

LAW OFFICES OF AFFORDABLE LIVING TRUSTS

14320-9 Saratoga-Sunnyvale Rd., Saratoga, CA 95070

(408) 741-1627

Fax (408) 741-5568

To Whom It May Concern:

This package contains information covering two different situations which make it vitally important that you execute a current deed properly titling and transferring your real property into the name of your living trust:

- 1. Newly acquired real estate property (purchase, exchange, gift or inheritance).**
- 2. Real property that has been or possibly been removed from the trust in the process of a financing or re-financing transaction.**

The process for financed or refinanced property is discussed on another page contained in this package.

The process for newly acquired property is discussed below on this page.

Follow whichever is applicable to your case.

The procedure for newly acquired property (below)

If you would like us to prepare a deed properly titling and transferring your newly acquired real property into the name of your living trust, please send instructions in writing informing us that you would like us to prepare such deed. In your written request please include and complete the following:

Please enclose a clearly legible copy of the deed that contains the legal description and shows the how the property is presently titled. If the document refers to an "Exhibit A" please be sure to enclose a clearly legible copy of the "Exhibit A." (The County of Record will not accept a poor quality copy. If it is necessary for our office to retype the "Exhibit A", there will be an additional minimum fee of \$50.)

Also, please read and fully complete the appropriate enclosed Property Information Worksheet.

Please state the Assessors Parcel Number (APN#) as set forth on the property tax statement.

Please state the physical street address / property location as it is referred to on the property tax statement.

Please indicate which recording option you wish to utilize.

For preparation of the deed please include a check for \$50 plus the appropriate amount for the recording option that you choose. **Please note that we cannot begin processing your request if a check does not accompany your written request.** After we receive the request we will contact you when the deed is ready. Please allow up to 30 days. Also note that the fees do not include any notary or recording fees payable to the county.

Regards
Affordable Living Trusts

Warning, Advice, Instructions & Procedures **Regarding Financing & Refinancing Transactions**

Clients who have refinanced or taken out new loans on a property need to be very careful and attentive in regards to the effect this may have regarding the property being titled in the trust. Most title companies and lending institutions will not make a loan through a trust and thus during the financing process the property is taken out of (deeded out of) the trust back into your individual names. Often, clients do not even realize this is one of the documents that they signed during the process. Worse yet, other people are often added to the title causing major complications. **All of this means that the property is no longer titled in the name of your trust.** Remember the Trust Golden Rule – assets need to be properly titled in the name of your trust to avoid probate. **If you do not re-title the property in the name of your trust it will go through probate – the very thing you are trying to avoid.** Therefore -- if you refinance a property which you intend to be a part of your trust we **generally advise immediately executing and recording a new deed right after the refinancing transaction is completed.** (Even if you never recorded the first transfer deed into your trust it is still advisable to execute a new deed dated subsequent to the close of the financing.)

Note: If you try to pass the property with joint tenancy (instead of using your trust) you will (among other negatives) generally lose a major tax advantage. Worse yet, to help qualify for loans, financing companies will often have you add other people to title. This may help the loan go through but it can cause major complications including eventual tax repercussions. Beware!

Refinancing a property owned by your trust:

Again, in the course of a refinance, a property is usually “taken out of the trust.” Therefore, at the close of the refinance process, the real estate property must be re-titled in the name of the trust – or – as it is sometimes referred to: “put back in the trust.”

There are two ways to accomplish this:

1. Deed Properly Titled At Close of Transaction

You may ask the title company to re-title the property directly back into your trust (new deed to your trust executed and recorded). The title on the deed (signed at the close of the re-finance) should be stated exactly as it is on the first page of your trust. For example:

John and Mary Smith, Trustees of the Smith Trust, created January 1, 2003.

If the deed that you signed was correctly titled and signed by you (and your spouse, if you have a joint married living trust) after the refinance process was complete, then there is nothing more you need do.

Otherwise it is critical that you immediately have a deed prepared and execute the deed transferring title to your trust which we can prepare for you (discussed on the back side of this page).

(Continued on Back Side of This Page)

2. Affordable Living Trusts Prepares Deed

You may engage our office to prepare a QuitClaim deed. The fee for preparation of the deed is \$50. If you elect to engage our office to also assist with recording the deed, this is an additional fee (choices & fees covered in the attached Deed Directive).

