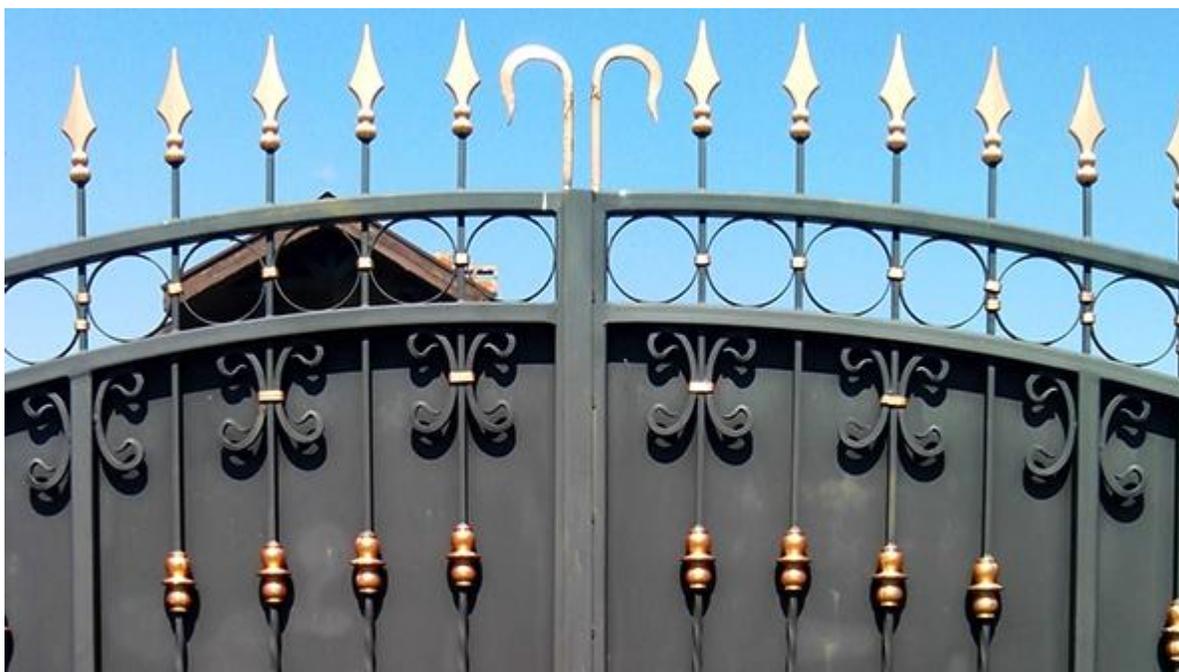


NATIONAL REAL ESTATE Investor®

Land Trusts: A Secure Way to Hold Title

Mar 10, 2016 John M. Coombe and Elizabeth A. Markworth



In today's day and age, privacy is becoming a scarce resource. With the rise of social media and search engines, celebrities and business leaders alike are finding their privacy under siege. Their homes and assets are targeted by tenacious paparazzi or unruly protestors, and in the worst cases, they and their families have been personally targeted. It's scary, but we see it in the news all the time.

Owning real estate through a land trust is a time-tested way of protecting your privacy when it comes to your home, your business and your family. For centuries, land trusts have been a standard way of protecting one's privacy and transferring real property, and in today's culture, this type of ownership structure is as popular as ever because it offers one of the most valuable assets of all—anonymity.

However, not all land trust products are the same; only a small handful are truly recognized. Many companies say they deliver anonymity and may make false promises about their trust services. A reliable trust would be arranged after a thorough vetting process that weeds out unscrupulous speculators. The trust organization should also have a successful track record of ensuring privacy and an affiliation with a financial institution such as a federal savings bank to minimize risk and maintain confidentiality.

Why a land trust?

Before determining if a land trust is for you, it is important to first understand how it works. Essentially, it is a special trust arrangement through which a trustee (a specialized company) holds legal title to the real estate while all of the rights of ownership, possession and management are retained by the beneficiary (i.e. you).

Beneficiaries of land trusts remain private and protected. The only name recorded on the deed to the property is the trustee's and the trust number of the trust. Whenever someone—whether it's a journalist, business competitor or someone with a grudge—looks up the address, they would only see that it is owned by a non-descript land trust. The same result would occur during a reverse look-up if someone tried searching for a name in a municipal tax roll or county clerk's deed database.

Such arrangements are ideal for celebrities and business leaders looking to stay out of the real property ownership limelight. Officials within the criminal justice system—such as police officers, prosecutors and judges—also seek anonymity from those looking to do them harm. Large companies have sought out land trusts as well, because executives don't want competitors to know of their expansion plans or they wish to avoid price escalations. Even some public utilities and timeshare companies are adopting the land trust structure of property ownership in order to protect investors.

In a land trust with a federal savings bank serving as trustee the names of its beneficiaries must be kept confidential at all times unless the trustee is compelled to divulge information by court order or statute. It acts as a corporate trustee holding the legal and equitable title to the real property, but all decision-making and operational powers over the trust assets remain under the control of trust beneficiaries.

The trustee takes action only when directed by beneficiaries of the trust. The interest of the beneficiaries is personal property, and the beneficiaries maintain the following exclusive rights:

1. Power to direct or control the trustee in dealing with the title to the trust property;
2. Possession and control of the management, operation, renting and selling of the trust property;
3. Right to the earnings and proceeds generated from the trust property.

There also may be a succession of ownership agreement included with the trust, which would allow the title to pass to a third party upon the death of the beneficiary without having to go through the trouble—and often great expense—of going through probate proceedings after a loved one passes away.

There are many good reasons to hold title through a land trust, including financial and emotional benefits, but in today's culture, privacy might be the best reason of them all.

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