

# CHECKLIST FOR PURCHASING, SELLING OR REFINANCING REAL ESTATE AS AN INDIVIDUAL

## Property Owned As Husband and Wife

- Both parties will need to sign the deed of conveyance
- Both parties will need to sign the mortgage
- For Homestead Properties: Certification of No Information Reporting should be completed
- For Non-Homestead Properties: 1099 is filed



## Property Owned As a Married Man

- If wife is Michigan resident, dower rights apply and wife will need to sign the deed of conveyance.
- Wife will need to sign the deed of conveyance
- For a refinance, both husband and wife will need to sign mortgage
- For a purchase in man's name alone with purchase money mortgage, wife will not be required to sign mortgage

## Property Owned As a Married Woman

- Husband will not need to sign the deed
- For a refinance, both husband and wife will need to sign, ONLY if it is their primary residence
- For a purchase in woman's name alone with purchase money mortgage, husband will not be required to sign mortgage

# CHECKLIST FOR PURCHASING, SELLING, OR REFINANCING REAL ESTATE AS AN ENTITY

## Corporation

- Articles of Incorporation
- Corporation Resolution
  - Authorizes sale/mortgage/purchase
  - Authorizes who may sign
- Certificate of Good Standing
- No 1099 upon sale/conveyance
- Proceeds check payable to corporation, not officers or shareholders
- One or more people necessary to form a corporation

## Partnership

- An unincorporated entity
- Consist of partners
- Certificate of Partnership
- Partnership Agreement
- 1099 is filed with IRS upon sale/conveyance
- Must have at least two partners
- Proceeds check payable to partnership, not to partners

## Limited Liability Company

- An unincorporated entity
- Articles of Organization
- Operating Agreement (2 or more members)
- Consent Resolution by all members
- Members and Managers
- Proceeds check payable to limited liability company, not to members or manager

## Trust

- Trust Agreement
- Certificate of Trust which cites Trustee, Settlor, current trustee, authority to sell/mortgage (If successor trustee, Death Certificate of the original Trustee will be required)
- Must be signed by Settlor, attorney for Settlor or attorney for trustee (Successor Trustee may not execute a Certificate of Trust)
- 1099 is filed upon sale
- Proceeds check payable to Trust upon sale, not the Trustee (Power of Attorney can not be used for conveyance from or to a Trust)

## Estates

- Title vests in the estate of deceased upon death for all assets passing through probate
- Death Certificate
- Letters of Authority—if restricted, may need court order for sale/mortgage
- 1099 filed in the name of the estate/deceased
- Proceeds check payable to the Estate, not the personal representative (Power of Attorney can not be used for conveyance from an Estate)

## Power of Attorney

- Legal document which allows someone (an attorney-in-fact) to sign on behalf of someone else (the principal) - MUST be in recordable form, will need to be recorded.
- Can be a limited or general POA
- Generally can be used between individuals
- Can not be used for property held in Trust, LLC, or Estate
- Why: Fiduciary capacity, duties & responsibilities

Thank you for choosing



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