

WHO CAN SIGN?

Proper, authorized signatures are critical in the Real Estate closing. How do you know who is authorized to sign the Deed as the Grantor? While each situation can be different, the following may be used as a guide.

Power of Attorney-The “Attorney-in Fact” may sign for the Seller provided the POA is properly signed by the Seller and an unrelated witness. Both the witness and the person granting the signing authority must be notarized. In most cases the POA must specifically grant the power to sign for the sale of Real Property. POA’s should be recently executed and specific to the transaction. All Power’s of Attorney must be approved by the Title Insurance Underwriter prior to use.

Trust-Only the named Trustee(s), or properly installed Successor Trustee(s) may sign to convey property out of a Trust. The Trust Agreement controls the activities of the Trustee(s) and any authority granted must be clearly stated in the Trust Agreement. A Trustee may not give a POA to any other party unless the Trust Agreement specifically provides for it.

Estate-Generally, a probate will be required prior to conveying Real Property out of an estate. The Probate will name a Personal Representative who has the authority to sell and sign conveyance documents. A Will, by itself, **does not** grant the power to sell. If the value of the property is less than \$75K after liens and encumbrances, then an properly filed Affidavit of Successor may be allowable.

Divorce-A Divorce Decree may or may not be sufficient to authorize a person to sell property jointly owned prior to divorce. Decrees can be worded in several ways;

1. “The Court grants and conveys to Jane Doe the property at 123 E. Elm St” does constitute a legal conveyance as long as the document is recorded.
2. “The Court awards the property to Jane Doe” is nothing more than an order by the Court that Jane should have the property. This Decree will require that the husband execute and record a Deed conveying the property to Jane.

Corporation-Whenever a Corporation, LLC, Partnership or other legal entity sells Real Property, a Corporate Resolution naming the authorized signor must be provided. The Resolution must be signed by an officer of the corporation who is not the named signor. Additionally, the entity must be legally authorized to conduct business in Arizona and provide Articles of Incorporation, Partnership or Operating Agreements, or other controlling documents as applicable.

Conservatorship-If the seller is a “protected person” they will have been assigned a Conservator or Guardian by the Court. Only the Court appointed Guardian may sign for the protected person. A signature from the Protected person can not be accepted.

(PROVIDED COURTESY OF EQUITY TITLE AGENCY OF ARIZONA, INC.)



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