



AG & OTHER OPINONS: Real Estate Records

Topic: Documents Presented for Re-recording and Correction Instruments

On October 15, 1999 Assistance Attorney General Thomas Creeron III gave the Oneida County Corporation, Laurence Heath, an opinion that said register of deeds should not accept documents for re-recording that had not been re-executed (signed again by grantors and authenticated or notarized). Members of the VTRDA had a number of related questions and asked Mr. Heath to pose these additional question to Assistant AG Creeron. Here follows are the additional questions and a summary of the AG response dated June 28, 2000, which would be OAG 7-2000.

1. Is it appropriate for a register to accept for recording deeds that the register knows or has a strong reason to believe have been changed after being signed and notarized? Answer: *No. However, the register need onlyto examine the document itself* The AG provided these statutory references to support his position: 59.43(1)(a), 70.6.05(2)(a), and 706.05(2)(b).
2. Does your advice concerning not re-recording deeds which have obviously been altered after being recorded apply to other conveyances? Answer: *Yes. The statutes make no distinction between deeds and other conveyances.*
3. If a recorded document is changed and subsequently re-signed and re-notarized, may it be accepted for recording? Answer: *Yes.*
4. Should a document be accepted for recording that contains whiteout but meets all recording requirements? Answer: *Yes.*
5. In the event that a separate correction document is recorded, should it refer to the previous document, which is being corrected? Answer: *It should, but this is not a recording requirement [except in the case of any document that modifies a mortgage, land contract or subordination agreement.]*
6. May a register add information regarding the previous document a correction instrument is supposed to correct? Answer: *No.*
7. May an affidavit of correction be used to correct documents? Answer: *Yes. The effectiveness of any particular affidavit will have to be determined by the title examiner.*
8. In what circumstance should the real property lister make a change in his or her records where real property legal descriptions are corrected by means of a correction deed or correction affidavit? Answer: *The real property lister must reflect such changes if directed to do so by county board resolution under s. 70.09(2)(a)2. (However,] the resolution may impart considerable discretion as to how to proceed.*