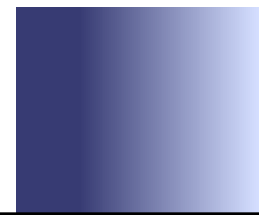




BENEFICIARY DEEDS



What is a Beneficiary Deed?

- **Non-probate Transfer of Title to Real Estate.** Allows property owners to name person(s)/organization who will own their property upon their death
- A Deed that is signed by the Transferor, notarized, and recorded with the City Recorder of Deeds, but does not take effect until the Transferor's death
- Relevant Statutes: Missouri Revised Statutes Chapter 461 Nonprobate Transfers Law
- Most useful when main asset is real estate.

Advantages of a Beneficiary Deed

- Nonprobate transfer
 - Saves time and expenses involved in probate
 - No Notice requirement or Claim filing period
 - No probate process to retitle property, need only to file death certificate
- No present interest for Beneficiary
 - Transferor retains full control
 - Beneficiary's creditors cannot reach property
- Transferor can change or revoke the transfer at any time prior to death
- Not considered a gift, no gift tax consequences for Beneficiary
- Helps neighborhoods combat blight
- Helps families to build wealth over generations.

Deed Requirements

- Title of document: Beneficiary Deed (Missouri Nonprobate Transfer)
- Date of document
- Transferor's name as it appears in document granting title
 - Transferor's marital status
 - If Transferor's spouse on original deed has passed, a note of the date spouse passed
- Beneficiary's full legal name
 - If multiple Beneficiaries: joint tenants, tenants by the entirety, or tenants in common
 - LDPS or no LDPS
 - Marital status
- Beneficiary's current mailing address
- **Full** legal description of property with parcel number
- Statutory Reference 461.025 R.S.Mo
- Language indicating that the deed will not take effect until the death of the transferor
- Appropriate signature of Transferor
- Appropriate Missouri Deed acknowledgement from notary public

Issues with Multiple Beneficiaries

- In the case of multiple Beneficiaries, Transferors must indicate whether they wish to transfer to the Beneficiaries “as tenants in common,” “as joint tenants with right of survivorship,” or as “tenants by the entirety.”
- Go over issues of TIC v. JTWROS v. TBE with clients

Tenants in Common

- Unless otherwise indicated, each Beneficiary has undivided, equal shares in the property. Transferor can leave in different proportions if desired.
- Most flexible for Beneficiaries, Beneficiaries can transfer interest in property inter vivos or at death
- Creditors can reach property for debt of one tenant
- Deceased Beneficiary’s interest will transfer to lineal descendants

Issues with Multiple Beneficiaries

Joint Tenants with Rights of Survivorship

- Each Beneficiary receives equal shares
- Beneficiaries cannot bequeath property to others
- Beneficiaries can convey inter vivos to sever title
- Beneficiary's interest will automatically transfer to surviving joint tenant(s) at death
- Creditors can reach property for debt of one tenant

Tenancy by the Entirety

- Joint tenancy to married couple
- Creditors cannot reach property for debt of one tenant

LDPS or No LDPS

LDPS: Lineal Descendants Per Stirpes

- When the Beneficiary predeceases the Transferor:
 - If the Beneficiary was the Transferor's lineal descendant, the property will automatically pass to the Beneficiary's own lineal descendants unless "and no LDPS" is noted on the Beneficiary Deed. If "and no LDPS" is indicated, the property will pass to the Transferor's estate.
 - If Beneficiary was **not** the Transferor's lineal descendant, the property will automatically pass to the Transferor's estate, and will not pass to the Beneficiary's lineal descendants unless "and LDPS" is noted on the Beneficiary Deed.
- Important to review ramifications of LDPS or no LDPS with clients, depending on whether they are leaving property to lineal descendants

Researching Title & Ownership

- St. Louis City Recorder of Deeds website
 - Ensure that client is current legal homeowner
 - Check that legal description on deed is correct
 - May want to check against a Deed of Trust, and/or the property tax receipt for the property
 - Must be complete, not abbreviated!
 - Should include Parcel Number for property (can be found on property tax receipt)
- All Transferors with marital interest must sign Deed or Waiver (titled or non-titled)
- All persons listed on original deed must sign the Beneficiary Deed. If an original Grantee has died, include the following note:

To note: John D. Doe and Jane M. Doe, husband and wife, are the named owners of this property according to the Missouri Warranty Deed dated July 20th, 1971, Instrument Number: 2015E0175655. However, John D. Doe is deceased as of January 4th, 2012, leaving Jane M. Doe as the sole owner of this property.

Sample Beneficiary Deed

Beneficiary Deed

Date of Document: October 7th, 2015

Grantor: Jane M. Doe, an unmarried woman

Grantees: Bob L. Doe, an unmarried man, and Ann L. Doe, an unmarried woman, as joint tenants, and not as tenants in common

Grantees' Mailing Address: 123 Main St., Kansas City, MO 64111
456 Main St., Kansas City, MO 64111

Legal Description: Block 7, Lot 21, PRAIRIE SCAPE ESTATES, a subdivision in Kansas City, Jackson County, Missouri.
Parcel Number 48-210-06-09-00-00-000.

