



Madison County Genealogical Society



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The November Program was presented by Nancy Gross, Madison County Register of Deeds. She presented the following terms, and talked about her family history in the county.

Abutting Owner: One whose land is contiguous to (abuts) a public right of way.

Access Right: A right to ingress and egress to and from one's property. May be expressed or implied.

Administrator's Deed: A Deed issued by the Administrator of an estate.

Adverse Possession: A method of acquiring title by possession under certain conditions. Generally, possession must be actual, under claim of right, open, continuous, notorious, exclusive and hostile (knowingly against the rights of the owner) in Nebraska.

Cloud of Title: An Invalid encumbrance on real property, which if valid, would affect the rights of the owner. For example: Tim sells Lot 1, Block B to Bob. The deed is mistakenly drawn up to read Lot 1, Block A. A cloud is created on Lot 1, Block A by the recording of the erroneous deed. The cloud may be removed by Quitclaim Deed or, if necessary, by Court action.

Condemnation: The taking of private property for public use without the consent of the owner, but only upon payment of just compensation.

Conservator's Deed: Deed issued by a court appointed Conservator (Guardian) of an estate. (May involve an incompetent person or a person under age [minor]).

Construction Lien: See Mechanic's Lien.

Corporation Warranty Deed: Deed used when property is sold out of a Corporation.

Corrective Deed: The recording of a Deed for a second time to correct an error made in the deed when originally recorded.

Deed: Instrument used to convey interest in real property.

Deed of Distribution: Deed issued by Personal Representative of an estate.

Deed of Trust: Instrument used in place of a mortgage. Property is transferred to a Trustee by Borrower in favor of the lender. Released by Deed of Reconveyance by Trustee.

Defective Title: Title to real property which lacks some of the elements necessary to transfer good title.

Easement: A right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another. Either for the benefit or access, or public utility, etc.

Encroachment: Generally, construction onto the property of another, as of a wall, fence, building, etc.

Encumbrance: A claim, lien, charge, or liability attached to and binding real property. Any right to or interest in, land which may exist in one other than the owner, but will not prevent the transfer of the title.

Equitable Interest: Interest by one who does not have legal title, such as a vendee under a land contract.

Equity: The market value of real property, less the amount of existing liens.

Evidence of Title: A document establishing ownership to property. Most commonly, a deed.

Executor's Deed: Deed issued by the executor of an estate.

Federal Tax Lien: A lien attaching to the property for nonpayment of a federal tax.

Fee Simple: An estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited. Commonly, a synonym for ownership.

Filed: Recorded

Filing Information: Information stamped on the original document received by the Register of Deeds showing date and time of recording, as well as Book and page, Instrument No. or Microfilm location of instrument. All recorded instruments contain filing information.

Final Decree: A decree completely deciding all pending matters before a court.

Financing Statement: Document having a Debtor/Creditor relationship. If filed against the real estate, it is considered a lien upon the real estate.

Foreclosure: A proceeding in or out of court, to extinguish all rights, title, and interest, of the owners of property in order to sell the property to satisfy a lien against it.

Free and Clear: Real property against which there are no liens, especially voluntary liens.

Grantee: One to whom a Grant is made, generally the buyer.

Grantor: One who grants property, or property rights.

Inheritance Tax Lien: A Tax on the transfer of property from a deceased person.

Irrevocable: That which cannot be revoked or recalled, such as certain trusts, contracts or other legal relationships.

Intestate: Without leaving a will. Property of the estate passes by the laws of succession rather than by the direction of the deceased.

Involuntary Lien: A lien such as a tax lien, judgment lien, etc., which attaches to property without the consent of the owner, rather than a mortgage lien in which the owner agrees.

Joint Tenancy: An undivided interest in property, taken by two or more joint tenants. The interests must be equal. Upon the death of a joint tenant, the interest passes to the surviving joint tenants, rather than to the heirs of the deceased.

Joint Tenancy Warranty Deed: Deed conveying interest to 2 or more people (usually husband & wife) where upon the death of one of the parties, the deceased person's interest passes to the surviving joint tenants. (If Deed does not recite "as joint tenants" then grantees hold title as Tenants In Common).

Judgment: The decision of a court of law. Money judgments, when recorded, become a lien on real property of the defendant.

Judgment Lien: A lien against the property of a judgment debtor. An involuntary lien.

Land Contract: An Installment Contract for the sale of land. The seller has legal title until paid in full. The buyer has equitable title during the contract term.

