EVERYTHING YOU NEED TO KNOW ABOUT A NJ PROPERTY DEED IN 2024

2024 Seminar Material

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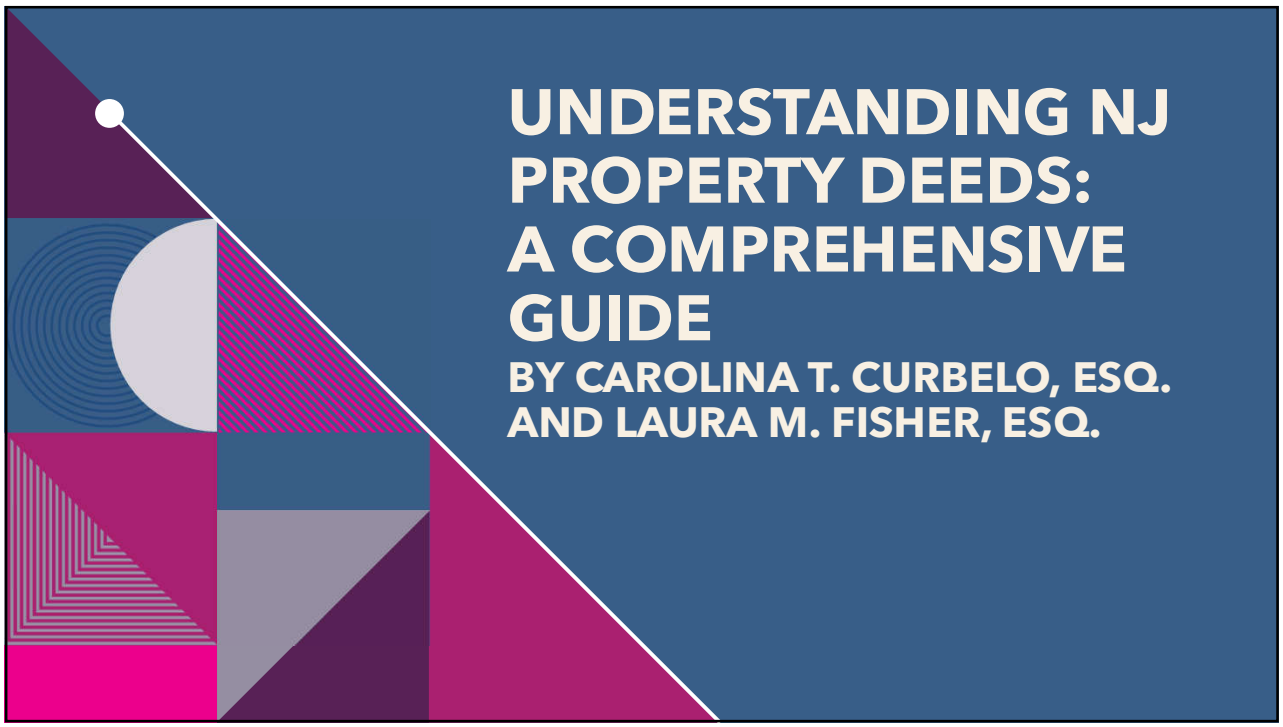
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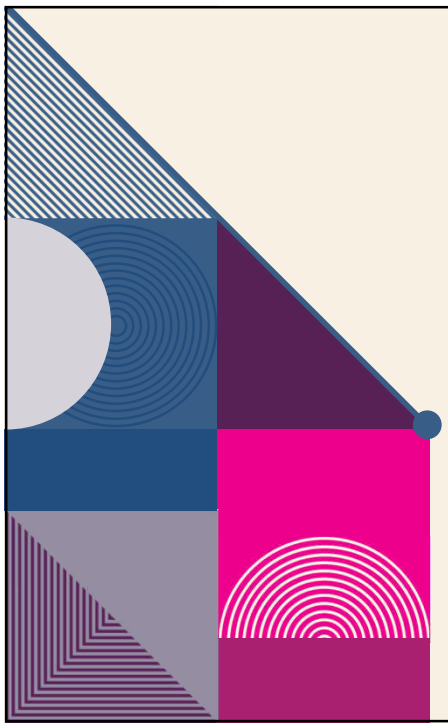
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UNDERSTANDING NJ PROPERTY DEEDS: A COMPREHENSIVE GUIDE
BY CAROLINA T. CURBELO, ESQ. AND LAURA M. FISHER, ESQ.



AGENDA

I. Introduction

II. Types of Property Deeds

III. Components of a Property Deed

IV. Process of Recording Property Deeds

V. Common Issues and Challenges

VI. Practical Tips for Dealing with Property Deeds

VII. Final Remarks and Takeaways

INTRODUCTION

A. Definition of Property Deeds:

- N.J. Stat. § 46:15-5(a) "Deed" means a written instrument entitled to be recorded in the office of a county recording officer which purports to convey or transfer title to a freehold interest in any lands, tenements or other realty in this State by way of grant or bargain and sale thereof from the named grantor to the named grantee.

