

by Ilyce_Glink

Q: My 92-year old grandmother transferred a deed of six acres of raw land to me at the beginning of March. I'm not sure what the property is worth. What would be the best way to determine its worth? And since I don't know its worth, I am concerned about possible gift taxes my grandmother would have to pay if the land is worth more than \$12,000 in value. What do you recommend I do? A: I'm not sure why your grandmother didn't just will the land to you rather than giving it to you now. If you inherited it, you would receive the land at its actual market value on the day she died. It's a much smarter move than giving you the land. Has your grandmother actually filed the quit claim deed with the recorder's office? If she has not filed the paperwork, it's possible that the gift hasn't really been given. If not, perhaps you and she could talk about her keeping the land for the moment, and she can then leave the land to you in her will. Another possibility would be for her to set up a trust, put the land into the trust, and name you the beneficiary. When she dies, you would automatically receive the land without having to go through probate. The cost of the trust would be around \$1,000, which you might want to pay. Assuming that the land transfer is a done deal, you won't have to pay taxes on the gift. As you have correctly noted, if the land is worth more than \$12,000 (which is the amount that anyone can give to any individual tax-free this year), she may have to file a gift letter with the IRS, and the full amount of the gift over \$12,000 would be deducted from her \$1 million lifetime exemption. But depending on where you live, you might want to talk to an accountant to make sure there aren't any other local or state tax consequences to the transfer of title from your grandmother to you. To find out how much the land is worth, please talk to local real estate agents who can help you figure it out based on what else has sold in the area recently. Or you can hire an appraiser.

Q: My brother purchased a house a few years ago when he was dating his fiancée. They put her name on the deed but the mortgage is only in his name. They are now separated permanently, but she refused to get off the deed. She has not paid on the mortgage since she left, and when she did live there she paid little on it. In fact, my brother is now paying off the home equity line of credit they took out together to consolidate some of her debt. What legal options does my brother have in removing her from the deed? A: Your brother was quite foolish. He should never have put his fiancée on the deed to the property without also including her in the mortgage. That way, he'd have had some leverage to get her off the property if things didn't work out. Here are two options for your brother to consider: He can buy out his ex-fiancée, or if they got married and are now getting a divorce, he can go to a judge, get a divorce and have the house awarded to him. Then he can ask the court to force his ex-wife to transfer the deed to the property back to him. None of these options are particularly easy, simple or cheap. For more legal options, your brother will have to spend some time and money with his attorney. That attorney might advise him to sue his fiancée to force the sale of the home or the breakup of the ownership.

Q: My friend just bought a house a month ago, and I agreed to be the co-buyer of the house. Now, I want to get off of the title because my friend who bought the house just told me he will not be able to make these payments since his wife lost her job. But I don't want to pay something I didn't want in the first place. He does not know what to do. What should I do? I am just the co-buyer. A: You're not the co-buyer - you're an owner of the property and I presume you're listed on the mortgage as well. As far as the mortgage lender is concerned, you are (and always were) considered a primary borrower on the property. If your friend fails to pay the mortgage, the lender will come after you for the money and his failure to pay on the mortgage can hurt your credit history and credit score. What you should do now, if you want to protect your credit history and score, is to make the payments on this property. If you're listed on the mortgage, you're legally liable for those payments. If you fail to make the payments, the lender will foreclose on the property and it will destroy your credit. If you can't make the payments, tell your friend to move out of the property, and find a renter to help defray costs until you can get the property sold. Unfortunately, you've discovered the primary danger of "lending a signature" to someone - if that friend suddenly can't afford to make the payments, you're on the hook. For more details, consult a good real estate attorney. (Ilyce R. Glink's latest book is *100 Questions Every First-Time Home Buyer Should Ask*, 3rd Ed. If you have questions, you can call her radio show toll-free at 800-972-8255 any Sunday, from 11a-12p EST.)

Â© 2007 Real Estate Matters - TMS