



Fund Assembly

Title Teasers

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Life Estates and Taxes

Bert, a single puppet, purchased his dream home on Sesame Street. In 2013, Bert conveyed title to the property to his longtime roommate Ernie, reserving a life estate for himself. The deed contained the appropriate language to create an enhanced life estate. Bert passed away in 2018. Ernie now seeks to sell the property to a bona fide purchaser (BFP) for \$1.2 million.

For insuring purposes, may an owner's policy be issued without clearance of estate taxes for Bert?

Life Estates and Taxes

- A. Bert's estate taxes did not attach to the property as title was vested in Ernie upon Bert's death, so no further clearance is required.
- B. Bert's estate taxes would be divested by a sale to a bona fide purchaser for full and adequate consideration.
- C. A release of the Bert's estate taxes from the IRS should be obtained and recorded.

The Correct Answer is
B

Foreign Judgments

In January of 2012, Galen obtained a money judgment in Michigan (a galaxy far, far away) against his former boss, Orson, for tragic death of Galen's wife, Lyra. In 2013, Orson moved to Florida to forget about his failed inter-stellar construction project and purchased a commercial building in Empire Business Park. In January of 2019, Galen recorded the Michigan judgment in Florida under the Florida Enforcement of Foreign Judgments Act. Orson is now under contract to sell the Florida property. The Fund Member handling the closing provides Orson the commitment which requires the Michigan judgment to be satisfied. Orson objects to the requirement based on the Michigan statute of limitations for such judgments is only 6 years.

For purposes of issuing a policy without exception, does the judgment need to be released?

Foreign Judgments

- A. The judgment needs to be released since the judgment was recorded in Florida which has a 20-year statute of limitations for foreign judgments.
- B. The judgment does not need to be released because Michigan courts do not have any jurisdiction over lien rights against Florida property.
- C. The judgment does not need to be released because the judgment expired under Michigan Law prior to being recorded in Florida.

Foreign Judgments

The Correct Answer is
C

Power Of (Thrones) Attorney

King Tommen is selling some excess castle space, Red Keep Place, to please his mother, Queen Cersei. Tommen appointed his religious and legal mentor, the High Sparrow, as his attorney-in-fact under a Durable Power of Attorney (DPOA) which contains the powers to sell and convey real property. Unfortunately, the High Sparrow cleaned out his dragon lair and cannot locate the original DPOA and can only produce a copy for closing. While the DPOA contains two witnesses, a jurat was used instead of an acknowledgment.

For insuring purposes, may you rely on the copy of the DPOA with a jurat to insure the sale of Red Keep Place?

Power Of (Thrones) Attorney

- A. The copy of the DPOA with a jurat can be used provided a certificate attesting the DPOA to be a “true and certified copy” is attached at time of recording.
- B. The copy of the DPOA with a jurat cannot be used as the DPOA is not acknowledged.
- C. The copy of the DPOA with a jurat can be used with a subscribing witness affidavit and affidavit of lost original attached at the time of recording.

Power Of (Thrones) Attorney

The Correct Answer is
C

Authentication Under Foreign Seal

While traveling through the country of Liechtenstein, Daenerys Targaryen executes a warranty deed for the sale of Dragonstone Estate located along the Fire Coast of Florida. Upon review of the deed, you discover that the deed is not acknowledged, but instead is authenticated under the seal of the Princely Court of Liechtenstein.

For purposes of issuing an owner's policy, may the authentication be relied upon?

Authentication Under Foreign Seal

- A. The authentication is under the seal of an authorized official in Liechtenstein, so the deed may be relied upon.
- B. The deed must be acknowledged before a notary public of Liechtenstein or an officer of the US Embassy, so the deed may not be relied upon.
- C. Any authentication under seal of a foreign country is acceptable, so the deed may be relied upon.

Authentication Under Foreign Seal

The Correct Answer is
A

LLC Authority

Big Building, LLC, an Illinois limited liability company, is selling its commercial building. Fund Member Bill Brasskey obtained a certificate of good standing but cannot determine who any of the managers or members of the LLC are from records available online. In preparation for closing, Bill has been in contact with Jim McMahon, who purports to be the sole member and manager of Big Building but, when requested, cannot produce an LLC operating agreement for review because one was never created. Bill can see that McMahon has been the signatory on the annual reports filed and is acquainted with him through other business transactions.

For purposes of insuring a deed from Big Building, LLC, what evidence of McMahon's authority to convey the property can be accepted?