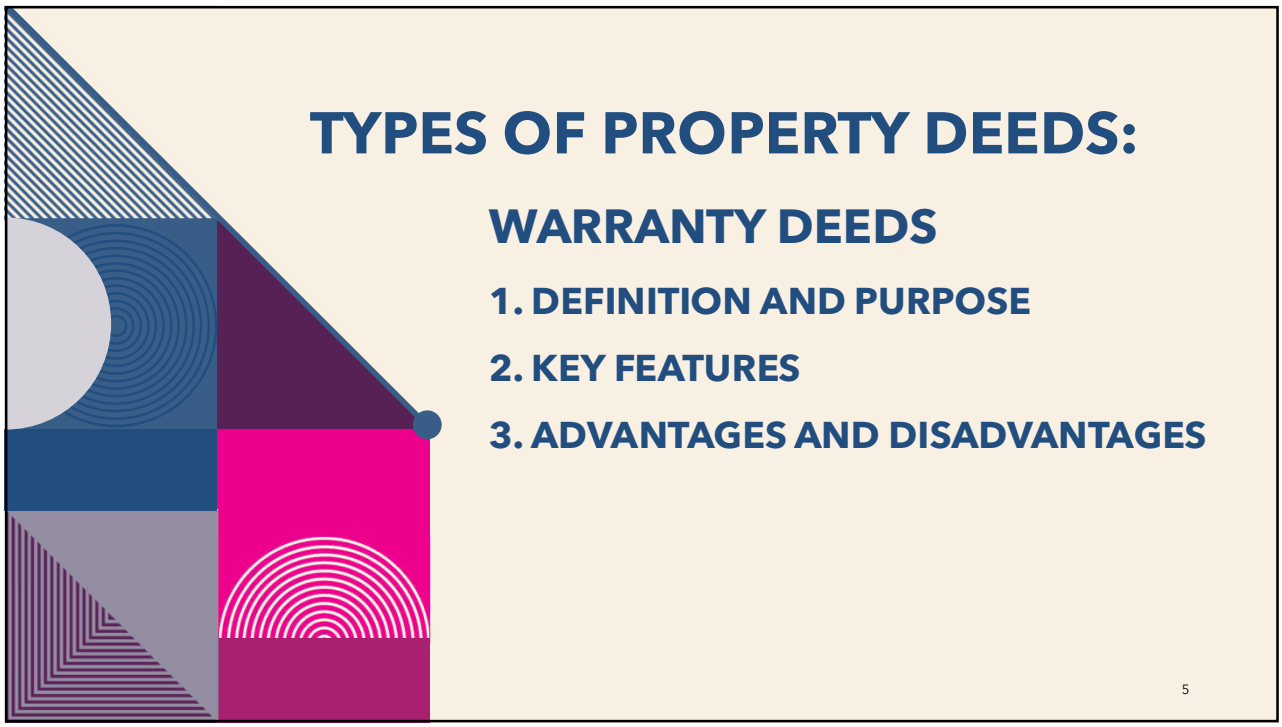
B. Importance of Property Deeds

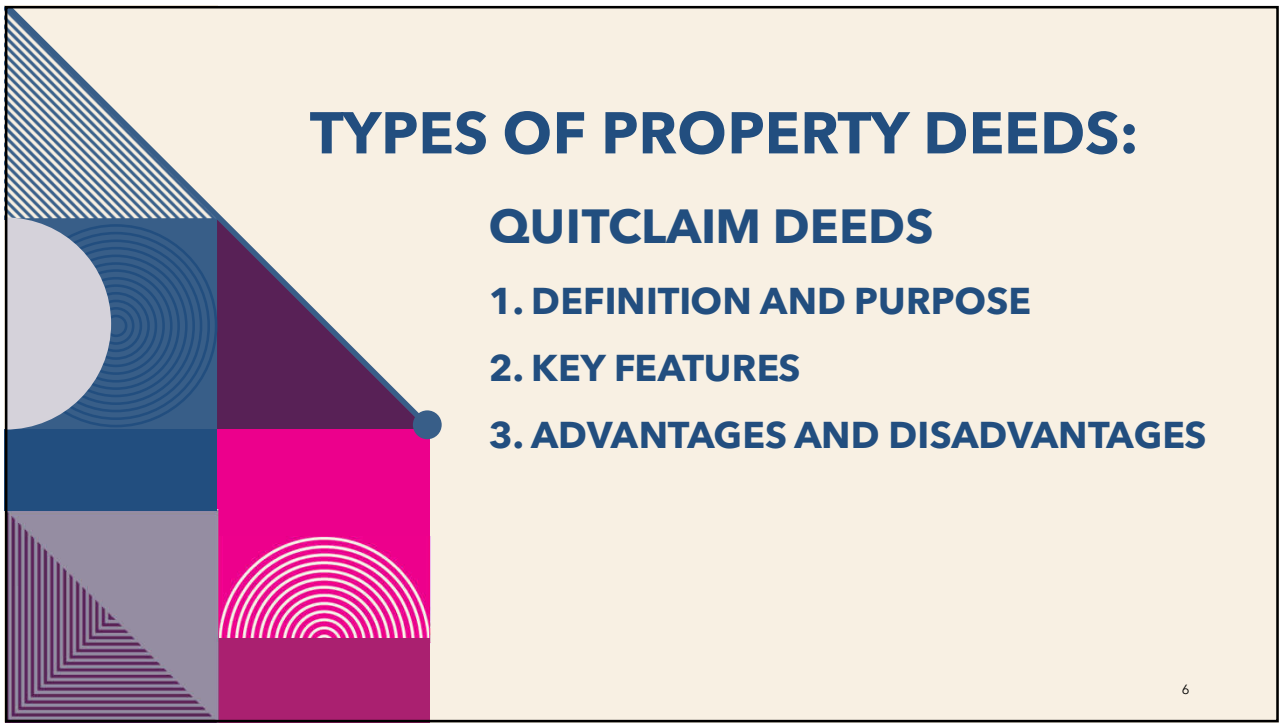
II. TYPES OF PROPERTY DEEDS

A. Warranty Deeds

B. Quitclaim Deeds

C. Special Warranty Deeds


TYPES OF PROPERTY DEEDS:
WARRANTY DEEDS
1. DEFINITION AND PURPOSE
2. KEY FEATURES
3. ADVANTAGES AND DISADVANTAGES
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TYPES OF PROPERTY DEEDS:
QUITCLAIM DEEDS
1. DEFINITION AND PURPOSE
2. KEY FEATURES
3. ADVANTAGES AND DISADVANTAGES
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TYPES OF PROPERTY DEEDS:
SPECIAL WARRANTY DEEDS
1. DEFINITION AND PURPOSE
2. KEY FEATURES
3. ADVANTAGES AND DISADVANTAGES
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III. COMPONENTS OF A PROPERTY DEED