Recording fees vary: If the property is located in the state of California, the fee for our office to assist with recording will be \$25-\$75 per deed. In all other states, we offer the possibility of assistance on a case-by-case basis. The fees usually range from \$30-\$100.

If you wish to engage our office to complete this process, simply contact our office by mail. Include the following information:

- a. Date of Trust
- b. Address of Property
- c. If you would like our office to assist with recording of deed (complete deed directive if attached)
- d. If you would prefer to sign the deed at our office, by appointment, with the notary public – or – you would prefer to receive the documents by mail, with instructions, and patronize the notary of your choice.
- e. A check, made payable to Landis Mahaffey, in the appropriate amount.**

Remember: it is vitally important that all real estate property is titled in the name of your trust.

Real Estate Packet & Worksheets

General Notes & Documents You Need To Supply

What is Real Property? Generally, real property is any whole or partial ownership interest or right to land, whether or not there is a house or building on it. Oil and mineral rights are also a real property interest. Mobile homes are not a real property interest (but if you own the land it sits on that is a real property interest).

The Mortgage Holder Does Not Own The Property -- You Do

Contrary to an often mistaken belief, **you are the full legal owner of your real estate property, regardless of any outstanding loans** used to purchase the property (or funds obtained through equity loans). The lender does not enjoy any ownership interest, but rather holds something similar to a lien against the property. Generally, the only known exception to this is a Cal-Vet loan and in rare instances where you are purchasing the property via a Land Sale Contract.

You Must Execute A Deed For Each Real Property Interest That You Own

Whether you now own 100% of a piece of real estate or, own a part interest as co-owner, **it is vitally important that you execute a deed for each whole or part interest – conveying and transferring it to your trust.** (This rule also applies to any whole or part interest that you acquire in the future.)

What Documents / Information You Need to Supply

To transfer your real estate to your trust requires you to furnish a copy of the deed for each and every real estate property that you own (this includes partial interests and timeshares). Generally this is the deed (document) signed by the last owners which conveyed (transferred) the property to you – usually when you purchased the property. It is also possible that you received the property through a probated inheritance in which case you need to provide a copy of the final distribution order of the probate court. It is critical to arrive at any trust appointment with **copies of your deeds**, including the **address for each piece** of property as well as **the property tax parcel number** (APN, Assessors Parcel Number, etc.).

What Is The Name of the Deed That You Need to Furnish

The ideal deed that we want is called the:

- **GRANT DEED** - or -
- **CORPORATION GRANT DEED** - or -
- **JOINT TENANCY DEED** - or -
- **WARRANTY DEED**

The above shouldn't be confused with the deed of trust or mortgage papers which are really the loan papers on the property.

(Real Property Directions continued on Next Page)

Please be sure to read

What Are We Really Looking For (The Property Description) So Please Be Aware of Any Referenced Exhibit "A"

We like to confirm the names and vesting on the title but **the most critical information we are looking for is the property description**. Most times this is 2 to 4 lines long and will typically be contained within the body of a one-page deed. However, sometimes the description is too long to fit on one page or for some other reason it will be attached on a separate page usually referred to as an Exhibit "A". **It is thus critical that you also furnish any referred to Exhibit "A"**. Set forth below is an example of a typical property description and an example of the wording used when there is an Exhibit "A".

Typical Property Description Example:

*City of Saratoga, Santa Clara County, State of California
Lot 27 in Block 1, as shown on that certain Map entitled, "Tract No. 1277 Saratoga Orchards", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on March 22, 1954 in Book 48 of Maps, at page 25.*

Typical Property Description Example With A Referred to Exhibit "A":

*City of Saratoga, Santa Clara County, State of California
For the legal description see the attached Exhibit "A"*

What other documents may contain the property description:

Again, the ideal document is the Grant Deed (Joint Tenancy Deed of Warranty Deed). That said, if you cannot find the Grant Deed the property description can often be found buried in PRELIMINARY TITLE REOPORTS, TITLE INSURANCE PAPERS, AND / OR DEEDS OF TRUST. (These documents almost always use an Exhibit "A" for the property description so please don't forget the Exhibit "A".) When in doubt, bring in your whole stack of papers and we will usually find the needed information (but please know the property address & parcel numbers found on your property tax statements). **Note: Deeds of Reconveyance will do no good at all (as they never contain the property description)**

Please Complete the "Master List of Real Estate Properties"

Please Read and Complete The Appropriate Real Estate Directives:

California Real Property Directives: Contained in this package you will find a Real Estate Property Directive for California properties (2 pages). **A separate directive should be filled out and completed for each piece of real estate property that you own in California.** Print out and or duplicate as many copies as you need or alternatively we will furnish them at your appointment.

