

**Title and Estates/Power of Attorney**

October 21-27 is National Estate Planning Awareness Week. More often than not, most homeowners do not have an effective estate plan in place. An estate plan typically includes:

* A Revocable Living Trust
* Last Will and Testament
* Financial Power of Attorney
* Medical Power of Attorney
* Living Will/Advanced Directive
* HIPAA Release
* Declaration of Last Remains
* Advice on Beneficiary Designations, lifetime gifting, joint ownership, etc.

When taking a listing, you may find the homeowners have not put these important estate planning documents in place. The homeowner may be suffering from dementia, a serious health issue or deceased. Not all of the above forms apply to real estate, however some are important and how they would affect closing and working with a title company on a sale.

**Powers of Attorney**: A title company will require review of any Power of Attorney before proceeding with a closing. It’s best to provide the power of attorney directly to the title company for review and approval before going under contract to be sure it’s valid/approved. What would be some reasons a title company would deny a power of attorney? It may be expired, it may not contain the powers to “buy/sell/convey/encumber” real estate, it may not be executed properly, or the seller is deceased. Once a party is deceased, a power of attorney is no longer effective. If the signor of the power of attorney has dementia, a doctor’s note may be required to compare date of execution and date of diagnosis of dementia.

**Trust**: A Trust may have different requirements for sale depending on the situation with the seller/listing. If the seller is alive and in full mental capacity, a trust agreement or certificate stating the approved trustees and a statement of authority should be sufficient. In the event the seller/trustee is deceased or mentally incapacitated, the full trust will need to be reviewed for Successor Trustee designations.

An O&E report the best way to confirm vesting of a property prior to going on the listing appointment. You may order one by emailing orders@homesteadtc.com. We’re happy to go over potential requirements with you!