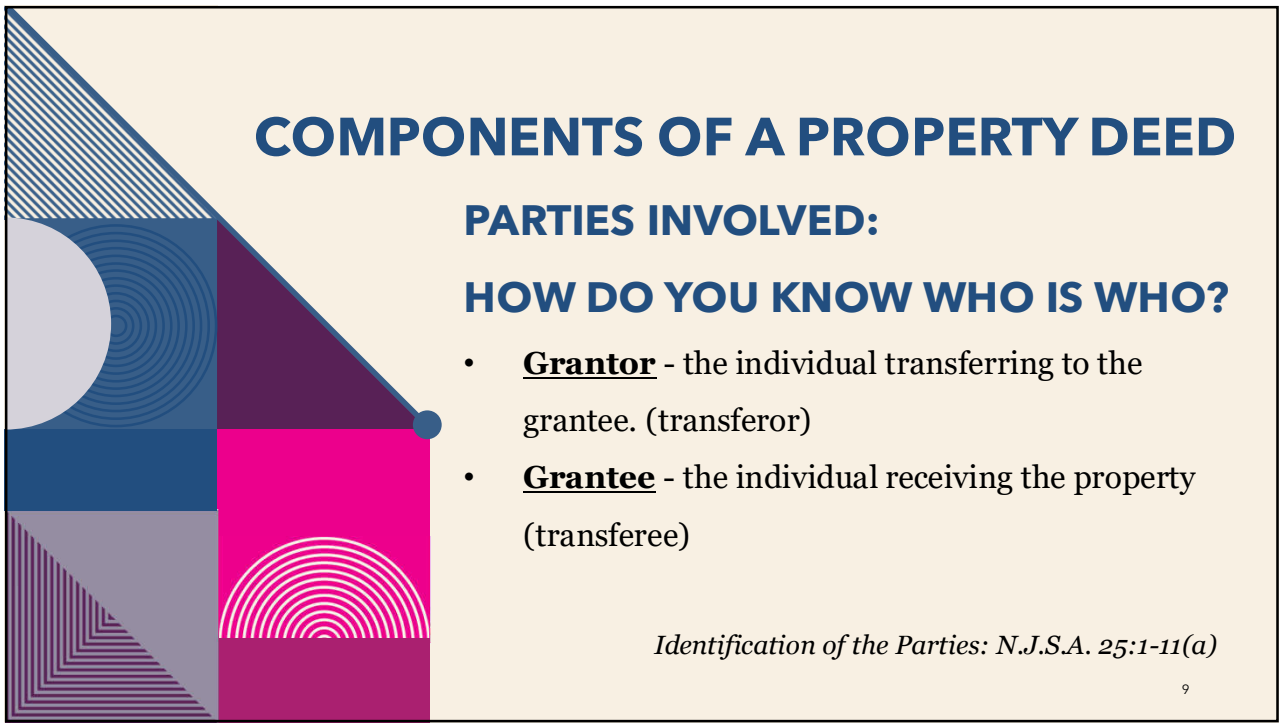
A. Parties Involved - How do you know who is who?

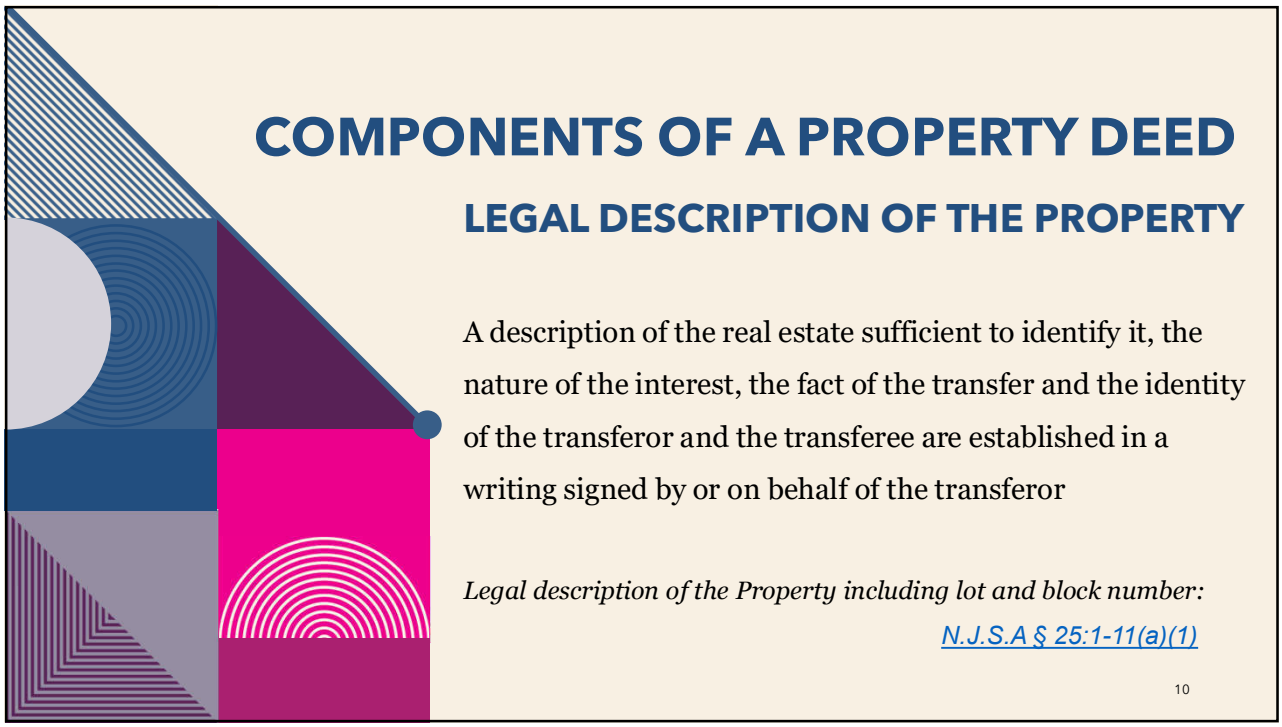
B. Legal Description of the Property: N.J.S.A § 25:1-11(a)(1)

