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DOCUMENT

Closing the Transaction

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SOURCE

Land Trust Alliance

ABOUT THIS DOCUMENT

Closing a real estate purchase transaction should occur smoothly if a land trust completes all of its due diligence steps in a timely and thorough fashion, which will reduce the chance of unpleasant surprises.

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Closing a real estate purchase transaction should occur smoothly if a land trust completes all of its due diligence steps in a timely and thorough fashion, which will reduce the chance of unpleasant surprises.

Addressing title matters and satisfying any requirements

The requirements listed below are a common set of tasks that must be completed prior to the title company issuing a title insurance policy. Most of these tasks are also applicable to closings where the title company provides neither title insurance nor closing services. You should ensure that your title company completes the following (if applicable) or otherwise see that these steps are taken:

- » Obtain properly executed and notarized deed or conservation easement

- » Record statement of authority or other evidence that the entity is authorized to complete the transaction (if grantor is an entity)

- » Execute a corrective deed to correct error in chain of title (if necessary)

- » Obtain a survey (if necessary)

- » Pay off mortgage and record release or record a mortgage subordination

- » Obtain and record satisfaction of other liens, such as mechanic's or tax liens

- » Obtain a death certificate (to confirm the death of a joint tenant, for example)

- » Secure an affidavit from the grantor that they have taken no action that could result in the filing of a lien against the property

- » Secure confirmation of the status of property taxes for the property

Additional steps

In addition to those closing steps related to title insurance above, some of the standard steps in a real estate closing include:

- » Delivery of written closing or escrow instructions to the party handling the closing

- » Confirming the legal description in the conveyance document (deed or conservation easement)

- » Execution and notarization of the conveyance document

- » Delivery of documents necessary for closing (resolution of seller, certificate of good standing of seller, subordination agreement or lien release, mechanic's lien affidavit)

- » Payment of funds to the seller

- » Payment of closing fees and recording costs

- » Recording documents in the public records

A real estate closing does not have to be handled by a title insurance company, but some land trusts use its services to close, even if not purchasing title insurance. A title company can provide valuable assistance in collecting and recording documents in the proper order, assuring any liens, mortgages or past-due taxes are paid at closing and collecting and disbursing funds through its escrow account. Many funders require the use of an escrow agent so that they have a neutral and trustworthy third party to whom they can wire funds for closing, and in such instances, use of a title company for closing can be a good option. Generally, title company closing fees are inexpensive (a few hundred dollars) and who pays them is negotiable, although many parties simply agree to split the fees. Title companies also assemble copies of all documents and deliver a copy of each to the parties. If closing without a title company, you should contract with an experienced real estate attorney to handle the closing to help ensure that all matters are dealt with promptly and accurately.

Once the transaction is complete, the land trust should make sure it takes the following steps, as applicable, with respect to title matters at closing:

- » Secure recorded copies of the transaction documents and confirm that they were recorded properly and in the correct order, if applicable

- » Review the title policy to confirm that it matches the title commitment

- » Store the title policy and supplementary materials in your permanent files according to your land trust's records policy

After the actual closing, it is also time to thank the seller and celebrate the conservation success represented by the transaction.

Explore related resources

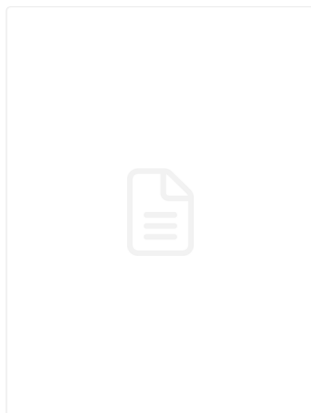


Transaction Costs: Who Pays for What

SEPTEMBER 27, 2022

Each of the due diligence steps will incur a cost to the land trust or the landowner. When making a donation, many landowners expect the land trust to pay all or most of the transaction expenses; therefore, land trusts should have a policy that covers who pays for what.

 [VIEW GUIDANCE \(/resources/learn/explore/transaction-costs-who-pays-for-what#content\)](/resources/learn/explore/transaction-costs-who-pays-for-what#content)



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