LLC Authority

- A. Fund Member Bill Brasskey can accept the creation of an operating agreement and execution of an affidavit by McMahon, attesting he is the sole member and manager of the LLC.
- B. Fund Member Bill Brasskey can accept the execution of an affidavit by McMahon, attesting he is the sole member and manager of the LLC.
- C. No further written documentation is needed because of Bill Brasskey's knowledge of McMahon and his business.

The Correct Answer is
B

Surveys and Form 9

Fund Member Larry Lawrence's client purchased some vacant land in 2015. A survey was obtained at the time, and both lender's and owner's policies were issued listing specific survey exceptions for minor fence encroachments. A Stop-N-Go Burgers was subsequently built on the property. Larry was provided a site plan and construction drawings showing the proposed improvements that were submitted and approved at the time construction was done. The property is now being refinanced with the same lender, who is requesting a Form 9-06 endorsement.

For purposes of issuing a Form 9-06 endorsement, may Larry rely on the existing survey?

Surveys and Form 9

- A. The existing survey may be relied on provided an owner's affidavit that all improvements were constructed as shown on the plan and drawings is obtained.
- B. The existing survey may be relied on provided a surveyor's affidavit that the improvements, if constructed as shown, will not encroach on adjacent property or easements is obtained.
- C. A new or re-certified survey showing the completed improvements should be obtained.

The Correct Answer is
C

JTWROS and Homestead

An unmarried couple, Harry and David, reside in a home they purchased as joint tenants with rights of survivorship (JTWROS). Harry has a toddler son from a previous relationship. While on a scenic hiking trip, Harry accidentally stepped off a cliff while taking a selfie and fell to his death. David is, understandably, devastated by the death of Harry and enters into a contract to sell their home for \$750,000.

For insuring purposes, what should be done to clear the interest of Harry's son for closing?

JTWROS and Homestead

- A. The mother of Harry's son will need to be appointed guardian of the child to execute a deed for his one-half interest in the homestead property.
- B. No action is necessary to clear the interest of Harry's son because the homestead property was held as JTWROS.
- C. No action is necessary to clear the interest because Harry's son was not living at the home, and therefore, the property was not son's homestead.

The Correct Answer is
B

Mortgage Satisfaction

Edward Esquire is handling a transaction in which the existing mortgage from The First Bank of Orville will be satisfied. A review of title indicates that the mortgage was modified by the same lender several times. Upon receipt of a proposed satisfaction of mortgage executed by a proper officer of the Bank, Edward notices that the satisfaction does not reference the recording information of any of the previous modifications.

For insuring purposes, may Edward accept the proposed satisfaction of mortgage to mark off the requirement at closing?

Mortgage Satisfaction

- A. Edward may accept the proposed satisfaction of mortgage because it properly referenced the original underlying mortgage.
- B. Edward should request a revised satisfaction of mortgage which includes references to the subsequent modifications.
- C. Edward may accept the proposed satisfaction of mortgage because it was executed by the proper mortgagee involved in the initial loan and the subsequent modifications.

Mortgage Satisfaction

The Correct Answer is
B

Restrictions

Fund Member, James Bonde is representing Miss Honey-penny in the sale of her home and will be issuing the owner's and loan policies. Upon review of the commitment, the Buyer and Lender have demanded that the final policies affirmatively state that the restrictions listed as exceptions have not been violated and that any violation of the restrictions would not result in a forfeiture, otherwise, they will pull the deal. James has confirmed that the restrictions have not been violated and that any violation of the restrictions would not result in a forfeiture.

For insuring purposes can James provide the language requested in order to keep the deal?

Restrictions

- A. The language requested may be provided because affirmative coverage not specifically prohibited in title insurance policies is permissible.
- B. The language requested may be provided because the affirmative coverage is already included in the policy jacket.
- C. The language requested is unnecessary because it is already contained in the ALTA Form 9-06 and 9.2-06 endorsements.

Restrictions

The Correct Answer is
C

Survey and Appurtenant Easement

A Fund Member is handling a refinance of a commercial building together with an appurtenant easement interest that provides access through an adjacent parking lot behind the building. The easement interest was properly created by a deed in the chain of title and states that the easement will run with the land. The borrower provides a prior survey that describes only the building and an owner's policy that contains a specific survey exception. At closing, the borrower will execute an affidavit that states that there are no improvements other than as shown on the survey and that there are no improvements from adjoining lands that encroach onto the subject property.

May the Fund Member rely on the prior survey and affidavit to delete the standard survey exception in the loan policy insuring the building and the appurtenant easement interest?