C. Consideration

D. Signatures - Who can sign?

E. Delivery and Acceptance - N.J.S.A. §§ 46:26A-3(a)(3); 46:14-2.1.


COMPONENTS OF A PROPERTY DEED
PARTIES INVOLVED:
HOW DO YOU KNOW WHO IS WHO?
• Grantor - the individual transferring to the grantee. (transferor)
• Grantee - the individual receiving the property (transferee)
Identification of the Parties: N.J.S.A. 25:1-11(a)
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COMPONENTS OF A PROPERTY DEED
LEGAL DESCRIPTION OF THE PROPERTY
A description of the real estate sufficient to identify it, the nature of the interest, the fact of the transfer and the identity of the transferor and the transferee are established in a writing signed by or on behalf of the transferor
Legal description of the Property including lot and block number:
N.J.S.A § 25:1-11(a)(1)
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COMPONENTS OF A PROPERTY DEED

CONSIDERATION

The amount of money or value exchanged for the transfer of Ownership.

Nominal Consideration – Some deeds recite nominal consideration (e.g., “the sum of $10.00”). This keeps the actual consideration private.

Statement of Consideration: N.J.S.A. 46:15-6(a)

COMPONENTS OF A PROPERTY DEED

SIGNATURES - WHO CAN SIGN?

The grantor(s) (the transferring owner(s)) must sign in writing with his or her name underneath the signature line. N.J.S.A § 25:1-11(a)

If the grantor is a single individual, then they must sign on their behalf, or an individual with Power of Attorney will need to sign on behalf of the individual.

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COMPONENTS OF A PROPERTY DEED

SIGNATURES - WHO CAN SIGN?

The grantor(s) (the transferring owner(s)) must sign in writing. N.J.S.A § 25:1-11(a)

If the grantor is a single individual who is married and has used the Property as their marital residence, but their spouse is not on the Deed, the spouse must also then they must sign to convey their marital interest to the Property.

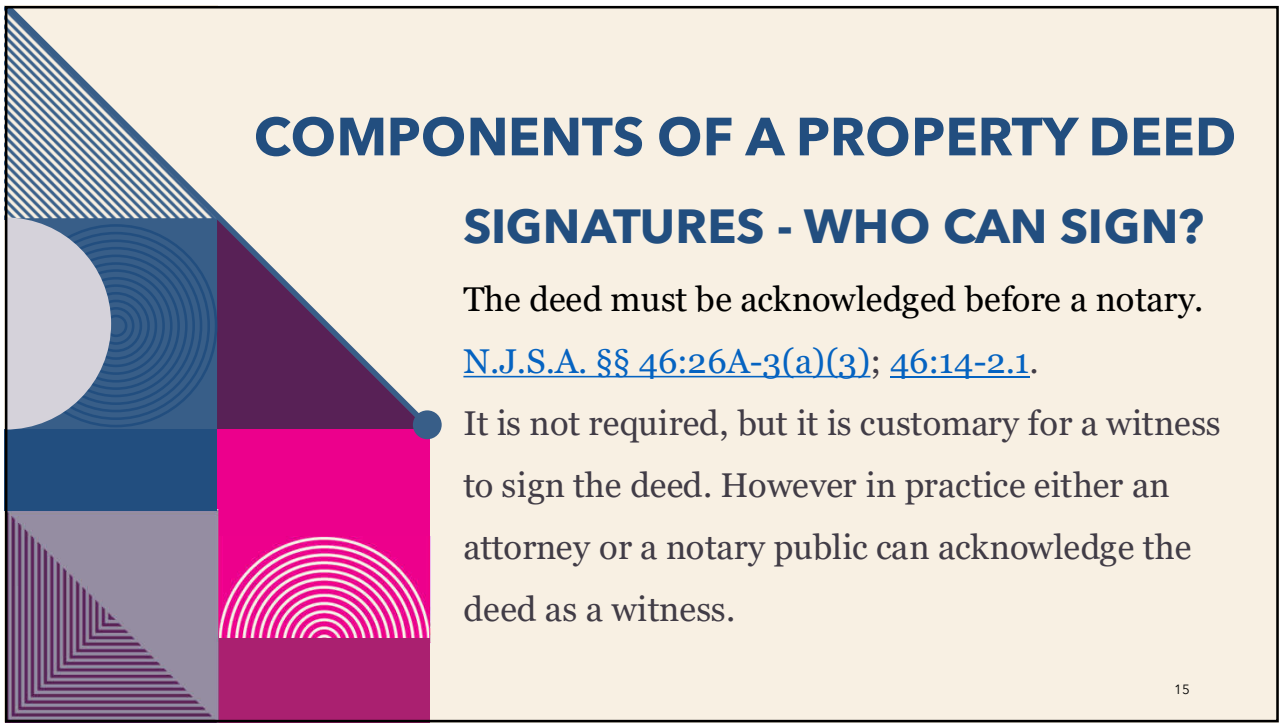
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COMPONENTS OF A PROPERTY DEED

SIGNATURES - WHO CAN SIGN?

