



MORGAN COUNTY

Recorder

Dec 4. 2017

To whom it may concern,

This notice is to inform you of recording policy changes in regards to real property titled in a trust. According to the UCA 75-7-816, as part of the Utah Uniform Probate Code, when title to real property is in trust it is granted to a person as a trustee.

New persons acting as trustees that are not the person(s) originally granted title as trustee cannot transfer ownership as trustees without accompanying documentation recorded connecting them to the person(s) to whom the property was originally granted as trustee.

When a person as trustee of a trust holds title to real property as indicated in UCA 75-7-816, that trustee holds title to said real property subject to the terms or conditions of that trust. According to the UCA 57-1-5.1, termination of interest in real estate by affidavit includes a conditional interest in real estate.

Therefore, because a property in trust is subject to the conditions of the trust, the interest that a person as trustee should be terminated by an affidavit as described in the said code. In an effort to avoid potential fraud and to protect a person's interest in real property when title is granted to a person as trustee, Morgan County Attorney and the Morgan County Recorder are requesting that clear documentation be recorded with a paragraph quoting the terms of the trust that allow the change of trustee.

If a person, as trustee of a trust, has resigned and no longer desires to serve as trustee, an affidavit stating their resignation with their notarized signature or an affidavit with a letter of resignation attached is sufficient documentation.

If a person, as trustee of a trust, is incapacitated, and is unable to properly sign, a guardian may be appointed or a power of attorney may be used in Title 75 Chapter 5 of the Utah State Code unless otherwise specified in the trust. If the terms or conditions of trust include provisions for an incapacitated trustee, those terms along with a declaration of incapacitation from two separate doctors, attached to an affidavit may be used as sufficient documentation.

All Affidavits for the trust shall follow 57-1-5.1 guide lines

- (2)
- (a) cite the interest being terminated
- (b) contain a legal description of the real property that is affected.
- (c) reference the entry number and the book and page of the instrument to be terminated;
- (d) if the termination is the result of a death, have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the death.

Therefore, if, in the event that a person, acting as trustee of a trust, is to be removed from ownership due to their death, an original or certified copy of a death certificate needs to accompany an affidavit of death or affidavit of successor trustee or such document attesting to the death of the record owner.

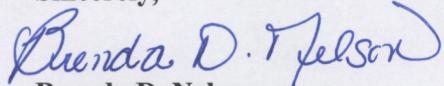
Affidavit of Successor Trustee shall also include who are the successor trustee(s) according to the terms of the trust.

If no new trustees are listed on the Affidavit (non successor trustee) it will be assumed that the current trustee(s) on record, are the only acting trustee(s) of the trust.

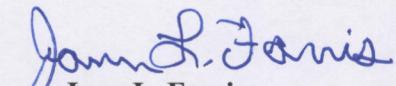
This will apply to all documents submitted for recording in Morgan County effective January 1, 2018.

If you have any questions please contact the Morgan County Recorder's Office.

Sincerely,



Brenda D. Nelson
Morgan County Recorder



Jann L. Farris
Morgan County Attorney

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