



NORFOLK COUNTY REGISTRY OF DEEDS GLOSSARY OF TERMS

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A

Abstract of Title

A summary of records affecting title to a subject property.

Acceptance

Action of offeree in agreeing to terms of an offer, thereby creating a contract.

Acceleration Clause

A provision in a mortgage or other contact that gives a party (such as a lender) a right to demand immediate payment of an entire principal balance.

Acknowledgment

A certification, usually before a notary, that a document is the act and deed of the declarant.

Adjustable-rate Mortgage (ARM)

A mortgage under which the lender may change the interest rate periodically on the basis of changes in a specified index.

Adjustment Period

The length of time between the adjustment dates for an adjustable-rate mortgage (ARM).

Administrator

“Personal Representative”, the person who is appointed to administer the estate.

Administratrix

“Personal Representative”, the person who is appointed to administer the estate.

Adverse Possession

Control or occupancy of real property under circumstances that indicate that such use is by right on the part of the possessor. Adverse possession may establish title if continued a certain period of time, at common law, twenty years.

Amortization

The gradual repayment of a mortgage loan or other obligation by installments.

Amortization Schedule

A timetable for payment of a mortgage loan. An amortization schedule shows the amount of each payment applied to interest and principal and shows the remaining balance after each payment is made.

Annual Percentage Rate (APR)

The cost of credit expressed as an annual rate. It is defined and calculated by using a formula set by federal law and disclosed to the borrower to aid in comparing different credit plans. All finance charges imposed by a lender are included in this calculation, and an APR is always higher than the simple interest rate when such finance charges such as points, origination fees or mortgage insurance are charged by a lender.

Appraisal

Process of valuing property, or a real estate professional's estimate of a property's value.

Assessment

The process of placing a value on property for the purpose of taxation. This term may also refer to a levy against property for a special purpose, such as a sewer assessment.

Assignment

A transfer of contract rights to another; for example, assignment of a mortgage or lease.

Assignment of Mortgage

Because a mortgage is an interest in real estate, the assignment of a mortgage is a conveyance of a legal estate in the mortgaged premises. In an assignment the holder of the mortgage (Assignor) conveys the mortgage to the Assignee. The assignee then holds all rights to the mortgage and becomes the person/entity which can discharge it.

Assumption

Taking on a responsibility, such as where a buyer of real property agrees to assume responsibility for payments on an existing mortgage.

Attachment

A lien or seizure of property created by legal process.

Attorney-in-fact

A person authorized to act on behalf of another, usually by grant of a written power of attorney.

B**Bequest**

A gift of personal property by will.

Beneficiary

A person designated to receive the income or other proceeds, as from a trust or estate.

Binder

A preliminary agreement, secured by the payment of an earnest money deposit, under which a buyer offers to purchase real estate.

Bridge Loan

A form of second mortgage that is collateralized by the borrower's present home (which is usually for sale) in a manner that allows the proceeds to be used for closing on another property before the present home is sold.

Broker

An agent who negotiates contracts for purchase and sale. In Massachusetts, real estate brokers and salespersons are licensed by the state Real Estate Board.

C**Capital Gain**

Profit made from sale of an asset.

Certificate of Title

The current state of a registered land title is noted on both the front and back of the certificate of title.

Citation (Cite)

Reference to legal authority, such a case, statute, regulation or ordinance.

Chain of Title

The history of all of the documents affecting title to a parcel of real property, starting with the earliest existing document and ending with the most recent.

Closing

In a real estate transaction, a meeting in which the deed is delivered to the buyer, payment is made to the seller, title is transferred, and agreed-on costs are paid. Also called "settlement."

Cloud on Title

Any condition which adversely affects a title to real estate.

Commitment

In real property, a lender's agreement to provide mortgage funding to a borrower.

Condemnation

The determination that a building is not fit for use or is dangerous and must be destroyed; or, the taking of private property eminent domain.

Condex

Condominium with only two units, often a two family house subject to the condominium statute.

Condominium

A form of real estate ownership in which a property is divided into individually-owned units and common areas, the common areas being owned by the unit owners in undivided shares.

Condominium Plans

Recorded land (Registry) condominiums must have floor plans, but not site plans; although the majority of recorded land condominiums do have site plans. Registered land (Land Court) condominiums must have a site plan and floor plans. A condominium site plan shows, among other things, the dimensions of the exterior of the buildings, tied to the lot lines. Floor plans show the layout, location, unit numbers, and dimensions of the units.