Survey and Appurtenant Easement

- A. The Member may rely on the prior survey and affidavit provided all specific survey exceptions on the prior policy are carried forward to the new loan policy.
- B. The Member may rely on the prior survey and affidavit provided the loan policy retains the standard survey exception for the appurtenant easement interest.
- C. The Member may not rely on the prior survey and affidavit because a prior survey and affidavit cannot be used for commercial property.

Survey and Appurtenant Easement

The Correct Answer is
B

Milton Rhodes represents a purchaser of a \$700,000 platted residential lot that is bounded on one side by a large lake in Clay County, Florida. The lake extends beyond the platted lands. Milton received a title commitment that includes the pre-printed general sovereignty lands exception (GSL) and exceptions for the beach, submerged lands and riparian and littoral rights, . Milton has requested that the GSL be deleted from the final owner's policy.

For insuring purposes, may the GSL be deleted from the final owner's policy?

- A. The GSL should always be shown as an exception when insuring waterfront property.
- B. The GSL can be deleted provided the original government survey indicates the land to not be submerged, tideland, swamp or overflow land.
- C. The GSL along with the other water right exceptions can be deleted provided no portion of the land was ever submerged, tideland, swamp or overflow land.

The Correct Answer is
B

Description in a Deed

Back in 1978, Lewis obtained title as the successful bidder at foreclosure sale to a parcel of land legally described as the east ½ of Lot 3, Block 15. His neighbor Clark, held title to the west ½ of Lot 3 and all of Lots 4 - 10. Lewis has been paying taxes and been in possession of his property since acquiring it in 1978.

Lewis is now selling his property and the review of title discovers that in 2002, Clark conveyed Lots 3 -10, Block 15 to his faithful friend, Sacajawea. All of the subsequent deeds in the chain correctly state the west ½ of Lot 3 and all of Lots 4 – 10, Block 15.

For purposes of issuing an owner's policy to Lewis's Buyer, what curative action needs to be taken regarding the 2002 deed from Clark to Sacajawea?

Description in a Deed

- A. No curative action needs to be taken.
- B. A deed from Clark for the East ½ of Lot 3 to Lewis's Buyer should be required.
- C. A deed from the current owner for the East ½ of Lot 3 to Lewis's Buyer should be required.

Description in a Deed

The Correct Answer is
A

Homestead Tax Exemption Lien

Iva Hostel's dad died in 2002 leaving her his longtime Florida homestead. In 2007, Iva obtained a loan on the property with Lands-down Mortgage. Needing to supplement her income, Iva rented out rooms whenever she could on Airbnb. In 2015, the County recorded a tax lien against the subject property for improper homestead exemption exclusion. In 2016, Lands-down filed a foreclosure action against Iva and joined the County as a party defendant. The County took no action and the sale went to successful completion. A certificate of title (CT) was issued to a 3rd party.

For insuring purposes, can a subsequent sale be insured without a release or clearance of the tax lien?

Homestead Tax Exemption Lien

- A. A release or clearance of the tax lien is not required, because Lands-down's mortgage was recorded before the County tax lien and is superior in priority.
- B. A release or clearance of the tax lien is required because the County's tax lien is superior to all other liens including Lands-down's mortgage lien.
- C. A release or clearance of the tax lien is required because the 3rd party who acquired by certificate of title is a not a BFP.

Homestead Tax Exemption Lien

The Correct Answer is
B

Lost Trust

Jane Airs, a single woman, conveyed her homestead property by QCD dated May 20, 2002, to Jane Airs, as Trustee of the Maple Street Trust, u/a/d May 20, 2002. There are no trust powers in the deed. A year later she and her new husband, individually, executed a Warranty Deed to Ron Stewart and Sally Stewart, his wife. That 2003 deed contained only one witness.

Ron and Sally are now selling the property but cannot find the title policy they think they bought back in 2003, and the attorney that prepared the deed is deceased. Ron and Sally contact Jane regarding the trust. Jane is not sure if a trust was ever prepared back in 2002, and if she did, she cannot now locate the trust. Jane is willing to sign an affidavit that no trust was ever formed.

For insuring purposes, may an owners' policy be issued without any action regarding the 2002 trust?

Lost Trust

- A. No action is required, because Jane and her husband gave a warranty deed to Ron and Sally which implies title never passed into the trust.
- B. An action is required to re-establish the trust and thereafter obtain a new deed from the trustee; or alternatively, declare the deed to the trustee expunged from the record.
- C. No action is required, because substantial time has passed.