The grantor(s) (the transferring owner(s)) must sign in writing. N.J.S.A § 25:1-11(a)

If the grantor is a legal entity like a business, then the officer or fiduciary of the business will need to sign on behalf of the entity/organization.


COMPONENTS OF A PROPERTY DEED
SIGNATURES - WHO CAN SIGN?
The deed must be acknowledged before a notary.
N.J.S.A. §§ 46:26A-3(a)(3); 46:14-2.1.
It is not required, but it is customary for a witness to sign the deed. However in practice either an attorney or a notary public can acknowledge the deed as a witness.
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COMPONENTS OF A PROPERTY DEED

DELIVERY AND ACCEPTANCE

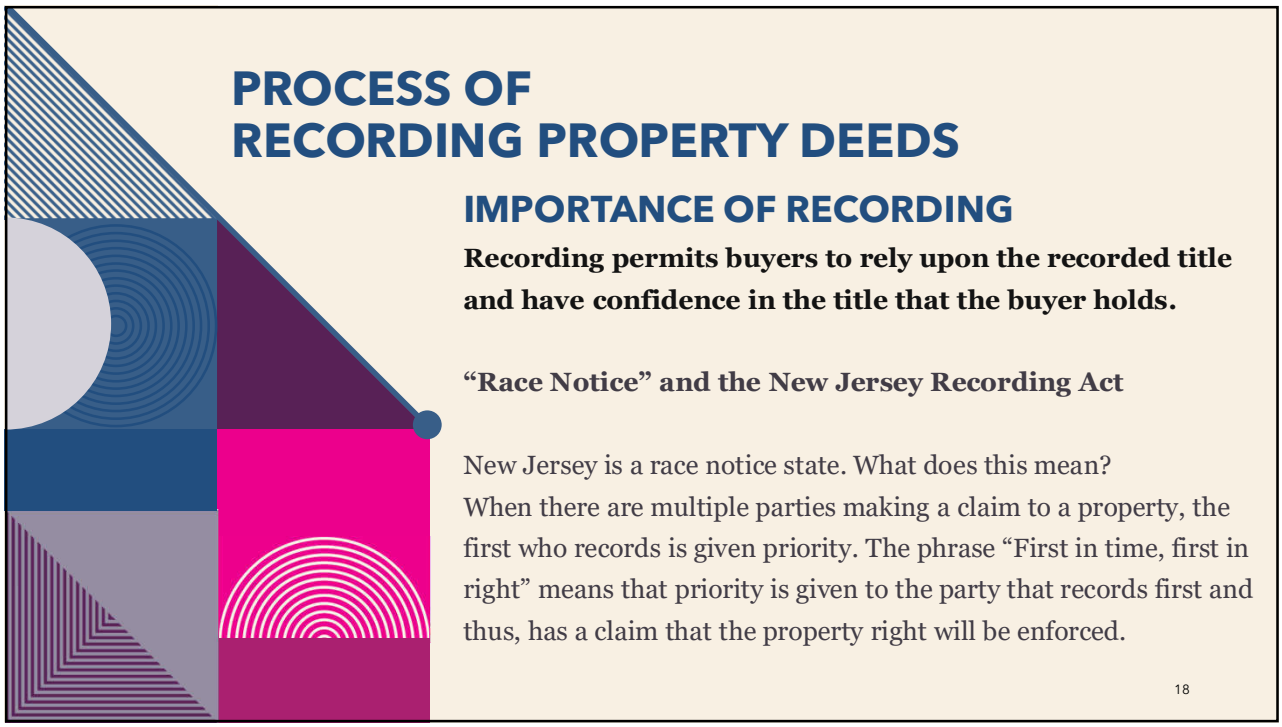
Ownership transfers when the following conditions are met: (1) execution and delivery of the deed by the grantor, (2) acceptance by the grantee, with (3) corresponding intents to deliver and accept. The deed does need to be recorded to pass title. H.K. v. Dept. of Human Services, 184 N.J. 367 (N.J. 2005).

