

DEFINITIONS OF REAL ESTATE TERMS

The following section is definitions for terms used in the register of deeds office.

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 register may accept them. An acknowledgment is a type of authentication often performed by a notary public.

How authentication may take place is set out in ss. 706.06 and 706.07. Because registers of deeds are empowered by law to acknowledge documents, a working knowledge of these sections is important.

APPRAISAL: The process through which conclusions of property value are obtained; also refers to the report that sets forth the process of estimation and conclusion of value.

ASSESSMENT: The imposition of a tax, charge, or levy, usually according to established rates.

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 Register may accept them. An attorney may authenticate a signature on a legal document.

How authentication may take place is set out in ss. 706.06 and 706.07. Because Registers of Deeds are empowered by law to acknowledge documents, a working knowledge of these sections is important.

ATTACHMENT: The act of taking a person's property into legal custody by writ or person's debt to a creditor.

CERTIFIED COPY: A document copy 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.

COMMON ELEMENTS: Parts of a property that are necessary or convenient to the existence, maintenance, and safety of a condominium, or are normally in common use by all of the condominium residents. Each condominium owner has an undivided ownership interest in the common elements.

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.

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.

CONSTRUCTIVE NOTICE: Notice given to the world by recorded documents regarding interests and rights in real estate. All people are charged with knowledge of such documents and their contents, whether or not they have actually examined them.

COVENANT: A written agreement between two or more parties in which a party or parties pledges to perform or not perform specified acts with regard to property; usually found in such real estate documents as deeds, mortgages, leases, and land contracts.

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". (s.706.01 (1))

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 that, when executed and delivered, convey title to or an interest in real estate.

DEED RESTRICTIONS: Clauses in a deed limiting the future uses of the property.

DOCUMENT: (*n.*) Any written instrument meeting all statutory requirements which may be recorded or filed with the register 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 another's name.

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 real property, continuing forever.

FILE: (*v.*) To place on file within the office of the register of deeds, documents which are accepted by the register and are time stamped, assigned a unique document number and indexed.

FINANCING STATEMENT: An instrument filed with the Register 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 physically keep an original instrument in the Register's office.

GRANTEE: A person who receives a conveyance of real property from the grantor.

GRANTING CLAUSE: Words in a deed of conveyance that state the grantor's intention to convey the property at the present time.

GRANTOR: The person transferring title to or an interest in real property to a grantee.

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 Register of Deeds. New instruments are established as societal needs change.

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. In Wisconsin, an HT-110 form is completed and recorded by the surviving joint tenant.

JUDGMENT: The formal decision of a court upon the respective rights and claims of the parties to an action or suit. After a judgment has been entered and recorded with the Clerk of Courts, it usually becomes a general lien on the property of the defendant.

LAND: The earth's surface, extending downward to the center of the earth and upward infinitely into space.

LAND CONTRACT: A contract for the sale of real estate wherein the purchase price is paid in periodic installments by the purchaser, who is in possession of the property even though title is retained by the seller until final payment.

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 town, range, section and quarter section and metes and bounds associated with the

Public Land Survey System or Private Claims or Government Lots.

LIS PENDENS: A recorded legal document giving constructive notice that an action affecting a particular property has been filed in either a state or a federal court.

LOT-AND-BLOCK DESCRIPTION: A description of real property that identifies a parcel of land by reference to lot and block numbers within a subdivision, as specified on a plat of subdivision duly recorded in the office of the Register of Deeds.

MARKETABLE TITLE: Good or clear title, reasonably free from the risk of litigation over possible defects.

MECHANIC'S LIEN: Also referred to as a **construction lien** and may be obtained by those who furnish labor, materials or professional services in the improvement of an owner's land or buildings. The contractor must file a lien with the Clerk of Circuit Court within six months after completing the work.

METES-AND-BOUNDS DESCRIPTION: A legal description of a parcel of land that begins at a well-marked point and follows the boundaries, using directions and distances around the tract back to the place of beginning. Wisconsin statutes now require that the point of beginning be referenced to at least one Public Land Survey System monument.

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.

PARCEL: A specific tract of real estate defined by a legal description and used for taxing purposes, among others. Also termed a surveyor's parcel and a tax parcel.

PATENT: A grant of land from the United States Government.

PERSONAL PROPERTY: Items called chattels that do not fit into the definition of real property; moveable objects.

PLAT: A map of a town, section, or subdivision 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.

PRINCIPAL MERIDIAN: One of 35 north and south survey lines established as part of the Public Land Survey System (also called rectangular and government survey).

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.

PRIVATE CLAIMS: (French Claims) A claim to a tract of land which is based on the assertion that title thereto was granted to the claimant or predecessors in interest by a foreign government (before the territory was acquired by the United States); also, the land so claimed.

PROBATE: A legal process by which a court determines who will inherit a decedent's property and what the estate's assets are. Probate court is a part of the office of Clerk of Courts in Wisconsin. Final judgments are the court ordered disposition of property during probate proceedings.

PUBLIC LAND SURVEY SYSTEM: A system established in 1785 by the Federal Government, providing for surveying and describing land by reference to principal meridians and base lines. Also called the rectangular or government survey.

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: The earth's surface extending downward to the center of the earth and upward into space, including all things permanently attached to it by nature or by people, 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 register of deeds established in each Wisconsin county. 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 captured and the original document is sent back to the returnee.

RECORD SERIES: Records that are kept together as a unit because they relate to a particular subject such as (1) real estate records, (2) personal property records organized under the Uniform Commercial Code (UCC), and (3) vital records such as birth, death and marriage certificates and military discharge papers.

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

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

SECTION: A portion of a township under the Public Land Survey System. A section 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.

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

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 partition. Unlike joint tenants, tenants in common have right of inheritance.

TITLE: (1) The right to or ownership of land. (2) 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.

TRANSFER TAX: A fee required when a deed is recorded; the fee is based on the value of the property. The Wisconsin Real Estate Transfer Return must be completed and the proper fee calculated or the

exemption number indicated if the property is exempt from the transfer fee. Whether the buyer or seller is to pay the transfer tax is often negotiated during the sale; if not, the grantor is liable as per s.77.22(1). This form must accompany the deed for it to be recorded.

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.

TOWNSHIP LINES: Lines running at six-mile intervals parallel to the base lines in the Public Land Survey System.

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.