The Correct Answer is
C

LLC Management

A Florida LLC is selling a commercial building. The LLC filing on the State of Florida website indicates there are two managers. The seller's attorney has reviewed the LLC operating agreement and advises the Fund Member handling the transaction that the operating agreement does appoint and name two managers but is silent as to whether the consent of both managers is required to approve the sale. The seller's counsel proposes that only one of the managers is required to execute the deed on behalf of the LLC.

For insuring purposes, who should execute the deed from the LLC?

LLC Management

- A. Both managers should execute the deed.
- B. Only one of the two managers listed on the State of Florida website is required to execute the deed.
- C. The recording of a resolution of all of the members is required.

The Correct Answer is
A

Probate and Homestead

Patricia Lewis passed away survived by 6 adult children but no spouse or minor child. At the time of her death she owned several pieces of real property, including her homestead, identified in the petition for probate by address. Olive Lewis, one of Patricia's children, was appointed personal representative. Patricia's will contained specific distributive provisions, including one for her homestead to Olive. The will also contained a power of the PR to sell and convey and a general 'rest, residue and remainder' clause to all her children. No homestead determination has been made by the Court, and the administration has been progressing properly with no challenges filed in the probate file. The homestead property is now being sold.

In order to insure title to a BFP of the homestead property, what deeds should be obtained and recorded?

Probate and Homestead

- A. A deed should be obtained from Olive, as PR of the estate.
- B. Deeds should be obtained from Olive, individually and as PR of the estate and the other remaining five adult children.
- C. A deeds should be obtained from Olive, individually and as PR of the estate.

The Correct Answer is
C

POA for Trustee

Tilly Trustee holds title to rental property as trustee of a family revocable trust. After signing a contract to sell and shortly before the closing was to take place, Tilly suffered an unfortunate medical incident and is unable to execute any of the closing documents. The Fund Member proposes to have the deed and other closing documents signed by her son, Tommie, who holds a Durable Power of Attorney (DPOA) signed by Tilly several years before the Trust was created. The DPOA is properly executed and has the necessary powers for the Attorney-in-Fact to convey real property.

May the DPOA be used to execute the Seller's documents on behalf of Tilly as trustee for insuring purposes?

POA for Trustee

- A. The execution of the deed and closing documents is considered a ministerial act, and the DPOA can be used.
- B. The DPOA was executed by Tilly individually and not as trustee of the trust, so the DPOA cannot be used.
- C. The DPOA cannot be used for property held in a trust.

The Correct Answer is
B

The “Insured”

In 2015, Tom Smith and James Brown purchased vacant land for \$500,000 under the name of T&B, LLC, a Florida limited liability company, and received an owner's policy. Two years later they conveyed the property by QCD to their newly formed Delaware LLC, SmiBro, LLC. The two LLC entities are wholly owned by the same principals Tom and James.

SmiBro, LLC is now obtaining a \$450,000 construction loan, and Tom and James want to know if the owner's policy (OP) issued to T&B, LLC can be used to get a reissue rate on the construction loan?

The “Insured”

- A. The OP insuring T&B, LLC can be used for purposes of charging reissue rates.
- B. The OP insuring T&B, LLC cannot be used for purposes of charging reissue rates.
- C. Reissue rates are not available, because the QCD is more than a year old.

The “Insured”

The Correct Answer is
B

COL and Bond

Hightower Construction contracted to a commercial high-rise on property owned by Golden Flower Development. As part of the construction process, Hightower furnishes a surety bond for the job to cover possible liens filed during construction and records a copy of the bond along with the Notice of Commencement. Clean Aire Products, who supplied the HVAC system under contract with Hightower, is not paid and files a claim of lien after giving notice to the contractor and owner. Golden Flower is now obtaining a construction mortgage to complete the project.

For insuring purposes, does the claim of lien by Clean Aire Products need to be released?

COL and Bond

- A. The claim of lien does not need to be released as the lien is automatically transferred to the bond by operation of law.
- B. The claim of lien does not need to be released, because the lienor gave the required notice to the contractor and the owner.
- C. The claim of lien does not need to be released provided a notice of the bond is served on the lienor.

The Correct Answer is
C

Enhanced Life Estate and Remainders

Kringle family matriarch Kris conveys her vacation condominium in South Beach to herself for life with a remainder to her favorite daughter, Kim. The deed contains powers reserved for Kris to sell, convey, mortgage or otherwise manage and dispose of the property in fee simple with or without consideration, without any liability for waste, without joinder of the remainderman and with full power and authority to retain any and all proceeds generated by such action. Unfortunately, Kim passes away from a tragic cosmetic surgery mishap shortly after the recordation of the deed, survived by her husband, three minor children, her mother Kris and several siblings. Out of grief for Kim, Kris suffers a heart attack and passes away.