Consideration

The price or thing (tangible or otherwise) given in exchange as part of an agreement or contract. For example, in a purchase and sale of real estate, the considerations are the buyer's money and the seller's property.

Contingency

A condition that may affect whether a contract is binding. For example, residential purchase and sale agreements often include mortgage commitment or home inspection contingency provisions.

Conventional Mortgage

A mortgage that is not insured or guaranteed by the federal government.

Convertible ARM

An adjustable-rate mortgage (ARM) that can be converted to a fixed-rate mortgage under specified conditions.

Cooperative

A form of ownership in which the residents of a multiunit housing complex own shares in a cooperative corporation which owns the property and each resident the right to occupy a specific apartment or unit.

Co-ownership

Ownership of property by more than one person.

Corporation

A form of business organization in which the business is a legal entity separate from its owners and employees. Corporations can act, own property, or have claims brought against them in their own name, as compared, for example, to a sole proprietorship, in which all legal benefits and liabilities (even where a business name is used) are personal to the owner.

Counterclaim

Claim made by the Defendant against the Plaintiff in a lawsuit.

Covenant

Promise in a deed that affects or limits the use of the conveyed property.

Curtesy

Common law rights of a widower in real estate owned by his deceased wife during their marriage. In Massachusetts, common law curtesy has been abolished and replaced with gender-neutral dower rights.

D**DBA**

Doing Business As.

Declaration of Condominium

Master Deed creating a condominium.

Deed

A written instrument/document by which land is conveyed

Deed in Lieu of Foreclosure

Deed used by a borrower surrendering title to his/her property to prevent lender foreclosure.

Deed of Trust

Document creating security interest in real property in which title is held by a trustee until the borrower repays the beneficiary (lender) in the amount of the loan. Used in some states for the essentially the same purposes as a mortgage.

Default

Failure to comply with a contractual obligation or another duty.

Devise

Gift of real property by will.

Discharge of Mortgage

A mortgage is released (discharged) by the executing and recording of a Discharge of Mortgage from the mortgagee to the mortgagor. Also referred to as Satisfaction or Release of Mortgage.

DOR

Massachusetts Department of Revenue.

Dower

At common law, rights of a widow in real estate owned by her deceased husband during their marriage. Under Massachusetts statute, dower rights are gender neutral.

E**Easement**

The right to use the land of another for a specific purpose. Easements may be temporary or permanent. Example: A utility company easement across a property to run electric lines. In the simplest of terms an easement is the right to use the land of another.

Easement Appurtenant

Easement that benefits a particular tract of land; generally an access easement or right of way.

Easement in Gross

An easement that does not benefit a particular tract of land; e.g. utility easements that run through all parcels of land in an area.

Eminent Domain

Process of governmental entity taking title to private property for public purposes.

Encumbrance

A claim or liability that is attached to property and that may lessen its value, such as a lien or mortgage.

Environmental Protection Agency (EPA)

Governmental agency responsible for the enforcement of environmental laws.

Escheat

Process whereby property of a decedent is given to the state because of no available heirs.

Escrow

Process whereby details of property transfer, payments, and deed conveyance are handled by a third party.

Executor

“Personal Representative”, the person who is appointed to administer the estate.

Executory Interest

Future interest that is not a remainder and not an interest in the grantor.

Executrix

“Personal Representative”, the person who is appointed to administer the estate.

F**Fee**

Term to refer to an inheritable interest in land.

Fee Simple

Highest land interest; full title; right to convey or transfer by will or mortgage without restriction.

Fee Simple Absolute

Another term for fee simple.

Fee Simple Defeasible

A fee simple estate that can be lost by violation of a condition or use restriction placed in the transfer by the grantor.

Fee Simple Determinable

Full title to land so long as certain conduct is avoided; e.g., "To A so long as the premises are never used for a bar."

Fee Simple subject to a condition subsequent

Full title provided that there is compliance with a condition; e.g., "To A upon the condition that the property is used for school purposes."

Fee Tail

Full title restricted in its passage to direct descendants of the owner.

Fiduciary

Party in position of trust and confidence with another; an agent or trustee.

Financing Statement

Document filed to protect a security interest; must contain information about the parties and description of the collateral.

Fixtures

Personal property that becomes attached to and is so closely associated with real property that it becomes a part of the real property.

Foreclosure

Process of selling mortgaged property to satisfy the debt owed by the defaulting mortgagor.

