

How to Sell Your Land Trust Property Out of Trust

When you decide to sell your property which is in a Florida land trust, be sure to follow these steps so that the sale can go through without delay. We are sometimes out of town for seminars and other reasons so be sure to contact us *as soon as possible* so that we will be available to sign the documents on the day you need.

Listing Agreement

Since you as the beneficiary own the trust and the property in it, you have the right to sign a listing agreement offering it for sale. Some real estate agents get confused when they see the trustee is someone other than you. Normally you can successfully explain that you own the property in the trust. But if they get difficult and say that they must have the trustee's signature, you can decide if you want to pay us to sign the listing agreement or if you'd rather use a less difficult listing agent. There are a lot of them who are eager for listings! If you want us to sign we need the Direction to Trustee signed by you before we can sign. There is a \$35 fee for the time involved in printing, checking for correctness, signing, scanning and sending back the listing agreement.

The Contract for Sale

When preparing a contract to sell property that is held in a land trust you can make out the contract in your own name and sign it yourself, as long as you state in the contract that the property is in a trust and that the deed will come from the trustee. (If you plan to sue the buyer if he backs out of the deal it would be better to have the trustee sign the contract, but such court action is rarely worthwhile.) The following wording can be used:

The property being sold under this contract is in a land trust and the trustee of the trust will be signing the deed of conveyance and other closing documents.

If you do not want to sign the contract yourself and want it to be signed by Land Trust Service Corporation as Trustee, we must have a Direction to Trustee signed by all beneficiaries before we can sign it. There is a \$35 fee for this as with the signing of a listing agreement.

Note: Our newest trusts say in paragraph 3 that the beneficiary can sign listing agreements and contracts.

The Closing Agent

BEFORE you give your deal to a title company or attorney be sure they will be able to handle it correctly. We have had deals fall through because the title company was incompetent. We have an in-house closing agent available now so contact us for information about this if you don't have an excellent closing agent.

If you use your own agent, be sure to ask the following questions before giving them the deal:

1. Do they understand how to close a sale when the seller is a land trust trustee?
2. Do they understand that they do not need to see the trust when the trustee powers are in the deed?
3. Can they send the papers to the trustee a day or two before closing so they can be notarized and returned in time for the closing?
4. Can they provide the trustee with a name search of the beneficiaries? (Florida law requires a RICO lien search before the sale.) In some cases we can now get the name search ourselves for \$35.
5. Can they make the proceeds check out to the beneficiary? LTSC should be paid our \$200 closing fee and the balance to the beneficiary. (LTSC cannot and will not accept the proceeds.)
6. Are their fees competitive with other closing agents? (Be sure to ask about ALL of their fees. Some charge little for title insurance but add hundreds of dollars for other fees.)

If your chosen closing agent cannot answer yes to all of the above, do not use them!

Let Us Know as Soon as Possible

If we are not told about your closing until a day or two before it is scheduled it probably will be delayed. We need our Direction to Trustee form signed by you and a RICO lien search before we can sign closing documents. If we have to stop what we are doing and handle an emergency on the same day, we have an additional \$100 emergency fee. We only have a notary available Monday, Wednesday and Friday at noon, so if closing docs arrive after those times they cannot be signed until the next notary day. As soon as you have a signed contract and have picked a closing agent complete the Direction to Trustee on the next page, get all of the beneficiaries to sign it, and fax, email, or mail it to us.

DIRECTION TO TRUSTEE

The undersigned, being all of the beneficiaries of Trust No. _____, dated _____, hereby authorize and direct Land Trust Service Corporation, Trustee to:

- 1. Sign any and all papers provided by closing agent to sell property out of trust.
- 2. Authorize closing agent to disburse net sales proceeds to beneficiaries.

Sign listing agreement with _____

Sign contract for sale with _____
_____ as buyer(s).

I/we hereby certify that I/we have examined or will examine the above documents and agree that they are satisfactory. It is understood that the trustee executes these documents not personally, but only as trustee aforesaid, in the exercise of the power and authority conferred upon and vested in the Trustee as such and pursuant to this direction. The undersigned agrees to indemnify and save harmless said trustee as to any claim or litigation arising from compliance with this direction.

Date: _____, 201____

Beneficiary signatures:

Name of closing agent: _____

Contact person: _____ Email: _____

Phone: _____ Fax: _____

Expected date of closing: _____, 201____

**EMAIL THIS BACK TO MARK@WARDA.NET
OR FAX TO 863-678-0155
OR (IF TIME) MAIL TO POB 186, LAKE WALES, FL 33859**

Land Trust Service Corporation
Post Office Box 186, Lake Wales, FL 33859

Phone 863-678-0011

Fax 863-678-0155