



Name Changes and Title

Marriages and divorces are two compelling reasons to buy and sell homes. They also affect how title is held and transferred. This is one of the most common questions presented to title people on how the real estate documents and the transfer deed should be prepared. Or, how title can be corrected after the fact.

Here are some tips for name change situations.

1. Verify how the person is vested in title by requesting an O&E (ownership and encumbrance report).
2. If title is vested in a former name, either a Quit Claim deed will need to be prepared to update the vested name, or it can be addressed on the transfer documents at closing as follows:
Jane S. Jones (old name) fka (formerly known as) Jane S. Johnson (new name)
3. A marriage certificate or divorce decree showing the name change and proper identification will also need to be provided to the title company and notary to prove this person is one and the same. DO NOT WAIT until closing day if title does not match the seller or buyers name!
4. If you need assistance, please reach out to title to look at your client's specific situation. Often, more title issues are created if a homeowner prepares their own deed and either incorrectly sets for the legal description or incorrectly transfers the name.

A party must leave title exactly as they took it. What happens if the vested owner isn't divorced or married, and their name is simply misspelled? This can be corrected on a correction deed or on the conveyance deed as follows:

Example Error: Jane P. Jones aka Jane S. Johnson

Correction Language: This deed is recorded to correct the name of the vested owner on that certain deed recorded (date/time/reception number) whereby their middle initial was set forth incorrectly.

When a party is deceased and their name differs on title, this is usually addressed on the letters from the court, and by recording an affidavit stating that the individual was "one and the same person." Again, it's important to verify vesting and not wait until closing day if proper identification can't be verified for the estate.

The last name example change example is the buyer names not being correct on the closing documents. The title company will prepare their sale documents in accordance with the real estate contract. So WHY are the loan documents incorrect sometimes at the closing table? Often this is because the lender is preparing their documents based on the loan application and not verifying how it was set forth on the real estate contract. If the documents arrive to the title company at the last minute, then they will need to be corrected by the lender, or changed to match the loan documents with an amendment to the real estate contract. Both situations are easily avoidable by the lender, and title, verifying the buyer's intended vesting.