
Documents Requiring Approval by the Examiner of Titles

Prepared by

Hennepin County Examiner of Titles
May 2002

May, 2002

DOCUMENTS REQUIRING APPROVAL BY THE EXAMINER OF TITLES

The following documents require the approval of the Examiner of Titles before filing with the Registrar of Titles:

- Personal Representatives Deeds
- Probate Decrees
- Guardian and Conservator Deeds
- Marriage Dissolution Decrees when used to transfer title (also Summary Real Estate Disposition Judgments)
- Trustee's Deeds and Plats
- Deeds made by an Attorney-in-Fact
- Instruments made by a Custodian under the Minnesota Uniform Transfers to Minors Act

BEFORE bringing the documents to the Examiner of Titles Office, please make sure that:

- The documents are submitted to the Examiner at least one day before they are needed. In most cases they will be ready for pickup by 10:00 a.m. the following day.
- The documents should be ready for filing. Deeds must be signed, acknowledged and all dates must be filled in where appropriate.
- The Certificate of Title number is provided.

PERSONAL REPRESENTATIVE'S DEEDS OF SALE

A. If Decedent Died Intestate

1. Fully executed and dated Personal Representative's Deed with the consent of spouse, if any.
2. Certified copy of Letters of General Administration. The Letters must be in full force and effect as of the date of the deed.

NOTE: If your deed is dated January 1, 2002, the certified copy of the Letters must be dated January 1, 2002 or later, the certified copy cannot predate the deed.

B. If Decedent Died Testate

1. Fully executed and dated Personal Representative's Deed with the consent of spouse, if any.
2. Certified copy of Letters Testamentary. The Letters must be in full force and effect as of the date of the deed. *See note in Item A above.*
3. Certified copy of the Will and either an Order for Probate of Will (if formal) or a Registrar's Statement admitting Will to Probate (if informal).

If the decedent's will devised the property being sold to specific persons, it is necessary to either secure deeds from these individuals to the grantee(s) of the Personal Representative's deed or get consents to the sale from the devisees and file the consents in the probate file.

C. If Deed Is Given In Fulfillment Of A Contract For Deed

1. Fully executed and dated Personal Representative's Deed with the consent of spouse, if any.
2. Certified copy of Letters. The Letters must be in full force and effect as of the date of the deed. *See note in Item A above.*

If the Contract for Deed is **not** of record, the Personal Representative's deed must identify the vendor and vendees, the date of the Contract and state that the Deed is given pursuant to the Contract.

COMMON REASONS FOR REJECTION

1. The deed is given before 30 days have elapsed from the issuance of the letters in an **informal probate**. Minn. Stat. § 524.3-711.
2. The deed is dated **after** the certification date of the letters.

PERSONAL REPRESENTATIVE'S DEEDS OF DISTRIBUTION

A. If decedent died intestate:

1. Fully executed and dated Personal Representative's Deed of Distribution.
2. Certified copy of the Order of Appointment containing the Registrar's determination of heirs.
3. Certified copy of Letters of General Administration. The Letters must be in full force and effect as of the date of the deed. *Certification date is the date Probate Court certifies the copy...not the issue date of the letters.*
4. **If the letters were issued after July 1, 1996**, also submit an Affidavit of Service on the Commissioner of Human Services to which a copy must be attached of the Notice to Commissioner of Human Services regarding possible claims under Minn. Stat. §§ 246.53, 256B.15, 256D.16 or 261.04 required by Minn. Stat. § 524.3-801(b)(2). If the distribution is made less than 70 days after the date of service upon the Commissioner, a waiver of notice and consent to Distribution from the County Economic Assistance Department must be submitted.

B. If decedent died testate:

1. Fully executed and dated Personal Representative's Deed of Distribution.
2. Certified copy of the Will and Registrar's Statement probating the Will.
3. Certified copy of the Letters Testamentary. The Letters must be in full force and effect as of the date of the deed. *Certification date is the date Probate Court certifies the copy...not the issue date of the letters.*
4. **If the letters were issued after July 1, 1996**, also submit an Affidavit of Service on the Commissioner of Human Services to which a copy must be attached of the Notice to Commissioner of Human Services regarding possible claims under Minn. Stat. §§ 246.53, 256B.15, 256D.16 or 261.04 required by Minn. Stat. § 524.3-801(b)(2). If the distribution is made less than 70 days after the date of service upon the Commissioner, a waiver of notice and consent to Distribution from the County Economic Assistance Department must be submitted.

