

BASIC LEGAL CONCEPTS

Real Estate: Land and all things “permanently” attached thereto.

Real Property: Ownership Rights associated with Real Estate.

Personal Property: Movable things and Intangibles.

Fixtures: Are Personal Property until they are Attached to a Building, then they become a part of the Real Property.

Statute of Frauds: Requires that almost every agreement relating to Real Property be in Writing in order to be Enforceable in a court of law (from England 1677).

Property Rights and Estates in Real Estate: Ownership, Possessory and Use rights. The most complete form of ownership is a Fee Simple Absolute (or “Fee Simple” or “Fee”). A Life Estate lasts only for the life of the named person. A Future Estate can be a Remainder interest or a Reversion interest.

Easement: A Non-ownership, Non-possessory right to Use or access Land owned or leased by someone else. They are very limited in nature.

Leasehold Estate / Lease: Real Property can be Leased by the Landlord / Lessor to the Tenant / Lessee for a particular purpose for a particular period of time. Leases over One Year must be in Writing to be Enforceable under the Statute of Frauds.

Title: Determines Ownership of the Real Property and is evidenced by a Deed.

Deed: A Document that grants or transfers Title to Real Property from a Grantor to a Grantee. The strongest is a General Warranty Deed, the weakest is a Quitclaim Deed. Certain Deed Restrictions are not enforceable under non-discrimination laws.

Security Interests: A Borrower signs a Mortgage (or Deed of Trust) as the Mortgagor (or Trustor) in favor of a Lender who is the Mortgagee (or Beneficiary) pledging Real Estate owned by the Borrower to secure the repayment of a Loan.

Recording Act: All states have statutory rules to resolve the Priority of Claims relating to Real Property and to give the public Constructive Notice of recorded items.

Abstract of Title: Historical summary of the Publicly Recorded Documents that affect Title to Real Property.

Title Insurance: Method of assuring Title to Real Property used in California and all other states. Two kinds: Owner’s Policy and Lender’s Policy (can be CLTA or ALTA).

Mechanic’s Lien: May be Recorded by Unpaid Contractors, workers and materials providers to secure payment for their work on Real Estate and, in California, may be Recorded up to 90 days after the work is completed or the materials are supplied.