Non-California Real Property Directives: Also contained in the package is a Real Estate Property Directive for **Non**-California properties (2 pages). **A separate directive should be filled out and completed for each piece of real estate property that you own outside of California.** Print out and or duplicate as many copies as you need. Print out and or duplicate as many copies as you need or alternatively we will furnish them at your appointment.

CALIFORNIA REAL ESTATE PROPERTY ONLY

(Please complete the backside of this form)

If you own more than one California property, additional forms will be provided at the time of your appointment.

HIGHLY ADVISE RECORDING:

We strongly recommend recording of any deed transferring real property to your trust. For California property deeds we offer several options towards helping you complete the process of recording a deed. Please indicate your choice by completing the backside of this form.

All California Counties Require:

Preliminary Change of Ownership Report (PCOR) With Each Deed:

When you send a deed in for recording every California County requires that the deed be accompanied by a properly completed Preliminary Change of Ownership Report or "PCOR" for short (a two-sided yellow county form). The Assessor uses the information on this form to determine whether or not a property can be re-assessed. Of course, under California law, transfers to a revocable living trust are exempt from re-assessment. With this form properly filled out, the assessor quickly knows this is an exempt transfer and cannot be re-assessed and normally you will receive no follow on correspondence from the assessor regarding the transfer. If the form is not properly completed a fee is assessed and you must deal with the headache of follow on paperwork and back and forth correspondence until the assessor is satisfied. Unfortunately, this form can be very confusing to those unfamiliar with it (what to fill out, what not to fill out, what boxes to check, etc.). If you are not practiced at filling out this form it is very easy to make a mistake or check the wrong boxes, which of course will trigger a paperwork headache with the assessor's office. The bottom line is this: Once a PCOR is properly completed recording the deed is easy. From that point you simply mail the Deed, PCOR, and a check to the appropriate county recorder.

(Please also note that unless you are engaging us to help with the recording, we cannot help you in filling out any county or state forms or otherwise assist in the recording.)

Property Worksheet for CALIFORNIA REAL ESTATE PROPERTY ONLY

Please complete a separate property information worksheet for each real estate property (whole or partial) interest that you own in California. (Note: There is a separate worksheet for any out of state properties.)

Property Address & Assessor’s Parcel Number (APN)

Please list below the physical street address, city, & state of the property (if there is no street address please look on the property tax bill to see what the assessor lists as the “property address”):

(Address, City, State)

The Assessor’s Parcel Number (APN):

(This is located on your property tax bill – We may be able to help if you can not find this, or do not know)

RECORDING: We strongly recommend recording of any deed transferring real property to your trust. For California property deeds we offer several options towards helping you complete the process of recording a deed. (Please be sure to read the other side of this form for some important information.)

Please choose & sign one of the following three options:

Option 1 – \$25 charge to Ready All Documents for Recording

For a charge of \$25 we will do the following (at time of appointment):

- Properly fill out and complete the PCOR (see other side of page for explanation)**
- Provide you with an envelope already pre-addressed to the appropriate county recorder.**
- Supply you instructions how to make out your check.**
- Supply you any other simple instructions and relevant information.**

With this method all you have to do is make out your check as instructed and mail everything together. Since all the hard work is done most clients greatly prefer mailing it themselves since it saves \$50 per deed over option 2 (below).

Your signature below indicates you choose option 1: Dated _____

Signed _____ Signed _____

Option 2 – \$75 charge to Ready & Mail All Documents for Recording

For a charge of \$75 (plus county fees) we will be happy to both complete the PCOR and mail your deed to the respective county recorder.

Your signature below indicates you choose option 2: Dated _____

Signed _____ Signed _____

Option 3 – You Do Not Wish for Any Assistance with Recording:

By signing below you acknowledge that you have been advised to record this deed but do not wish any assistance or help with recording. You hereby agree to hold harmless Landis Mahaffey, his associates and employees, and Affordable Living Trusts for any consequence or eventuality caused by any failure to record this deed.