COMMON REASONS FOR REJECTION:

1. The deed is given before 30 days have elapsed from the issuance of the letters in an **informal probate**. Minn. Stat. § 524.3-711.
2. The deed is dated **after** the certification date of the letters.

DECREES OF DISTRIBUTION

1. Certified copy of Decree of Distribution
2. **If the letters were issued after July 1, 1996**, also submit an Affidavit of Service on the Commissioner of Human Services to which a copy must be attached of the Notice to Commissioner of Human Services regarding possible claims under Minn. Stat. §§ 246.53, 256B.15, 256D.16 or 261.04 required by Minn. Stat. § 524.3-801(b)(2). If the distribution is made less than 70 days after the date of service upon the Commissioner, a waiver of notice and consent to Distribution from the County Economic Assistance Department must be submitted.

DECREES OF DESCENT

1. Certified copy of the Decree of Descent
2. ~~A Notice to the Commissioner of Human Services and the Affidavit of Service on the Commissioner is not required.~~

GUARDIAN AND CONSERVATOR DEEDS

1. Fully executed and dated Guardian or Conservator Deed joined in by the spouse, if any.
2. Certified copy of Letters of Guardianship or Conservatorship. The Letters must be in full force and effect as of the date of the deed. *Certification date is the date Probate Court certifies the copy...not the issue date of the letters.*
3. Certified copy of Order Directing Sale.
4. Certified copy of Order Confirming Sale.

COMMON REASON FOR REJECTION:

The deed is dated **after** the certification date of the letters.

MARRIAGE DISSOLUTION DECREES and SUMMARY REAL ESTATE DISPOSITION JUDGMENTS

A. Both spouses are owners:

To transfer title from one spouse to the other, submit:

- ↳ A certified copy of the Marriage Dissolution Decree or the Summary Real Estate Disposition Judgment which contains language transferring title from one spouse to the other.

NOTE: If a deed from one spouse to the other is also obtained, the deed and the certified copy of the dissolution decree or disposition judgment can be filed directly with the Registrar of Titles without the need to obtain the approval of the Examiner.

NOTE: If the dissolution decree or disposition judgment creates a lien in favor of one spouse, the lien will be shown as a memorial on the Certificate of Title until a deed or release is filed to release it.

B. Only one spouse is an owner:

If only one spouse is the owner, submit:

- ↳ A certified copy of the Marriage Dissolution Decree or Summary Real Estate Disposition Judgment which describes the property and awards it to the spouse who is also the owner of it. This dissolution decree or disposition judgment can be filed directly with the Registrar of Titles without the approval of the Examiner.

TRUSTEE'S DEEDS CONVEYING FEE TITLE and PLATS MADE BY A TRUSTEE

1. Fully executed and dated Trustee's Deed conveying fee title (or a plat signed by a Trustee).
- ⇒ 2. Certificate of Trust (Minn. Stat. § 501B.56).
3. Affidavit of Trustee (Minn. Stat. § 501B.57) dated the same date as the deed or later.

OR

1. Fully executed and dated Trustee's Deed conveying fee title (or a plat signed by a Trustee).
- ⇒ 2. An original Trust Instrument, fully executed.
3. Affidavit of Trustee (Minn. Stat. § 501B.57) dated the same date as the deed or later.

OR

1. Fully executed and dated Trustee's Deed conveying fee title (or a plat signed by a Trustee).
- ⇒ 2. A certified copy of the fully executed Trust Instrument (certified by a County Recorder, Registrar of Titles or other custodian of public records).
3. Affidavit of Trustee (Minn. Stat. § 501B.57) dated the same date as the deed or later.

OR

1. Fully executed and dated Trustee's Deed conveying fee title (or a plat signed by a Trustee).
2. District Court file number if the trust is administered by the District Court.