Lease: An agreement by which the owner of real property (lessor) gives the right of possession to another (lessee) for a specified period of time (term) and for a specified consideration (rent).

Lien: An encumbrance against property for money, either voluntary or involuntary.

Life Estate: An estate in real property for the life of a living person. The estate then reverts back to the grantor or on to a remainderman.

Lis Pendens: A legal notice recorded to show pending litigation relating to real property, and giving notice to anyone acquiring an interest in said property subsequent to the date of the notice may be bound by the outcome of the litigation.

Mechanic's Lien: A lien created for the purpose of securing priority of payment for the price of value of work performed or materials furnished in construction or repair of improvements to land, and attaches to land as well as the improvements.

Mortgage: Instrument by which real estate is used as collateral to borrow money.

Notice of Default: Notice filed to show that the borrower under a Mortgage or Deed of Trust is in default.

Party Wall: A wall erected on a property boundary as a common support to structures on both sides, which are under different ownerships.

Patent Deed: Conveyance from the government, issued to homesteaders who have made final payment as evidenced by the Final Receipt.

Perpetuity: Continuing forever. Legally, pertaining to real property, any condition extending the inalienability of property beyond the time of a life or lives in being plus 21 years.

Perimeter: The boundary lines of a parcel of land.

Personal Representative's Deed: Deed issued by the Personal Representative of an estate.

Plat: A map dividing a parcel of land into lots, as in a subdivision.

Power of Attorney: An authority by which one person (principal) enables another (attorney in fact) to act for him.

Prescriptive Easement: The granting of an Easement by a court, based on the presumption that a written easement was given, (although none existed), after a period of open and continuous use of the land.

Probate: Originally, the proving that a will was valid. Modernly, an action over which probate court has jurisdiction.

Property Line: The boundary line of a parcel of land.

Public Dominion Land: Lands belonging to the federal government, not reserved for government use, but subject to sale or other disposal.

Quarter Section: One quarter of a section, containing 160 acres.

Quiet Title: Court Action to establish ownership of real property.

Quitclaim Deed: Deed operating as a release, intended to pass any interest in a real property, but not containing any warranty. May be used to clear up clouded title.

Recording: Filing documents affecting the real property as a matter of public record. Recorded Documents must be witnessed and notarized.

Remainderman: The one entitled to the remainder. (Ex: Sam deeds to Jim, Lot 1, but Sam retains a life estate in the property. When Sam dies, Jim, the remainderman owns the property exclusively).

Revocable: Capable of being revoked.

Right of Way: A strip of land which is used as a roadbed, either for a street, or railway. The land is set aside as an easement for fee, either by agreement or condemnation. May also describe the right itself to pass over the land of another.

Security Agreement: Document having a Debtor/Creditor relationship. May be Chattel Mortgages, Financing Statements, inventory Liens, etc. If filed against the real estate, it is considered a lien upon the real estate.

Sheriff's Deed: Deed given at a Sheriff's Sale in foreclosure of mortgage.

Special Warranty Deed: See Warranty Deed.

State Tax Lien: A lien attaching to the property for nonpayment of a state tax.

Subordination Agreement: An agreement by which an encumbrance is made subject (junior) to a junior encumbrance.

Substitution of Trustee: A document which is recorded to change the trustee under a Deed of Trust.

Survivorship Warranty Deed: Deed in which the surviving grantee receives interest of deceased grantees (See also Joint Tenancy Warranty Deed).

Tax Deed: Deed from tax collector to governmental body after a period of non-payment of taxes according to statute.

Tenancy in Common: An undivided ownership in real estate by two or more persons. The interest need not be equal, and, in the event of the death of one of the owners, no right of survivorship in the other owner exists.

Treasurer's Deed: Deed conveyed by the County Treasurer in lieu of Tax Foreclosure.

Trustee's Deed: Deed used when property is sold out of a Trust (must be signed by Trustees).

Trustee's Deed: Deed by a Trustee under a Deed of Trust, issued to a purchaser at auction, in pursuant to foreclosure.

Vendee: Purchaser or buyer, especially on a land contract.

Vendor: The person who transfers property by sale. Another word for "seller". Commonly used in land contract sales.

Vested: Present ownership rights, absolute and fixed. Modernly, ownership rights, even though on a land contract or subject to a mortgage or deed of trust.

Voluntary Lien: A lien placed against real property by the voluntary act of the owner. Most commonly, a mortgage or deed of trust.

Warranty Deed: Deed to convey title in a real property containing warranties.