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| Utah Recording and Processing Standards | Number: | Processing - 5 |
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1. Title

Affidavit of Correction.

1.1 Statutory limitation for corrective instruments

For purposes of this standard, if a document was sufficient to be recorded yet the document contains minor typographical errors, as referenced in UCA 57-3-106(9) and the document was sufficient for the recorder to abstract the document and in the case of a conveyance document to change the record owner, an affidavit may not be used to correct or change items in such document that would 1) divest a grantee of any real property interest, 2) alter an interest in real property, or 3) return to the grantor an interest in real property conveyed by statute” (UCA 57-3-106(10)(a)).

2. Standard Procedure

The recording of affidavits under Utah State Code 57-3-106(9)&(10), minor typographical or clerical errors in a document of record may be corrected by the recording of an affidavit. Except as required by federal law, or by agreement between a borrower under the trust deed and a grantee under the trustee's deed, the recordation of an affidavit may not divest a grantee of any real property interest, alter an interest in real property, or return to the grantor an interest in real property conveyed by statute. When using an affidavit to correct a minor typographical or clerical error, the affidavit shall include a reference to the original document and its recording information, subject to the following standards:

2.1 Minor Errors Which May Be Corrected By Affidavit: The following are examples of minor errors (narrow in scope) which could be corrected by the recording of an affidavit if all other recording requirements are still met under UCA 17-21-20.

2.1.1 An Error in a Name: Correcting misspelling of name(s), conflicts with initial(s), and other small conflicts between the record owner(s) and grantor(s), or if the date of the Trust is incorrect or has been omitted.

i. Grantor(s): The affidavit making the correction to the name(s) shall reference the recorded document which contains the error(s) by book, page and or entry number and should reference the current vesting document by book, page and or entry number to leave no doubt as to the intent and identity of the parties named and the real property involved.

ii. Grantee(s): These may **NOT** be corrected by affidavit (57-3-106(10)(a)(i). An error in Grantee will need to be corrected by another appropriate instrument or by the procedures outlined in the Utah Recording and Processing Standards for Name Discrepancies.

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2.1.2 An Error in a Legal Descriptions: Subdivision names misspelled, amended subdivision not indicated, duplicate calls in the legal description, conflicts between Arabic and Roman numerals, small typographical errors in directional calls, bearings and the distance back to the POB may be corrected by an affidavit. The affidavit should contain the original description with the error and the corrected description so that the affidavit is abstracted to both locations.

In the case of a legal description error in the subdivision name, lot, or phase, an affidavit may be used **if the intent is clear** such as a correct parcel number **and** the Grantor did not own the lot contained in the erroneous deed. An affidavit may be used for the misspelling of a subdivision name but not to change the entire subdivision. (NOTE: Do they own every lot or just one lot? How clear is the intent on the deed with the error?)

2.1.3 An Error in a Notary Acknowledgement: An Affidavit executed by the Notary who affixed their signature and seal to a document that contains errors in the notary date, spelling of the signers names so long as it does not divest a grantee of any real property, missing initials, or other notary errors. Utah Code 46-1-22 and 57-4a-2. If a notarial act is performed contrary to or in violation of these chapters, that fact does not of itself invalidate constructive notice to third parties of the contents of the document notarized.

2.1.4 An Error in Section Township or Range: In the case of an error in the Section, Township or Range with the remaining legal description matching the record legal description, an affidavit may be used to correct the error **if the intent is clear** such as a correct parcel number **and** the Grantor only owned the land described in the correct Section Township and Range.

2.1.5 An Error in the Point of Beginning: In the case of an error in the calls establishing the point of beginning with the remaining legal description matching the record legal description, an affidavit may be used to correct the error **if the intent is clear** such as a correct parcel number **and** the Grantor only owned the land described with the correct point of beginning.

2.2 Errors Which Cannot Be Corrected By Affidavit: The following errors **cannot** be corrected by the recording of an Affidavit.

2.2.1 Names:

Grantee names, including when the name of a Trustee is omitted or vice versa. (Not allowed by UCA 57-3-106 (10) as it would divest the original grantee)

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Grantee Tenancy. (Not allowed by UCA 57-3-106 (10) as it would alter the interest. A new deed is required to change tenancy.)

Grantor names, including when changing individual to trustee or vice versa , etc. (Not allowed by UCA 57-3-106 (10) as changing the grantor would return any interest conveyed by the original grantor of the document. A new deed is required.)

Wrong Trust. This is considered as part of the grantee name. (Not allowed by UCA 57-3-106 (10) as it would divest the original grantee)

Changing the entire grantor name or adding additional Grantor(s) names. (Not allowed by UCA 57-3-106 (10) as it would alter the interest)

2.2.2 Legal Descriptions

Section, Township and Range omitted... not accepted when two or more of these are missing or omitted. (see section 4.3)

Calls to arrive at the point of beginning are omitted, or no point of beginning is established.

3. Approvals

| Group | Approval | Date |
|--------------------------------------|----------|------------|
| Utah Association of County Recorders | | |
| Utah Land Title Association Board | | |
| County Recorder Standards Board | | 04/22/2024 |

4. Supporting Information

4.1 Typo: Typo is short for typographical error, and you can also call it a misprint. Typos are errors made during the typing process that have been missed by editors and proofreaders. (1) A mistake (such as a misspelled word) in typed or printed text (merriam-webster) (2) A mistake in printed matter resulting from mechanical failures of some kind (3) Minor Error means transposition of letters in words of common knowledge, typographical errors, or omissions of letters and numbers.

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4.2 Clerical: A mistake made in a letter, paper, or document that changes its meaning, such as a typographical error or the unintentional addition or omission of a word, phrase, or figure (Encyclopedia.com)

An error resulting from a minor mistake or inadvertence and not from judicial reasoning or determination. A drafter’s or typist’s technical error that can be rectified without serious doubt about the correct reading. (Black’s Law)

- typing an incorrect number
- mistranscribing or omitting an obviously needed word

4.3 Omission: According to Black’s Law Dictionary an omission is only considered a clerical error if the omission is an obviously needed word. More than a single obviously needed word that was omitted would not be considered a clerical error.

Adding additional descriptions such as an additional parcel or changing a description by adding a less and excepting parcel description is not accepted. In *Pioneer Builders v. KDA Corp*; the Utah Supreme Court ruled that an omission of a parcel description from the original deed is not an error that can be corrected by the recording of an affidavit.

Adding or removing names for grantor or grantee are not omissions. Omissions of more than a single obviously needed word are not considered clerical errors and can not be fixed with an affidavit but would require an “other appropriate instrument.”

5. Related and Example Documents

NA

6. References

Utah Code 57-3-106.

Utah Code 57-1-5

Utah Supreme Court Case *Estate of Flake*, 2003 UT 17, ¶ 11, 71 P.3d 589.

Utah Supreme Court Case *Pioneer Builders Co. of Nev. v. K D A Co.*, 2012 UT 74, ¶¶ 55-58, 292 P.3d 672, 686-87

Black’s Law Dictionary, Eleventh Edition.