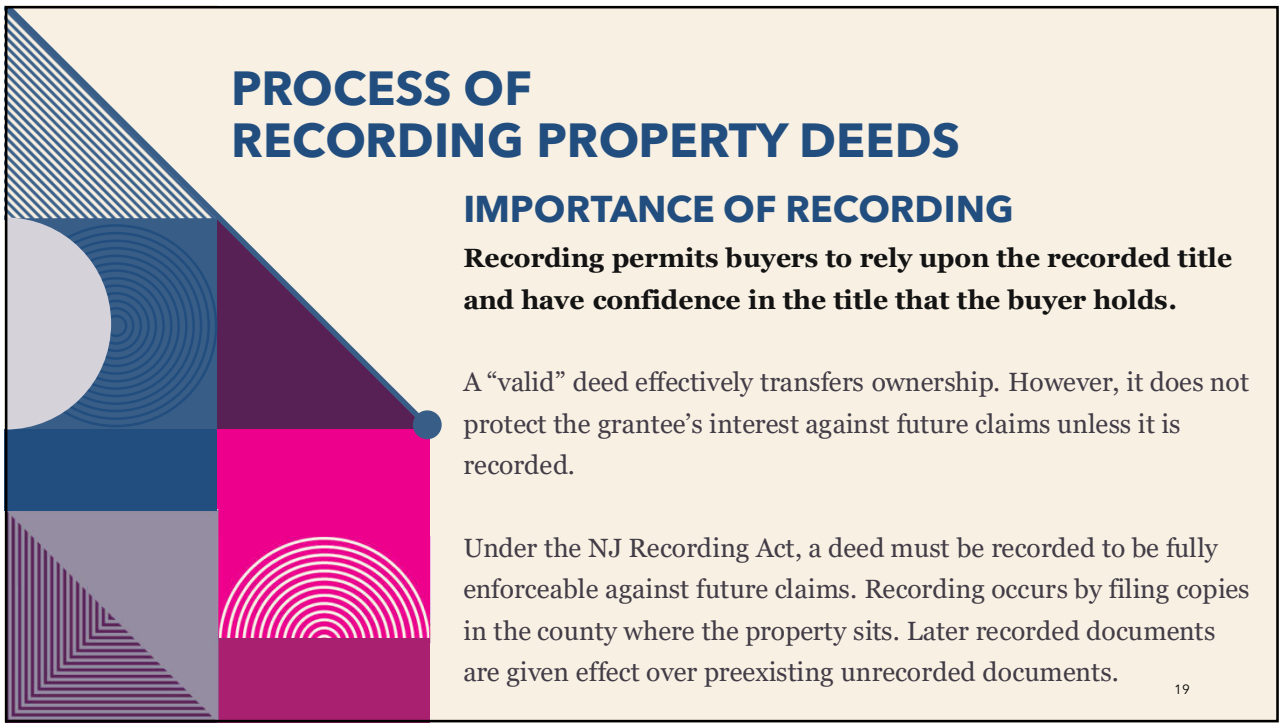
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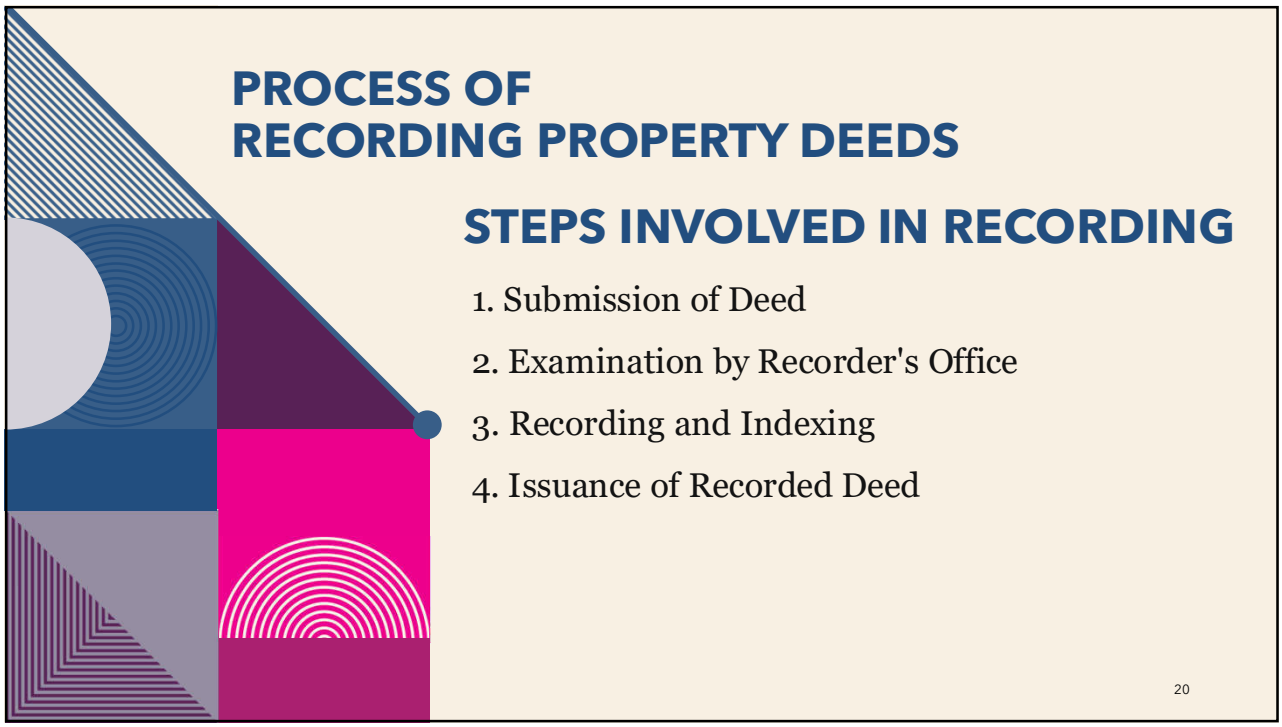
IV. PROCESS OF RECORDING PROPERTY DEEDS

A. Importance of Recording

B. Steps Involved in Recording


PROCESS OF
RECORDING PROPERTY DEEDS
IMPORTANCE OF RECORDING
Recording permits buyers to rely upon the recorded title and have confidence in the title that the buyer holds.
“Race Notice” and the New Jersey Recording Act
New Jersey is a race notice state. What does this mean?
When there are multiple parties making a claim to a property, the first who records is given priority. The phrase “First in time, first in right” means that priority is given to the party that records first and thus, has a claim that the property right will be enforced.
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PROCESS OF
RECORDING PROPERTY DEEDS
IMPORTANCE OF RECORDING
Recording permits buyers to rely upon the recorded title and have confidence in the title that the buyer holds.
A "valid" deed effectively transfers ownership. However, it does not protect the grantee's interest against future claims unless it is recorded.
Under the NJ Recording Act, a deed must be recorded to be fully enforceable against future claims. Recording occurs by filing copies in the county where the property sits. Later recorded documents are given effect over preexisting unrecorded documents.
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PROCESS OF
RECORDING PROPERTY DEEDS
STEPS INVOLVED IN RECORDING
1. Submission of Deed
2. Examination by Recorder's Office
3. Recording and Indexing
4. Issuance of Recorded Deed
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V. COMMON ISSUES AND CHALLENGES

