



CHICAGO TITLE LAND TRUST COMPANY

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Power of Attorney

What is a power of attorney and can it be used if my property is in a land trust? A power of attorney is the authority of an agent, called an attorney in fact, to act on behalf of another party. For example, A could theoretically designate B (the agent) to have the power to sign in his or her stead. Many individuals find this arrangement valuable so that a trusted person can act on their behalf if they are unable for health or other reasons.



We recommend that you consider using the *Illinois Statutory Short Form Power of Attorney for Property*. The statutory short form power of attorney affords protection for the parties and for the Trustee when it in good faith relies on the document. The statutory form specifically references use for land trusts, however extra measures by the trustee may be necessary to confirm the reliability of the document to protect your real estate.

As a safeguard since the authority given to the agent is ongoing, we may request an affidavit from the agent stating that the Power of Attorney is still in effect. Remember a power of attorney terminates at death or possibly, upon other established circumstances.

For the statutory form, please refer to 755 ILCS 45 - Illinois Power of Attorney Act. The law is available on the internet through the legislature's website or you should consult an attorney.

Benefits of Privacy

Crain's Chicago Business published a story on February 27, 2016: "The 50 priciest home sales of 2015." You may be surprised to know that Chicago Title Land Trust Company was involved with 1 out of 5 of these transactions.

While most of us may not make *Crain's* list this year, the use of land trusts on this list is a testament to the benefit of privacy of ownership that they offer. All of us can have privacy concerns.



Internet Privacy Estate Planning Liability Protection



Extending Your Land Trust

You may have received from us a request to sign a form called “Extension to Trust Agreement” indicating the land trust needs to be extended for another twenty year term.

You may ask, “Why am I being sent this form?” or “Why do I need to extend the trust now?”

Well, without getting into a great deal of legal history, suffice it to say that over the years it has been established that a land trust must have a definable term of existence. The reason goes back to the common law and the cases on trusts from the Stuart period in England that became the basis for laws in the United States. The period of twenty years has been used by land trustees as a safe duration to not run afoul of this long body of trust law.

We strongly recommend that you do not ignore the request to sign and return the Extension to Trust Agreement form. Prompt attention to it keeps your trust in effect with no room for dispute and can prevent possible issues for your contingent beneficiaries when they take their interest in the future.

Estate Planning—Specific Tip

Previously, in one of our newsletters, we emphasized reviewing your land trust like any other estate planning document to take full advantage of the continuity of ownership and probate avoidance features.

But what happens if you don’t? Well, sometimes it will work out as planned, but in a certain scenario it can have serious, unintended consequences.

Take for example, the situation that led to a 1998 Illinois case *In Re: the Estate of Mendelson*. The basic scenario is: Beneficiary of the land trust provides that after her death, the interest in the property was to go to her son and daughter. Unfortunately, daughter does not survive mom. The court had to decide how the interest passed and ruled that the daughter’s interest did not go to her heirs but back through her mother’s estate. The effect of this is that brother gets an extra one-quarter interest and daughter’s heirs less than mom may have wanted.

The lesson here is not in legal theory, but that an out of date beneficiary provision can frustrate your estate planning that you pay to have in place with your land trust. It may even mean added probate costs down the road. So, once again, review your trust, consult your attorney, and check with us. Avoid the pitfalls of obsolete planning for your real property.

For additional information on the advantages of owning your property in a land trust, visit our website at:



ctlandtrust.com

and visit “Chicago Title Land Trust Company”

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