Forfeiture

Loss of rights; in a contract for deed, the loss of all interest in the property for nonpayment.

Freehold

Estates uncertain or unlimited in their duration.

G**Gift**

At law, a transfer of property without consideration with donative intent by actual or constructive delivery.

Grantee

In the strictest sense a grantee is a person or entity to which an interest in property is conveyed, or is claiming an interest against the grantor/owner. As noted in the index and abstracts the term grantee, in most cases, refers to the party that is claiming or receiving an interest in the property.

Grantor

In the strictest sense a grantor is a person or entity who is a seller or owner of interest in property. As noted in the index and abstracts the term grantor, in most cases, refers to the property owner.

Grantee Index

An index alphabetically listing the grantees by name, and showing the book and page numbers of the grantee's recorded transactions.

Grantor Index

An index alphabetically listing the grantors by name, and showing the book and page numbers of the grantor's recorded property transactions.

H**Hazardous Substance Response Trust Fund**

Fund created under federal environmental laws; known as the Superfund for use in clean-up of toxic waste.

Heirs

Persons entitled to a portion of a decedent's estate.

Homestead

Debtor protection that entitles the debtor to a certain amount in real property that is exempt from attachment by creditors.

I**Index**

An alphabetized listing.

Injunction

Equitable remedy; court order requiring a party to perform an act or cease certain conduct; e.g. to stop trespassing.

Installment Land Contract

A contract for deed; method of selling property in which the seller serves as the financier for the buyer and the purchase; seller holds onto the title until there has been payment in full under an installment payment plan.

Interstate Land Sales Full Disclosure Act (ILSFDA)

Federal law regulating the sale of property across state lines; requires advance filing of sales of minerals, mandatory disclosure of certain information, and prohibitions on promises about the land's future development.

Inter Vivos

During the life; while alive; e.g., an inter vivos gift.

Intestate

Death without a will.

Intestate Succession

Statutory method for distributing the property of those who die without a will (intestate).

Involuntary Lien

Lien that does not result from a contractual arrangement; e.g., a tax lien or a judicial lien.

J**Joint tenancy**

Method of co-ownership that gives title to the property to the last survivor.

K**L****Lease**

Agreement between the owner of land and another for the use and occupation of the land.

Lease-purchase

Financing method that permits potential buyers to lease property for a period with an option to buy.

Legacy

Gift of money by will.

License

Revocable right to enter another's property.

Lien

Interest in real property that serves as security for repayment of debt.

Life Estate

Interest in land that lasts for the life of the grantee.

Life Tenants

Those who hold a life estate in property.

Limited Partnership

A partnership with at least one general partner in which limited partners can purchase interest and be held liable only to the extent of their interest and not risk personal liability.

Lis pendens

"Suit or action pending"; document recorded with the land records to indicate a suit involving the land is pending.

M**Marketable Title**

Form of title generally required to be delivered at the sale of property; property is free from liens and no defects in title other than those noted or agreed to.

Master Deed

In a condominium development, the document recorded to reflect the location of the project and the individual units.

Master Plan

General plan for zoning.

Mechanic's Liens

Liens placed on real property to secure the amount due to those who performed the work or supplied materials for improvements or other projects on the land.

Metes and Bounds

Method of land description that begins with a permanent object and then through distances and directions describes the parcel of land.

Mortgage

Lien on real property used to secure a debt; a device for providing security to a lender by creating a lien against a specific piece of real estate.

Mortgage Survey Plan

Minimal drawing done at the behest of a lender who wants to make sure there is a structure on the property they are lending money on. Not recorded at the Registry.

Mortgagee

Lender, or party who holds the mortgage lien.

Mortgagor

The person or entity who mortgages the property; the borrower, the owner.

Mutual will

Wills of parties that are reciprocal in their distribution; usually based on a contract to make a will; generally enforceable.

N**National Pollution Discharge Elimination System**

Permit system that requires EPA approval for water discharges.

Negative Easement

An easement that prohibits a property owner from doing something that affects the property of another.

Nonconforming Use

In zoned areas, a use that does not comply with the area's zoning but that existed prior to the time the zoning was effective.

Noncumulative Classifications

Method of zoning in which use in a particular area is limited to the zoned use; e.g., industrial zones cannot include residential buildings and apartment areas cannot include single-family dwellings.

Nonfreehold Estates

Land interests that are limited and certain in their duration.

Notice Statute

Form of recording statute that gives later bona fide purchasers priority in the case of multiple purchases for the previous purchaser's failure to give notice by recording their transactions.

