



## RECORDER'S OFFICE

**Chad Montgomery**  
County Recorder

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May 20, 2015

To whom it may concern,

This notice is to inform you of recording policy changes in regards to real property titled in a trust. According to the UAC 75-7-816, as part of the Utah Uniform Probate Code, when title to real property is in trust it is granted to a person as trustee.

New persons acting as trustees that are not the person(s) originally granted title as trustee can not transfer ownership as trustees without the accompanying documentation recorded connecting them to the person(s) to whom the property was originally granted as trustee.

When a person(s) as trustee of a trust holds title to real property as indicated in UAC 75-7-816, that trustee holds title to said real property subject to the terms or conditions of that trust. According to UAC 57-1-5.1, termination of interest in real estate by affidavit includes a conditional interest in real estate.

Therefore, because a property in trust is subject to the conditions of the trust, the interest that a person as trustee should be terminated by an affidavit as described in the said code. In an effort to avoid potential fraud and to protect a person's interest in real property when title is granted to a person as trustee, the Box Elder County Attorney and the Box Elder County Recorder are requesting that clear documentation be recorded with a paragraph quoting the terms of the trust that allow the change of trustee.

If, in the event that a person, as a trustee of a trust, is to be removed from title due to their death, an original or a certified copy of a death certificate needs to accompany an affidavit of death or affidavit of successor trustee or such document attesting to the death of the record owner.

If a person, as trustee of a trust, has resigned and no longer desires to serve as trustee, an affidavit stating their resignation with their notarized signature or an affidavit with a letter of resignation attached is sufficient documentation.

If a person, as trustee of a trust, is incapacitated, and is unable to properly sign, a guardian may be appointed or a power of attorney may be used under Title 75 Chapter 5 of the Utah Code unless otherwise specified in the trust. If the terms or conditions of trust include provisions for an incapacitated trustee, those terms along with a deceleration of incapacitation from two separate doctors, attached to an affidavit may be used as sufficient documentation.

This will apply to all documents submitted for recording in Box Elder County after July 1, 2015. If you have any questions regarding the above changes, please contact the Box Elder County Recorder's Office.

Sincerely,

Chad Montgomery  
Box Elder County Recorder

Stephen R. Hadfield  
Box Elder County Attorney