

by Ilyce_Glink

Q: I bought a house and the deed I received looks less glamorous than I thought it would. That is, there are no cool stamps, and even the paper looks copied. I trust my lawyer that it is the real deal, but since I now own my home, I had wanted to make a framed collage of the deed, a special landscape map of the property, and use some of our best photographs. While the deed is several pages long, I could use just the first page. But it bugs me that it's so plain. Historically, would people frame their deed, to show it's "their house?" Or, do folks just stuff it in a bank box, never to be seen again? Am I allowed to create a stamp and put a ribbon in it and sign it in red pen? A: It's good to know there are still some people looking for something more than black and white documents. Unfortunately, most people take their documents from the purchase of their home and file them away. You should do the same thing with your deed and other closing documents. You can place them in a bank box or other safe place where you have access to them if you need, but where they'll be unlikely to get destroyed in a flood or fire. What you can do for your collage is to make a copy of the first page and then decorate that page as you please. You can look on the Internet or check out the books at your local library that show what old documents looked like. Then, you can replicate that old look and feel. Scan your document into the computer and use publishing tools to make the document look old, if you wish. You may even be able to replicate the old wax seal stamps that were used hundreds of years ago to give your document that old time feel and even add the red ribbon you crave for color. Either buy a frame or have the collage professionally framed. Do whatever you like with the duplicate of your deed, but keep the original intact.

Q: If a lis pendens is recorded on a property, I know commercial lenders won't grant a mortgage or otherwise get involved with the property. But can private individuals still record a lien on the property? Does a lis pendens legally prevent the recording of a lien? And if a private individual records a lien against the property, does this mean the lien is somehow junior to the lis pendens? How exactly does this work, since a lis pendens has no dollar value? A: Simply put, a lis pendens is a document recorded against real estate that gives the world notice of a pending law suit. To protect the plaintiff's possible interest in the defendant's property (if the plaintiff might be able to collect on the judgment by taking his or her property), under some circumstances, the plaintiff is permitted to file a document on the title to that property giving everybody notice of his or her claim to it. Anybody coming after that date would have to follow the first party's claim to the property. If the plaintiff loses the case, the lis pendens is released. If the plaintiff wins the case, the property could be sold to satisfy the judgment against the defendant. If there's more value in the property than the judgment, other lien holders, including other people who might have sued the defendant and may have filed lis pendens would receive the balance. While the lis pendens has no monetary value, it does protect the plaintiff from actual or potential claims that may come later. But the actual value of the lis pendens will not become known until there is a judgment in the case.

Q: I am divorcing my husband due to abandonment. He also has legal issue and substance abuse. We purchased a home five years ago. To avoid any financial ramifications from his actions, can I use my power of attorney to remove his name from the deed to protect the home? I had to post notification of the divorce in the newspaper because I have no knowledge of where he is. A: If you have a valid power of attorney that gives you the right to conduct all of your husband's financial affairs, including real estate matters, you may have the power to convey title of the property to you, but that may not be the best thing for you to do. While title in the property may become yours by your actions, your husband may continue to have an interest in the proceeds of the home or even an interest in the home by virtue of the divorce. You should consult an attorney in your divorce proceedings to determine what course of action you should take. Since you can't find your husband, your better course of action may be to have the divorce court grant you a judgment for your husband's interest in the home. As an extreme example, if your husband is no longer living, the power of attorney he granted you may not be valid. If you were to convey title to yourself and then get divorced, you might later find out that part of the title to the home may still be in your ex-husband's name, or may belong to another member of his family. That's why it's important for you to work with your divorce attorney to get all of your assets in order and make sure that they are properly titled in your name alone.

© 2007 by Ilyce R. Glink and Samuel J. Tamkin. TMS

Real Estate Matters: Ask the real estate lawyer by Ilyce_Glink