Statutory Reference Book and Page: Section 461.025 R.S.Mo

This Deed, made and entered into by and between the above-referenced Grantor and Grantees,

Witnesseth, that Jane M. Doe, an unmarried woman ("Grantor"), pursuant to Section 461.025 R.S.Mo., does hereby convey to Bob L. Doe, an unmarried man, and Ann L. Doe, an unmarried woman ("Grantees"), *as joint tenants with the right of survivorship, and not as tenants-in-common*, the above-described real property in Jackson County, Missouri, commonly known as 456 Main St., Kansas City, MO 64111.

Comment [knh1]: Leave 2" for recorder's stamp

Comment [knh2]: Verify marital status of grantor and grantees.

Comment [knh3]: Confirm that you have the full, correct legal description for the home. It can usually be found on the Warranty Deed or Deed of Trust. Include Parcel Number for home (can be found on property tax receipt)

To have and to hold the same, with all rights, immunities, privileges and appurtenances thereto belonging, unto Grantees, *as joint tenants, and their assigns, and the heirs and assigns of the survivor*, forever,

PROVIDED, however, that this deed shall not take effect until the death of the Grantor, and may be revoked at any time while the Grantor is still living in any manner specified by Section 461.033 R.S.Mo. [To note: John D. Doe and Jane M. Doe, husband and wife, are the named owners of this property according to the Missouri Warranty Deed dated July 20th, 1971, Instrument Number: 2015E0175655. However, John D. Doe is deceased as of January 4th, 2012, leaving Jane M. Doe as the sole owner of this property.]

Comment [knh4]: This note will be necessary for any case where anyone on the original deed has passed away. Include instrument number.

Jane M. Doe

ACKNOWLEDGEMENT

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 7th day of October, 2015, before me personally appeared Jane M. Doe, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed. The said Jane M. Doe, further declared herself to be single and unmarried.

In Testimony Whereof, I have set my hand and affixed my official seal.

Notary Public

Comment [knh5]: Review "Missouri Deed Acknowledgments" to ensure you have the correct version. In the case of more than one grantor, it's best to have separate acknowledgments for each person.

Executing & Recording Deeds

- Deeds must be signed by all homeowners and notarized
- Deeds must be recorded with the St. Louis City Recorder of Deeds' office
 - LSEM is covering the recording cost for deeds
 - When a deed has been executed with a client, Firm should send it to LSEM or to a single point of contact and LSEM will record for the client
- LSEM will send the original recorded deed to client, along with a closing letter, carbon copying Firm
- Firm should follow closing procedures found within purple VAP file

Creditor's Rights

- All liens on property at time of death stay on property and Beneficiary is liable for payment on such liens
- Although Creditors do not receive Notice, as in probate, the Decedent's Creditors may still reach the nonprobate assets to receive payment for claims, similar to probate
 - Claims
 - Statutory Allowance
 - Estate Administration Fees*
 - Funeral Fees
 - Spousal Share
 - Dependent Child Share
 - Creditors (HealthNet)
 - Assets
 - Property held as JTWRORS only to the extent of the decedent's contribution to the value of the property

Creditor's Rights

- Process (if no estate was opened)
 - Estate must be opened (likely by Creditor)
 - Action for Accounting must be filed
 - To seek recovery of money judgement in probate court
 - Within 16 months of death Creditor must first file demand on Personal Representative ("PR") to bring action
 - If PR does not bring action within 30 days, Creditor may bring action within 18 months of death
 - PR may bring without demand within 18 months
 - Must determine value of transfer as of timeframe "immediately prior to the decedent's death"
 - Creditor must obtain money judgment to recover pro rata from the nonprobate transfers
 - Creditor must serve the Beneficiaries to collect on judgment

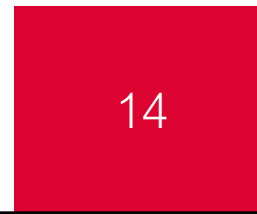
Client Intake Procedure

- LSEM and [insert firm name] work with [insert nonprofit] to promote legal services event in neighborhood – [insert date and event title]
- Interested residents RSVP to legal services event, go through LSEM conflict check & [insert firm name] conflict check
- [insert firm name] attorneys receive purple client folders, meet with accepted clients to perform Beneficiary Deed Intake and Q&A, sign engagement letters, and arrange for future meetings when necessary
- After final client meeting, [insert firm name] sends LSEM signed Beneficiary Deed so LSEM may record for client
- LSEM records Deed
- LSEM sends recorded Deed and closing letter to client and carbon copies [insert firm name] with enclosures. [Insert firm name] follows VAP closing procedures included in purple client folder
- [Insert firm name] sends quarterly report to LSEM of hours worked and clients represented through the Beneficiary Deed Project, in accordance with grant guidelines

Client Meetings

- Information to obtain from client:
 - Full name and address of Transferor (or “Grantor”) and Beneficiary (or “Grantee”)
 - Marital status of Transferor and Beneficiary
 - If one of the Transferors has already died: date of death
 - If multiple Beneficiaries: JTWROS, TBE, or TIC
- Information to give client:
 - “Important Information for your Beneficiary”
 - Deed will always be accessible at City Recorder of Deeds’ office and online
 - Deed can be changed or revoked at any time

Questions?



Legal Services of Eastern Missouri
Action. Justice. Hope.

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