

Land Trusts Get no Respect but Control Super Wealth

I don't go a whole day without someone calling me to tell me a story about a property they were involved in where a land trust was involved. It could have been the offer they made in a land trust, where the seller had a land trust or usually where the closing agent didn't want to close the transaction because it was being bought in a land trust.

There are a number of misconceptions about land trusts, mostly by attorneys and realtors®. After all, these "professionals" have seen them but don't like them because they don't understand them. Investors hear about them all the time and have likely taken courses on them.

There are many misconceptions about this powerful document that are especially common amongst realtors® and closing agents who have no clue as to what is happening:

1. **NOT TRUE** - You have to get a tax ID number for land trusts (They are pass-thru entities for IRS purposes so no tax ID number can be issued)
2. **NOT TRUE** - You have to have a checking account or bank statement to prove they have money (No tax ID number allowed so no checking accounts or monthly statements)
3. **NOT TRUE** - They have to have incorporation papers (they cannot be "incorporated" and can be formed with just a notary in less than 10 minutes – if you are a slow typist)
4. **NOT TRUE** - They have to be shown in Sunbiz.org to be legal (hate to say it but this is just Dumb – no incorporation, no listing in Sunbiz.org)
5. **NOT TRUE** - They have to be illegal because investors use them. (Well the wealthiest investors also use them and of the thousands in listed in the public, shouldn't someone have stopped their use in the last 100+ years?).
6. **NOT TRUE** - Asset Managers selling REOs (bank-owned) properties will not accept them. (I we hadn't done hundreds of them in the past two years alone, I might believe there are a few AMs who also don't know what they are doing – but we have never had one tell us "No".)
7. **NOT TRUE** - LMRs will not do short sales in land trusts (I would have agreed with this at one time, until recently, when one of the local club members said he had completed two short sales in land trusts – so maybe, these antagonists are almost right on this one) – Hurray for them!
8. **NOT TRUE** - I'll have to record this land trust to make the title policy valid" Closing agents who absolutely have no clue tell me. (Land trusts are designed to NOT be recorded under any circumstances – I'll elaborate on this later).
9. **NOT TRUE** - Land trusts are designed to not pay transfer taxes (they are not designed for that purpose buy have been used illegally to that end – but who business is it anyway – only the tax assessor, not the closing agent or realtor® in the transaction.)
10. **NOT TRUE** - Land trusts can be used to hide the identity of the buyer of properties and that isn't legal – it is legal to want to be anonymous in the public record. (You would have been had pressed to tell that to a mouse hunter by the

name of Walt Disney who bought up a bunch of land in Orlando and California and built a couple of theme parks. I wonder why they just didn't go in and buy the land in their name like so many of the "old timers" do who are so proud of their name on properties. That is until they get sued for everything they own. Walt wasn't on an ego trip, just a mission to buy up hundreds of plats of land and remain incognito doing it.)

I guess I could go on and on about misconceptions but it doesn't matter. Today I got a call from someone who wanted to buy a property that was being sold in a land trust. The seller was another investor and he had chosen the closing agent. You would think the seller having chosen the closing agent would mean that closing agent knew about land trusts – Not!

The buyer had said he wanted to have the seller transfer the beneficial interest to him and the closing agent balked and said it couldn't be done – at least not by him. OK, so let's use another closing agent. That wasn't going to happen, because this closing agent wouldn't get paid – or so he thought. The buyer squabbled and then called me to ask why he couldn't transfer the Beneficial Interest of the land trust. The answer was simple – if the seller was OK for it, he could, despite what the closing agent had to say. Actually, the seller and buyer could have done it without the closing agent at all – but every buyer should always get a title policy to protect his interest which came with the land trust.

The main purposes of a land trust are to keep the beneficial owners anonymous in the public records (HUGE benefit) which discourages litigious individuals or attorneys from "finding your assets", bypass probate (Money-saving Benefit – but they don't avoid estate or income taxes), protection from liens, judgments, HOAs' assessments/fees and title claims (liens and judgments against the property attach to the trust not the beneficiaries and you do not have to sign a warranty deed to transfer the property) – tom mention a few benefits.

For investors, one of the most powerful aspects of a land trust is the ability to transfer the beneficial ownership of the land trust (the property) to another person or entity without this transfer being "seen" in the public record. This can be done before a closing on a property where the contract cannot be assigned (REOs) or after the closing without the use of a closing agent (your choice). Some closing agents will tell you the title policy is issued "on the trustee" so it ends with the beneficial interest transfer. My personal experience in talking to underwriters and attorneys who know what is happening is that is not true, they say the policy stays with the trust. BUT, this is NOT legal advice, so always consult an attorney who actually does land trust closings.

Banks hate land trusts which may just be another reason to use them! Lenders hate them because they can't be assured who are the owner(s). Realtors® in general don't understand them and come up with truly crazy reasons you can't use them. Attorneys who don't understand them or use them hate them because they

know they are losing additional closing costs to land trusts when a beneficial transfer occurs.

I'm not sure what the outcome of your specific case might be, but if you decide to do anything involving a land trust you should know they have stronger standing in court actions than LLCs (Limited Liability Companies). It has been said by some of the most famous asset protection wizards, that an LLC (now maybe a Sub-S corp.) as the beneficiary of a land trust is the best and easiest protection you can get without going offshore with your assets – and who trusts offshore?

Land trusts are different and “unique” qualities in various states. Don't try using something that you aren't sure is legal as it could be much worse than just losing a deal. Get legal advice from a competent attorney who has experience in land trusts in your state – or don't do them at all.

To your limitless success,

Dave Dinkel