O**Offer**

Initial communication in contract formation that, if accepted, results in the formation of a contract.

Open Listing

Listing that pays commission to whichever broker or salesperson sells the property; permits the owner to list with more than one broker and be liable for only one commission.

Option

Right to purchase property during a certain period of time. This right is paid for with consideration.

Ordinances

Laws passed on a local level of county, state or city governments.

P

Personal Representative, the person who is appointed to administer the estate

Per Stirpes

Method of distributing property to heirs whereby those closer in relation to the decedent receive greater shares.

Plan of Land

Property can be adequately described by reference to a specific lot on a recorded (Registry) or registered (Land Court) plan or to a plan "to be recorded herewith." These plans show the dimensions of the lot, they do not show the buildings thereon.

Plat Map

Method of land description that relies on a recorded map of a subdivision, with each deed making reference to the map and the particular lot being conveyed.

Plot Plan

Drawing done showing the dimensions of a lot and the structures on it as they relate to the lot lines. Usually done for zoning purposes but do not meet strict recording requirements for plans to be recorded.

Posthumous heirs

Heirs born after the death of the decedent.

Premises

The words of conveyance in a deed; e.g., "do hereby grant and convey."

Prepayment penalty

Clause in mortgage or promissory note that requires the mortgagor to pay an additional charge for paying off the loan early.

Prescription

Process of acquiring an easement through adverse use of the easement over a required period of time.

Probate

Process of collecting the assets of a decedent; paying the decedent's debts, determining the decedent's heirs, and distributing the property to the heirs.

Promissory note

Two-party debt instrument that, in real estate, is generally secured by a mortgage or a deed of trust or some other interest in real estate.

Purchase Money Mortgage

A mortgage used to secure a debt for the funds used to buy the mortgaged property.

Q**Quasi-easement**

A right-of-way as it existed when there was unity of ownership in a parcel of land.

Quiet Title Action

Court action brought to determine the true owner of a piece of land.

Quitclaim Covenants

The grantor promises to convey his/her title, free from all encumbrances made by the grantor.

Quitclaim Deed

In *Massachusetts* A deed that guarantees that the title that the grantor is transferring is as good as that which is received.

In *Other States* A deed that serves to transfer title if the grantor has any such title; there are no guarantees that the grantor has any title or good title. (In Massachusetts, such a deed is called a release deed.)

R**REIT**

Real estate investment trust - form of real estate syndication in which investors hold trust estates and enjoy profits of trust's real estate holdings.

RESPA

Real Estate Settlement Procedures Act - federal statute regulating disclosure of closing costs in advance and prohibiting kickbacks for referring customers to title companies.

Rescission

Right to treat a contract as if it never existed; rescind contract rights; generally appropriate in cases of fraud and misrepresentation.

Recording

Process of placing a deed or other document on the public records to give notice of a transaction or interest in land.

Recorded & Registered Land

There are two types of land records in Massachusetts, *recorded* (Registry) and *registered* (Land Court). All land is in one category or the other, but it is possible for a single parcel to be in both types. Recorded land constitutes about 80% of the property in Norfolk County.

Recorded Land (Registry)

The act of filing papers on recorded land is known as *recording*. The papers being filed are known as *instruments*. Recorded land instruments are assigned a book and a page number. All recorded land instruments are later returned to the designated addressee.

Refinancing

Negotiating a new loan for real estate; generally done to obtain a lower rate or in the case of a sale to allow the buyer to purchase the property.

Registered Land (Land Court)

The act of filing papers on registered land is known as *registering*. The papers being filed are known as *documents*. Registered land documents are assigned a document number and noted on a certificate of title. All registered land documents remain at the Registry. The Land Court controls and supervises registered land. The Commonwealth guarantees and insures the title to land that is registered.

Registry of Deeds

The Registry of Deeds houses all of the records affecting real estate in the county in which said Registry is located. Recording or registering a document/instrument puts the world on notice of that particular transaction.

Release of Mortgage

See Discharge of Mortgage

Remainder

A future interest in someone other than the grantor; a remainder follows a life estate.

Reverse Mortgage

A mortgage in which the borrower receives the equity in the home in a lump sum or in separate payments, and the payback is deferred until the house is sold. Usually available to people 62 years of age or older.

Reversion

Future interest in grantor that results after life estate terminates and no remainder interest was given.

Right of Entry

Future interest in grantor that results after the life estate terminates and no remainder interest was given.

