

AVOIDING THE DEADLY DEED

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One of the Quickest Ways to Derail an otherwise smooth real estate transaction is the discovery too close in time to the closing date that a deceased person is the record owner of the property or there are issues in the chain of title. This is a common occurrence in South Florida that can be colloquially referred to as a "Deadly Deed". Issues that arise from a Deadly Deed can often be avoided by taking some simple steps at the outset when the current "owner" decides to sell. Here is our recipe for a smooth closing:

1. Determine how title to the property is vested as shown in the Official Records in the county where the property is located. In South Florida the place to search is the Clerk of the Circuit Court.

Many people believe that the Tax Collector or Property Appraiser has this information. The reality is that while both of those agencies maintain databases, those databases do not always accurately reflect the state of title.

2. Undertake a preliminary title search at the time of listing a property for sale. The cost of a title search is nominal in comparison to the loss of a sale.
3. Once you know who the owner is you can then search the Official Records for unknown judgments or liens that may impair title.

4. Avoid Homestead issues. The topic is vast and complex and most northern practitioners are unaware of the rules and restrictions associated with the sale of Homestead real property. Do out-of-state practitioners or other typical closing agents know the rules?
 5. Look for the word "Trust" or other entity name in the title. How many times have you heard the property is in "Trust" only to find out otherwise?
 6. Check that the deed was signed properly. Florida has specific execution formalities for a deed to effectively convey title to real property.
- These are everyday issues in South Florida. Our law firm is often engaged at the last minute when someone realizes there is a problem. Avoid a Deadly Deed, do your homework at the time of listing the property.
- Good luck and have a happy closing.

Go to www.probate-florida.com to read more about this subject. Learn how you can have your cake and eat it too.

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