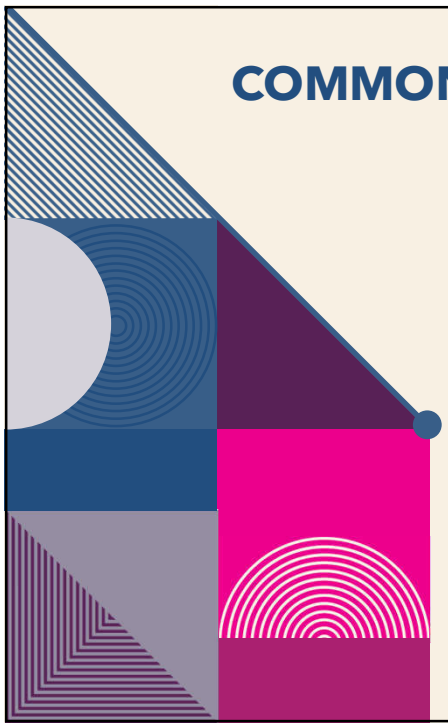
A. Fraudulent Deeds

B. Invalid or Defective Deeds

C. Missing or Incorrect Information

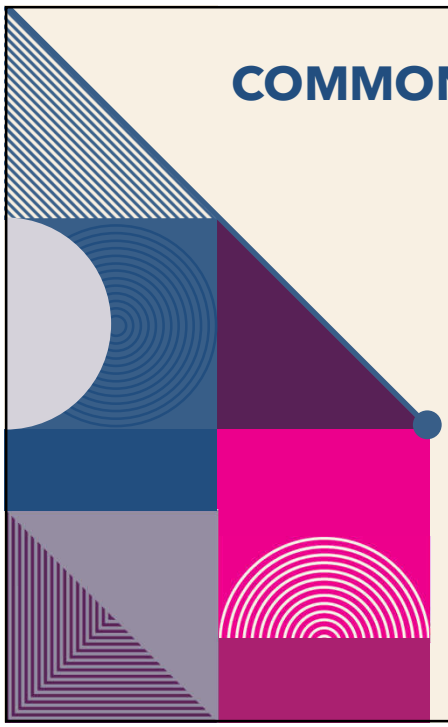
D. Legal Disputes and Resolutions

COMMON ISSUES AND CHALLENGES



FRAUDULENT DEEDS

Vacant lands: Do your due diligence! Ask for multiple forms of identification from the Seller(s), proof of ownership, or visit the vacant land.



COMMON ISSUES AND CHALLENGES

FRAUDULENT DEEDS

VACANT LAND SCAM RED FLAGS

Exercise caution if a potential client asks you to sell a vacant parcel or unoccupied property with one or more of these red flags:

- The potential client wants to list the property for significantly below market value.
- The potential client has a strong preference or requirement for cash.
- The potential client does not want a “For Sale” sign in the yard.
- The potential client emphasizes an urgency to sell quickly.
- The potential client never communicates in person or on video, preferring to text or email.
- The potential claims to be out of the state or country.
- The potential client will only use a remote notary and requests a remote closing.

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COMMON ISSUES AND CHALLENGES

FRAUDULENT DEEDS

VACANT LAND SCAM RECOMMENDED PRACTICES

Exercise due diligence to verify the purported seller is the actual property owner, for example:

o Ask for multiple forms of identification.

o Request to meet the seller face-to-face.

o Ask for proof of ownership of the property.

o Ask the potential client about the area around the vacant property to see if they are familiar with the area.

COMMON ISSUES AND CHALLENGES

FRAUDULENT DEEDS

VACANT LAND SCAM RECOMMENDED PRACTICES

- Conduct independent research to confirm the property owner, such as looking online for a recent photo or speaking to a neighbor.
- Verify the seller's email and phone number.
- Make sure you or the title company select the notary at closing.
- Ask the seller for a voided check and a disbursement authorization form; use a wire verification service to confirm the account information and ownership.

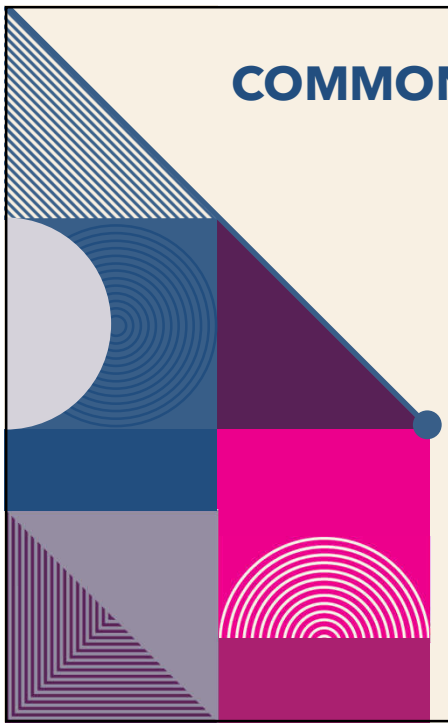
COMMON ISSUES AND CHALLENGES

INVALID OR DEFECTIVE DEEDS

A NJ property deed must comply with the Consumer Fraud Act in order to transfer ownership.

NJSA 25:1-11(a)(1): The deed is effective for the transfer of property when it is stated in writing:

- A real estate description or legal description.
- Transfer events.
- The nature of the interest. Such as: tenants in common, joint tenants or fee simple.
- Identity of the grantor and the grantee.
- The signature of the grantor or on his behalf.



COMMON ISSUES AND CHALLENGES

INVALID OR DEFECTIVE DEEDS

A NJ property deed must comply with the Consumer Fraud Act in order to transfer ownership.

NJSA 25:1-11(a)(2): If the deed has not met the written requirements, the transfer of ownership is valid if the grantor:

- Placed the transferee in possession of the property as a result of the transaction.
- The grantee paid all or part of the consideration for the transfer, or reasonably relied on the transfer.