Right of Redemption

In mortgage foreclosures, the right of the mortgagor to redeem his or her property for six months after the foreclosure sale by paying off the debts and costs of the foreclosure.

Rule Against Perpetuities

Rule that prohibits the control of estates from the grave; provides a cap on use restrictions on contingent remainders and executory interests.

S**Satisfaction of Mortgage**

See Discharge of Mortgage

Security Deposit

In a lease, the amount of money prepaid by the tenant to secure performance of a lease and often provides the amount of liquidated damages if the tenant does not perform.

Self-proving Will

A will that is acknowledged or notarized and thereby enjoys the presumption of validity.

Servient Estate or Tenement

Land through which an easement runs or which is subject to the easement.

Sheriff's Deed

Form of title given to a buyer at a mortgage foreclosure sale; carries no warranties.

Soldier's and Sailor's Civil Relief Act

A Federal law that provided time limitations on foreclosures involving those in active military service.

Special Warranty Deed

A deed in which the property transferred is warranted to be free of all liens or encumbrances made by, through, or under the grantor . In Massachusetts, such a deed is referred to as a **quitclaim deed**. Note: the term "quitclaim deed" has a different meaning in other states.

Specific Performance

Equitable remedy that requires a party to a contract to perform the contract promise or promises.

Statute of Frauds

Statue dictating what types of contracts must be in writing to be enforceable. Contracts concerning real estate must comply with the statute of frauds.

Subordination of Mortgage

The holder of an earlier mortgage allows the lien of a new mortgage holder to have priority in the chain of title.

Subdivision

Parcel of land developed with building lots, streets, homes, parks, etc...

Sublease

Arrangement in which a tenant leases rental property to another, and the tenant becomes the landlord to the subtenant.

Subordinate Mortgage

Mortgage with a lesser priority than a preexisting mortgage.

Surety

One who stands as a guarantor for an obligation; as in payment or performance bond.

T**Taking**

Term used to describe the government action of using private property for public purposes.

Tax Deed

Form of title given in the event property is sold to satisfy taxes; carries no warranties.

Tax Lien

Lien placed on property for amount of unpaid taxes.

Tax Sale

Foreclosure sale on property for nonpayment of taxes.

Tenancy by the Entirety

Form of co-ownership between a husband and wife; a joint tenancy. Husband and wife each own the entire property.

Tenancy in Common

Simplest form of co-ownership. Each owner owns their percentage of the property.

Testamentary

Disposition by will.

Time-sharing Properties

Form of multiunit housing in which owners own the unit for a limited period of time during each year.

Title Abstract

Summary of the history of title to a parcel of land.

Title Insurance

Insurance that pays the buyer of property in the event certain title defects arise.

Title Theory

Theory of mortgage law that puts title in the mortgagee and possession in the mortgagor.

Torrens System

System for recording land titles designed to prevent the selling of the same parcel of land to more than one person.

Tract Index

Form of land record that keeps history of title through identifications within the particular tract.

Trustee

Third party responsible for handling the property of another; as in deed of trust or real estate investment trust.

U**UCC**

Uniform commercial code - uniform statute adopted in most states that governs commercial transactions; Article IX deals with security interests and fixtures.

Usury

Charging interest rates in excess of the statutory allowed maximums.

V

Variances

Approved uses of land outside the scope of an area's zoning.

Vested Remainder

A remainder that will automatically take effect when the life estate ends.

Voluntary Lien

A lien created because of a contract as opposed to a tax lien, which is involuntary.

W

Waiver

An intentional or voluntary relinquishment of a known right.

Warranty

A promise that a proposition or fact is true.

Warranty Deed

Deed that conveys title and carries warranties that the title is good, that the transfer is proper, and there are no liens and encumbrances other than as disclosed in the deed.

Way

A passage, path, road, or street, or a right of passage over land.

Wetlands

Lands on which water covers the soil or is present either at or near the surface of the soil all year or much of the year, such as swamps and marshes. Wetlands are subject to extensive government regulation, and there are variations among legal definitions in use.

Will

Document by which a person (testator) makes a disposition of property to take effect after his/her death.

Wrap-around Mortgage

A form of loan transaction, sometimes used in seller-financing, in which the lender assumes (or continues to have) responsibility for a preexisting mortgage (i.e., the new mortgage "wraps around" the first).

X

Y

Z

Zoning

Local government land use regulations, including provisions permitting or prohibiting particular uses (such as business or residential) in defined areas.