COMMON REASONS FOR REJECTION:

1. The Affidavit of Trustee gives the wrong date of the Certificate of Trust or Trust Instrument.
2. Paragraph 3 of the Affidavit of Trustee is filled in with information about the Trust Instrument instead of information about the deed.
3. The deed is dated after the date of the Affidavit of Trustee.

Seneca County only

ATTORNEY-IN-FACT DEEDS

- A. Deeds made pursuant to a Statutory Short Form Power of Attorney (Minn. Stat. § 523.23, Subd. 1).
1. A fully executed and dated deed by the Attorney-in-Fact.
 2. An original Statutory Short Form Power of Attorney which must duplicate the statutory form exactly with no modifications (Minn. Stat. § 523.23, Subd. 3).
The specimen signature of the attorney-in-fact must appear on the form, but this signature need not be notarized.
 3. Affidavit of Attorney-in-Fact (Minn. Stat. § 523.17) dated the same date as the deed or later.
- B. Deeds made pursuant to a Common Law Power of Attorney (Minn. Stat. § 523.23, Subd. 3).
[A Power of Attorney that does not satisfy the requirements for a Statutory Short Form Power of Attorney (Minn. Stat. § 523.23, Subd. 3) because the form in Subd. 1 of § 523.23 is not duplicated exactly or because it has been modified in some way, may nevertheless constitute a Common Law Power of Attorney that incorporates by reference the definitions of powers in § 523.24]
1. A fully executed and dated deed by the Attorney-in-Fact.
 2. Executed and acknowledged original Power of Attorney.
 3. Affidavit of Attorney-in-Fact (Minn. Stat. § 523.17) dated the same date as the deed or later.

COMMON REASONS FOR REJECTION:

1. The Affidavit of Attorney-in-Fact does not state the date of the Power of Attorney or states the wrong date.
2. The Affidavit is not the current affidavit form (use the 1992 form).
3. The Affidavit is dated before the deed.
4. The Deed is not acknowledged by the Attorney-in-Fact. (The acknowledgment should be by "_____ as Attorney-in-Fact for _____, a single person (or married to _____)".)
5. A Power of Attorney from one spouse to the other spouse must be dated on or after January 1, 1996.

CUSTODIAN'S INSTRUMENTS UNDER THE MINNESOTA UNIFORM TRANSFERS TO MINORS ACT

To file an instrument made by a custodian under the Minnesota Uniform Transfers to Minors Act, also submit the following:

1. A certified copy of the minor's birth certificate.
2. An affidavit from the custodian that the minor is alive.

If the minor is alive and under the age of 18, the custodian has full power to deal with the real estate. The Registrar of Titles will file the instrument and does not need the approval of the Examiner, Minn. Stat. §§ 527.33 and 527.40.

If the person listed as a minor is alive and between the ages of 18 and 21, the instruments should be brought to the Examiner of Titles who will determine whether the custodianship has terminated as provided in Minn. Stat. § 527.40. If the custodianship has terminated, the custodian must convey the property to the person listed on the Certificate of Title as a minor.

If the person designated as a minor is now 21 years of age, the custodian must convey the property to that person. Minn. Stat. § 527.40.

EXAMINER'S DIRECTIVES

Prepared by

Hennepin County Examiner of Titles

April 1997, Rev. March 2001

April 1997/March 2001

Examiner's Directives

Examiner's Directives to the Registrar of Titles have been authorized by legislation for many different transactions involving registered land. All of the following categories previously required the completion of a proceeding subsequent to secure a court order directing the Registrar of Titles to take the appropriate action. Now the Examiner of Titles has the discretion to issue a Directive to the Registrar as a substitute for a court order.

General Requirements

- Directives will be issued upon the written request of the party in interest or their attorney.
- The written Directive will be given to the requesting party, who is responsible for filing the Directive with the Registrar of Titles.
- Directives will generally be issued within 10 days of the request.
- Directives will not be issued if the proceedings are irregular.

Mortgage Foreclosure by Action (Minn. Stat. § 508.58, Subd. 2)

Submit the following to the Examiner:

1. Certificate of Title number.
 2. District Court case number.
 3. Bankruptcy searches in the office of the United States Bankruptcy Clerk through the redemption period against the registered owner and any contract vendees whose interests were terminated by the foreclosure.
 4. An affidavit of military status for the registered owner.
 5. An affidavit showing that the land is not agricultural.
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Tax Titles More Than 10 Years Old
(Minn. Stat. § 508.67, Subd. 2)

Submit the Certificate of Title number to the Examiner.