Your signature below indicates you choose option 3: Dated _____

Signed _____ Signed _____

NON-CALIFORNIA REAL ESTATE PROPERTY ONLY

(Please complete the backside of this form)

Please complete a separate property information worksheet for each real estate property (whole or partial) interest that you own outside of California. (Note: There is a separate worksheet for any California properties.) If you own more than one Non-California property, additional forms will be provided at the time of your appointment.

HIGHLY ADVISE RECORDING:

We strongly recommend recording of any deed transferring real property to your trust. This is especially important for Non-California real property as some states even have a time limit for recording. While we have assisted clients in recording deeds in other states it is important to note that we are California attorneys and as such it is impossible for us to be familiar with every nuance, form, and requirements of 49 other states. That said, many states have fairly straightforward requirements. Yet it is also true that some states and counties impose highly involved and seemingly very confusing requirements which generally require the assistance of an in-state entity, title company, or law office familiar with the forms and requirements. Hawaii, New York, Illinois, and Maryland are extreme examples of this.

We have become familiar enough with many states to offer assistance in helping you successfully record many out of state deeds. Thus **we offer the possibility of assistance on a case-by-case basis**. In cases that we are not sufficiently familiar with the states requirements, or in cases for which we feel it is in your better interest, we will have to insist that you engage an in state entity, title company, or law office that is qualified and familiar with the forms and requirements of that county and state. (Some clients turn to real estate companies, agents, or friends in the state for assistance -- or attempt to work their way through the paperwork and requirements and record the deed in person when they visit the county.) Whether you use our assistance or not, **it is important for you to understand that you are ultimately responsible to see that the deed is recorded**. (Also, transfer and recording of any property outside of the United States must be handled by in-country qualified counsel.)

Please complete the reverse side of this form.

Sorry we absolutely cannot offer assistance for Hawaii, New York, Illinois, and Maryland. Deeds for other states will be handled on a case-by-case basis. (We reserve the right to add to this list at any time.)

Property Worksheet for NON- CALIFORNIA REAL ESTATE PROPERTY

Please complete a separate property information worksheet for each real estate property (whole or partial) interest that you own outside of California. (Note: There is a separate worksheet for any California properties.)

Property Address & Property Tax #

Please list below the physical street address, city, & state of the property (if there is no street address please look on the property tax bill to see what the assessor lists as the "property address"):

(Address, City, State)

Property Tax Number (Assessors Parcel #):

(This is usually located on your property tax bill)

Please choose & sign one of the following four options:
Option 1 – \$30 to \$100 Charge to Assist Towards Recording

Assist in Completing Required Forms or Required Statements on The Face of The Deed
Provide you with an envelope already pre-addressed to the appropriate county recorder.
Supply you instructions how to make out your check.
Supply you any other simple instructions and relevant information.

The goal of this method is to complete all needed paperwork so all you have to do is make out your check as instructed and mail everything together. Most times and for most states this method works out very well for most clients. Also, if at any point we run into unanticipated difficulties, or judge that it is uneconomical or beyond the scope of our services we reserve the right to refund your recording money (less a \$25 fee) at which point you must engage a qualified entity in the state in which the property sits to help you record the deed.

Your signature below indicates you choose option 1 & that you read the reverse side form:

Dated:

Signed _____

Signed _____

Option 1b -- You Wish Us To Mail The Documents For You (additional \$75)

Dated:

Signed _____

Signed _____

Option 2 – Involves a State You Must Seek In State Counsel Though we have advised you to record, this involves property in Hawaii, New York, Illinois, Maryland, Missouri, and Virginia or some other state and you understand that you must seek help outside this office to accomplish recording.

Your signature below indicates you choose option 2 & that you read the reverse side form:

Dated:

Signed _____

Signed _____

Option 3 – You Do Not Wish for Any Assistance with Recording:

By signing below you acknowledge that you have been advised to record this deed but do not wish any assistance or help with recording. You hereby agree to hold harmless Landis Mahaffey, his associates and employees, and Affordable Living Trusts for any consequence or eventuality caused by any failure to record this deed.

Your signature below indicates you choose option 3 & that you read the reverse side form:

Dated:

Signed _____

Signed _____