the transaction in default. FDOT shall retain the deposit that accompanied this contract, as liquidated damages, and has the right to negotiate with others or put out to bid the subject property, whichever is in the best interest of the State of Florida.

BREAK

- Public Records. Any material submitted in connection with this contract will become a public document pursuant to Section 119.07, Florida Statutes. Any claim of confidentiality is waived upon submission and execution of this contract.
- Commissions. FDOT expressly will not pay any commission, finder's fee, or any other type of compensation or remuneration to any person or entity that acts on behalf of the another in the placing, procuring, finalizing this sale.
- Property is conveyed "As Is". The property is conveyed "As Is" and no representations or warranties are made concerning title, zoning, tax consequences, physical or environmental conditions, availability of access, ingress or egress, property value, operation history, governmental approvals, governmental regulations. Any encroachment issues by adjacent property owns will be the responsibility of the buyer to clear up.

BREAK

- Existing Impediments or Encumbrances to Title. The FDOT is not obligated to remove any existing impediments or encumbrances to title, which may be discovered unless otherwise agree prior to closing and set herewith in writing as an addendum, including but not limited to:

- Reservation of Mineral and Gas Rights pursuant to Section 270.11, Florida Statutes.
- FDOT will deliver to Buyer its Statutory Quit Claim Deed. The Quit Claim Deed only conveys any interest the FDOT may have in the property. There is no representation or warranty of title. Title is conveyed subject to any and all liens, encumbrances, reservations, restrictions, dedications, covenants, or other impediments that may exist.

BREAK

- Recording, Documentary Stamp Costs. Buyer shall be responsible to record and pay all costs and expenses associated with deed documentary stamp tax, and recording of all necessary documents, FDOT will not be responsible for the payment of any real estate fees on the sale of this property.
- DEED. The FDOT will convey to the Buyer the property by statutory Quit Claim deed in recordable form and executed by the authorized representative of FDOT subject to encumbrances and impediments to title present on the day of closing.
- Taxes. Buyer is responsible for all ad valorem taxes, if any, assessed against the property. Any outstanding taxes or tax certificates encumbering the property must be satisfied by the buyer. FDOT is exempt from ad valorem taxes and will not pay ad valorem taxes on the property.

BREAK

- Condition of Property. It is understood and agreed that the seller (FDOT) disclaims all warranties or representations of any kind or character, express or related to title, zoning, tax consequences, physical or environmental conditions, availability of regulations or any other matter or thing relating to or affecting the property.
- Buyer Responsibility. Buyer represents that it is a knowledgeable buyer of real estate and that it is relying solely on its own expertise and that of its consultants, and that buyer has conducted inspections and investigations of the property, including, but not limited to, the physical conditions of the property, and will rely upon them, and upon closing, will assume the risk of all adverse matters, including but not limited, to, adverse physical conditions which may not have been revealed by buyer's inspections and investigations. Seller sells and conveys to buyer and buyer accepts the property "As Is", "Where Is", with all faults and there are no oral agreements, warranties or representations collateral to or affecting the property to buyer by seller or any third party.

BREAK

- Possession. Possession of the Property will be surrendered by seller to buyer at the time when buyer receives the finalized Quit Claim Deed. Seller shall not commit nor permit waste, deterioration or other destruction of the property prior to that time.
- Closing. The Closing will occur on a specific date, with the remaining payment due at this time. Remember the payment must be in a cashier's check or money order or any non-cancelable instrument made out to the appropriate state agency. Buyer is responsible for recording the deed and any fees associated with the recording including documentary stamps is the responsibility of the Buyer. And reiterate again, that the deposit will be forfeited as liquidated damages if, in the event the buyer fails to perform a closing on or before the date written in this contract at the specific time.