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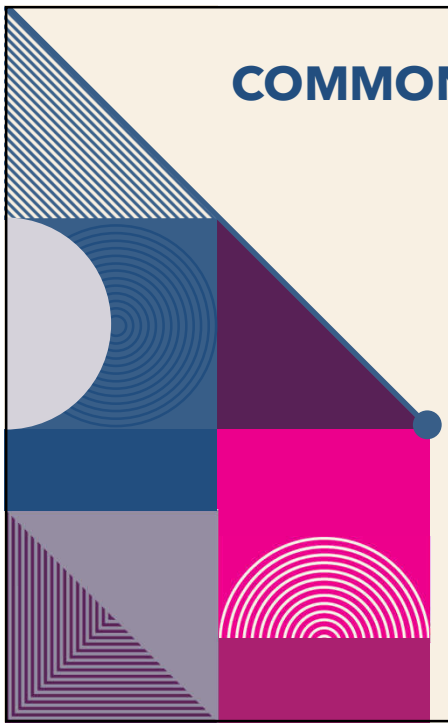
COMMON ISSUES AND CHALLENGES

INVALID OR DEFECTIVE DEEDS

NJSA 25:1-13(b): If the above two requirements are not met, a transfer may be enforceable as an agreement if one of the parties can show with clear and convincing evidence:

- An adequate description of the real estate that allows its identification.
- The interest rate to transfer.
- The existence of an agreement.
- Identity of the grantor and the grantee.

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COMMON ISSUES AND CHALLENGES

INVALID OR DEFECTIVE DEEDS

In addition to the above, the following should be considered:

Competence: The grantors must be 18 years old and have the mental capacity to know and reasonably understand the transaction.

Transfer time: The property is transferred when the following conditions are met:

- The grantor grants and delivers the deed to the grantee.
- The grantee accepts the deed.
- They have the corresponding intentions to deliver and accept.

Incorporation by Reference: The requirements for description may be met by reference to another recorded document describing the property, per Wells Fargo Bank, NA v. Louis Cicenia, No. A-2189-16T4.

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COMMON ISSUES AND CHALLENGES

MISSING OR INCORRECT INFORMATION

There are other requirements for the proper preparation and subsequent registration of a deed, for this:

- The writing must be prepared in black and legible letters.
- It is recommended that the signature is made using blue ink.
- The seller's name must be on the first page.
- Buyer's name and full mailing address must be on the first page.
- If the buyer buys through a mortgage, the names and addresses on the deed must match the mortgage documents.
- Transfer date must be printed or handwritten on the first page.
- The amount of the consideration must be on the first page. N.J.S.A. 46:15-6(a)
- Printed name of the individual preparing the deed must be on the first page. N.J.S.A. 46:26A-3(a)(5)(c)

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COMMON ISSUES AND CHALLENGES

MISSING OR INCORRECT INFORMATION

There are other requirements for the proper preparation and subsequent registration of a deed, for this:

- Tax assessor's parcel or property identification numbers should be found on the first page.
- The deed must state how the current owners acquired title to the property and provide the information from the previous deed record.
- The deed must describe the property properly so is easy to identify it.
- The deed must be signed by the grantor in the presence of a notary public.
- This deed must also contain a certification of the amount of the consideration.
- The original deed must be sent to the county clerk with the recording fee.

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COMMON ISSUES AND CHALLENGES
LEGAL DISPUTES AND RESOLUTIONS
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VI. PRACTICAL TIPS FOR DEALING WITH PROPERTY DEEDS

A. Conducting Due Diligence

B. Ensuring Proper Documentation and Record-Keeping


PRACTICAL TIPS FOR
DEALING WITH PROPERTY DEEDS
CONDUCTING DUE DILIGENCE
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PRACTICAL TIPS FOR
DEALING WITH PROPERTY DEEDS
ENSURING PROPER
DOCUMENTATION AND
RECORD-KEEPING
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VII. CONCLUSION

Final Remarks and Takeaways

THANK YOU

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About the Panelists…

Carolina T. Curbelo, CurbeloLaw in Ridgewood, New Jersey, concentrates her practice in immigration law and real estate matters. In her immigration work, she represents clients in proceedings before the United States Immigration Courts as well as the U.S. Citizenship and Immigration Services (USCIS) in family-based applications, naturalization and humanitarian visas, as well as removal defense and deportation matters. In her real estate practice she has represented buyers and sellers in residential, commercial and condominium matters, as well as distressed homeowners facing foreclosure.

Ms. Curbelo is admitted to practice in New Jersey and before the United States District Court for the District of New Jersey, the Third Circuit Court of Appeals and the United States Supreme Court. She is a member of the New Jersey State Bar Association, the American Immigration Lawyers Association (AILA), the Hispanic Bar Association of New Jersey (HBA-NJ) and the National Association of Hispanic Real Estate Professionals (NAHREP), and serves as Treasurer of the New Jersey chapter of AILA. She is active in numerous community and legal organizations.

A gradute of Rutgers University, Ms. Curbelo received her J.D. from Vermont Law School, interned for the Honorable Jose L. Linares, United States District Court for the District of New Jersey, and clerked for the Honorable Joseph S. Conte, J.S.C., Bergen County, Civil Division.

Laura M. Fisher, Law Office of Laura M. Fisher in Jersey City, New Jersey, where she has represented hundreds of buyers and sellers of residential and commercial real estate in Hudson County, along with commercial businesses in Downtown, The Heights, West Side and Bergen-Lafayette.

Ms. Fisher is admitted to practice in New Jersey and New York. Past Chair of the New Jersey State Bar Association Solo & Small Firm Section, she has volunteered with Team Rubicon to assist in local disaster response.

Ms. Fisher received her undergraduate degree from Rutgers University and her J.D. from Rutgers School of Law, where she was Senior Articles Editor of the *Rutgers Law Record*, Secretary of the Human Rights Forum and Treasurer of the International Law Society.

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