For insuring a sale of the vacation condominium, from whom will deeds be required?

Enhanced Life Estate and Remainders

- A. Deeds are required from Kim's husband and an authorized guardian for Kim's children.
- B. Deeds are required from all of Kris's heirs, Kim's husband and an authorized guardian for Kim's children.
- C. Deeds are required from all of Kris's heirs including Kim's siblings.

Enhanced Life Estate and Remainders

The Correct Answer is
A

Acknowledgment Abroad

Fund Member Lil DeVille is handling the sale of a beachfront home for longtime Florida Panhandle resident, Tommy Pickles. Tommy is on a business trip abroad and will not be present at closing. Lil provides the warranty deed and other closing documents to Tommy by email with instructions to sign the deed in the presence of two witnesses and a notary public, and to return the originals prior to the closing date.

Tommy receives the email while at a conference in Davos, Switzerland. Fortunately, Tommy's business associate Chuckie Finster is also attending the conference and is a Florida notary. Tommy signs the deed in the presence of two subscribing witnesses and Chuckie, who then notarizes the deed.

For insuring purposes, is the acknowledgment of the deed acceptable?

Acknowledgment Abroad

- A. The acknowledgment is acceptable because it was by a Florida notary public concerning Florida real property.
- B. The acknowledgment is not acceptable, because the Florida notary public was not geographically located in Florida.
- C. The acknowledgment is not acceptable, because the Florida notary failed to obtain authorization under Swiss jurisdiction.

Acknowledgment Abroad

The Correct Answer is
B

LLC and Bankruptcy

Larry, Moe, and Curly are all the members of a manager-managed LLC. Larry's son, Joey Spendalot, is the manager. All the members execute a resolution approving the sale of real estate, authorizing Joey, as manager, to sign the documents. At closing, Joey advises the Fund Member handling the closing that two days before the closing, he had to file a Chapter 7 personal bankruptcy. The Fund Member checks PACER and confirms that Joey had filed a Chapter 7 personal bankruptcy.

For insuring purposes, may Joey still execute the deed on behalf of the LLC?

LLC and Bankruptcy

- A. The bankruptcy filing does not affect Joey's ability to act as manager, so Joey may execute the deed on behalf of the LLC.
- B. The bankruptcy filing terminates Joey's ability to act as manager until the bankruptcy case closes, so Joey may not execute the deed on behalf of the LLC.
- C. The bankruptcy filing affects Joey's ability to act as manager, so an order from the bankruptcy court is required in order for Joey to execute the deed on behalf of the LLC.

The Correct Answer is
A

Lien Stripping

Sam Seller filed a Chapter 13 Bankruptcy in 2012. The plan of reorganization was approved by the bankruptcy court with no objections by creditors. Sam's commercial property, which was scheduled in the bankruptcy, was encumbered by a second mortgage in favor of Big Bank. The court entered an order, with proper notice, stripping off Big Bank's second mortgage. That order was recorded. The order was not appealed, and Sam was discharged.

For purposes of insuring a sale of the commercial property, must the second mortgage be satisfied of record?

Lien Stripping

- A. The second mortgage must be satisfied of record as lien-stripping orders are not recognized in Chapter 13 bankruptcies.
- B. The second mortgage does not need to be satisfied of record provided a certified copy documenting there was no appeal is recorded.
- C. The second mortgage does not need to be satisfied of record provided the Chapter 13 Plan has been fully performed.

The Correct Answer is
C

Tax Lien Withdrawal

Rich Knomor, a high-flying condo developer fell on hard times and failed to pay his 941 payroll taxes. The IRS filed a Notice of Federal Tax Lien against Rich and his company, Knomor Development, Inc. Rich's accountant, a former IRS Commissioner, is able to obtain from the IRS a *Withdrawal of Filed Notice of Federal Tax Lien*, which relinquishes any lien priority obtained by the Internal Revenue Service when the notice was originally filed but does not affect the statutory lien rights. Rich and his wife, Joy, are now trying to sell their Star Island estate to a BFP.

For insuring purposes, may the Withdrawal be relied upon without obtaining a Release for the Star Island estate transaction?

Tax Lien Withdrawal

- A. A withdrawal does not affect the statutory lien rights, so a release will still be required.
- B. A withdrawal is sufficient where the property is being sold to a BFP, so no release is required.
- C. A withdrawal granted by the IRS eliminates the tax liability, so no release is required.

Tax Lien Withdrawal

The Correct Answer is
B



Thank You!
for attending

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