

'Deed' or 'Title' — Homeowners Are Confused About Ownership Instruments

You can blame “Monopoly” for some of the confusion. That board game taught us all that there is such as thing as a “deed” to a property. With a “deed” to Boardwalk and some houses or a hotel on it, you could charge rent to those who landed on it — and hopefully win the game.

Meanwhile, the Department of Motor Vehicles has taught us that there is such a thing as a “title.” Meanwhile, when you purchase a home, you receive a “title policy” which guarantees “clear title” to your property.

But surprise! There is no such document as a “title” to your home the way there is a title to your car. There *is* a document called a “deed” but that is the document which *transfers* ownership, it is not *proof* of ownership. Sorry, I know this is confusing!

So where is the proof that you own your home? It is held by the Clerk & Recorder of your county, and it's based on the most recent deed recorded with the county. The only proof that Rita and I own our home in Golden is that the *most recently recorded deed* transferred the property to us. There is no other document which we have or can produce to prove we own our home.

Last year the state-mandated contract for the purchase and sale of real property changed the way deeds are specified. The agent preparing the contract specifies whether the buyer wants to obtain ownership through one of several deeds.

First is the “Special Warranty Deed,” by which the seller warrants that he is transferring ownership of his property free of any known lien or claim of ownership during the time he/she or they owned the prop-

erty. That is the most limited type of deed.

The buyer might, however, demand a “General Warranty Deed,” by which the seller is warranting that there is no other claim of ownership (or lien against the property) going back to the beginning of time.

What you need to know, however, is that, regardless of which type of deed is used to transfer ownership, the buyer should receive an “owner's title policy” (typically paid for by the seller) guaranteeing free and clear title to the buyer. In other words, it hardly matters which type of deed is used to transfer the property. You're still protected.

Title insurance differs from other kinds of insurance because it has no term. It is a one-time purchase that covers the new owner of the property forever. It never has to be renewed.

Prior to issuing the title policy, the title company does a “title search” looking for any recorded claim of ownership or lien against the property in question. If a claim or lien is not recorded with the county in which the property is located, it can't be enforced.

It is possible, of course, that a claim or lien might be overlooked during the title search, but it's pretty rare. I recall once in 1991 I purchased an older (1905) office building in Denver, receiving a title policy from Land Title Guaranty Company. Within a year or so, I was notified of a *lis pendens* against the property, but the lawyers for Land Title did whatever they had to do in

order to clear it, costing me nothing. Since that time I can't think of any claims against any title policy held by me or any of my clients — and I've had quite a few!

There are other types of deeds beside Special Warranty and General Warranty. If the property is owned by the estate of a deceased person, the property is transferred by a “Personal Representative's Deed.” If the property is purchased at a foreclosure auction, it is transferred by a “Public Trustee's Deed.” If a property is purchased out of bankruptcy, it is transferred via a “Trustee's Deed.”

A “Quit Claim Deed” is used when real estate is transferred without being sold for money. For example, if John Doe were to marry Jane Doe and wanted to put a home he owned in both their names, he could “quit claim” it from John Doe (as “grantor”) to John & Jane Doe (as “grantees”). If they divorce later on, John & Jane Doe might quit claim the house to either John or Jane, with or without a monetary settlement on the side.

With such examples, I hope you now understand that a “deed” is in fact an *instrument of transfer*, and not a *title* to property.

Here's a Postscript to My All-Electric Home Column

Some readers were surprised to read my column promoting the all-electric home as a cost-effective contribution to the mitigation of climate change.

If you're thinking of 20th Century home construction, promoting the all-electric home would make little sense. Electric baseboard heating has its place, but no longer as a whole house solution. One advantage of it is that each room can have its own thermostat, so you're only heating rooms when you use them. For the heat it produces, however, it is many times more expensive than using a mini-split heat pump solution. Recently I showed a home where a heat pump mini-split

was used to heat a detached and insulated garage which doubled as a workshop. That's a great application for that kind of heating — also because the mini-split can cool the garage in the summer, not just heat it in the winter.

There has been a revolution in the development of electric appliances, too. The induction cooktop, for example, is a highly efficient replacement for earlier electric ranges or cooktops which used resistance-based cooking elements.

Another change from the 20th Century: you can now generate your own electricity with highly affordable roof-top solar photovoltaic installations.

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By **JIM SMITH, Realtor®**

Just Listed: 7-Bedroom, 5-Bath Ranch With Walkout



This ranch home at **17889 W. 95th Pl.** is one of a kind! The 4,500-sq-ft home boasts 2 family rooms, 2 full kitchens, 2 master suites, and a flex room for an office/studio. The main level kitchen has upgraded stainless steel appliances and a gas stove. The main level has four bedrooms and a master suite with a large walk-in closet and 5-piece bathroom. Downstairs is a second master suite with an ensuite bathroom and walk-in closet. There is a large bright walk-out family room, two other bedrooms, a full bathroom, and a full second kitchen with stainless steel appliances. The 3-car garage has 240V power. This one-year-old home borders open space with walking and bike trails, two health clubs, two swimming pools, tennis courts, and many parks, including a dog park. Take a narrated video tour at www.CandelasHome.info, then call your agent or **David Dlugasch** at **303-908-4835** for a private showing.

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