This statute only allows the Examiner to direct the Registrar of Titles to issue a new Certificate of Title if the County Auditor's Certificate of Forfeiture or Certificate of Sale has been memorialized upon the Certificate of Title for at least 10 years.

Condemnation
(Minn. Stat. § 508.73, Subd. 1)

Submit the following to the Examiner (*an Examiner can only issue a Directive under this statute if the fee title was condemned*):

1. The Certificate of Title number.
 2. An instrument containing the information required by Minn. Stat. § 508.73, Subd. 1.
 3. A certified copy of the Final Certificate or court order transferring title.
 - If the above instruments have been memorialized, just give the Examiner the Certificate of Title number.
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Vacated Streets and Alleys
(Minn. Stat. § 508.73, Subd. 2)

Assuming a certified copy of the resolution or ordinance of vacation has been memorialized on the Certificate, it is only necessary to include the Certificate of Title number in the written request to the Examiner. If the resolution or ordinance of vacation has been issued by the governing authority, but not yet filed with the Registrar of Titles, you may submit the certified copy of the vacation/ordinance to the Examiner with the request for the Directive. The Directive will be issued subject to the filing of the certified copy.

Condominiums

(Minn. Stat. § 508.71, Subd. 7)

To create a condominium on registered land in Hennepin County you must take the following steps:

- Have a CIC* number assigned by the Registrar of Titles and have the statutory documents and plat prepared.
- Submit to the County Surveyor's Office a preliminary paper copy of the proposed plat along with the appropriate fees and a copy of the Declaration.

The county surveyor will review the proposed plat and advise the declarant's surveyor to make any necessary corrections before the mylar is prepared.

- Submit to the Examiner of Titles Office the original, executed Declaration and Bylaws (even if bylaws are not to be filed) together with evidence that the homeowner's association has been created.

The examiner will review the Declaration and Bylaws and advise declarant's attorney of any necessary changes.

When the mylars have been submitted to and reviewed by the county surveyor, he will send them to the examiner's office for final review prior to the preparation of the directive allowing the filing of the condominium documents. (There is no fee for the Directive in the Examiner's office.)

When the Directive is ready, the Examiner's Office will advise the filing party that the documents may be collected and presented to the Registrar for filing. (Check with the Registrar of Titles for statutory fees.)

*Common Interest Community

Amendment or Cancellation of Certain Memorials Shown on Certificates (Minn. Stat. § 508.71, Subd. 3)

Submit a written request to the Examiner stating the number of the Certificate of Title and the relief requested.

The statute authorizes the Examiner to issue a Directive ordering the amendment or cancellation of:

- a memorial relating to racial restrictions;
- rights which are barred by statute; or,
- rights which have expired by the terms of the instrument creating the rights.

Examples of memorials which can be deleted by Directive are: money judgments more than 10 years old, mortgages barred by Minn. Stat. § 541.03, and restrictions barred by the 30- or 40-year laws.

In Hennepin County the deletions are accomplished by issuing an Examiner's Deletion Directive which is filed on the Certificate of Title. There is no filing fee for deletion directives.

Correction of Names or Designation of Parties on Certificates of Title (Minn. Stat. § 508.71, Subd. 3)

Since August 1, 1996, the Examiner has had the authority to correct the name or designation of a party who is the registered owner or who has an interest registered on a Certificate of Title, upon submission to the Examiner of satisfactory evidence.

Examiner's Directives have been issued most frequently in the following situations:

- To correct the spelling of the name of an individual.
- To correct the name of a corporation or its state of incorporation.

The evidence for the correction of a name of an individual usually consists of an affidavit together with a copy of a birth certificate, marriage certificate or a driver's license.

The evidence for the correction of the name of a corporation usually consists of an affidavit together with a certificate from the Secretary of State stating that there is no corporation with the name on the Certificate of Title, but that there is a corporation with a similar name which name is set out.

The above evidence should be submitted to the Examiner together with a written request for correction and the Certificate of Title number.
