

# TANGLED TITLES FAQ

## What if I don't know where my deed is; where can I get a copy?

In Ohio, deeds are kept in the County Recorder's Office. You can get a copy of your deed, or anyone else's deed you might need, at the recorder's office in the county in which the property is located.

## What do I need to look for to make sure my deed is written correctly?

There are many things to look for to determine whether a deed is correct. Obvious things to look for are the following, but there may be other issues:

1. Is the deed in the name of the parties intended? For example, is the deed in the name of you and your spouse or someone you wish to have the house when you pass.
2. Are the names on the deed correctly spelled, do they designate between junior and senior or family members whose name only differs by the middle initial? Is the name correct or has the owner changed their name through marriage, divorce or some other legal avenue?
3. Are the following correct - address, parcel number, legal description? You may want to check the previous deed for the same property to make a comparison. The number by which the previous deed is recorded will appear on the deed you are reviewing and should make it easier for you to find the previous one at the recorder's office.

## What do I do if I inherit a property with a tax delinquency?

If the property you inherit has a tax delinquency and it is in probate court, the taxes may be paid from the estate. If the taxes are not paid by the estate or the property does not go through the probate process, you can contact the County Treasurer in the county where the property is located and ask for a payment plan. Once you have your deed, if you are eligible for the Homestead Exemption Tax, be sure to apply for that.

## How do I obtain Power of Attorney if my loved one is unable to make decisions?

A power of attorney may be given to another only when the person granting the power has the legal capacity to do so. Once there is no legal capacity (ability to make legal decisions), a power of attorney cannot be given. If the person does not have legal capacity to execute a power of attorney, you can petition the probate court for what is called a conservatorship which grants you power over the person's financial affairs, real and personal property. A conservatorship is different from a guardianship which also grants you power over the person.

## How much will it cost me to correct my deed and how long will it take?

You will need to hire an attorney to correct the deed unless you qualify for free legal services. Different attorneys charge different prices so you will need to check. The length of time should not be long, depending on what needs to be corrected and how long it takes to gather any necessary evidence of the error and proof for the correction.

## What if my loved one doesn't have a will?

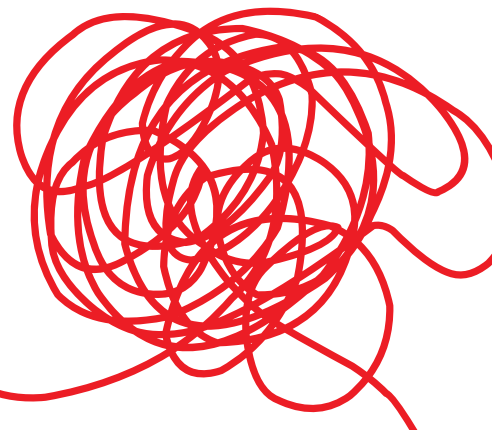
A person who passes with a will dies "testate" and a person who dies without a will dies "intestate." If a person dies intestate, their property is distributed according to Ohio's Statute of descent and distribution (R.C. 2105.06) and must go through the probate court.



TRUMBULL  
NEIGHBORHOOD  
PARTNERSHIP



LEGAL AID





# TANGLED TITLES FAQ



## **What does it mean when a property has to go through probate?**

When property “goes through probate,” a case is opened in the probate court in the county in which the property is located to assist in the distribution of that person’s property both real (land or houses) and personal (everything else). A probate case is opened in the county and state in which the decedent lived. If the decedent owned real property located in a state other than the one in which the decedent lived, a special probate case must be opened in that state and county in which the property is located.

Depending on the amount of the estate and a few other factors, probate will be either a full administration of the property or what is called a summary administration for a smaller estate. When available, the summary administration is much quicker. There are ways to set up your property so that little or none of the estate must go through the courts to be transferred upon your death. You should talk to a lawyer and to your bank.

## **What should you do if you inherit property in probate?**

You would, of course, take care of any property taxes, etc., that came along with your inheritance. Please note that, since 2013, Ohio residents are not subject to estate taxes on inheritances. However, if the decedent lived in another state, you may have to pay taxes in that state. As to federal taxes, an individual must inherit \$13.61 million to be taxed. So, that may not be a worry.



TRUMBULL  
NEIGHBORHOOD  
PARTNERSHIP



What you should do if you inherit property through probate, transfer on death affidavits or Payable on Death accounts, or in any other way, is to set up your new accounts so that will immediately transfer to another upon your death without going through probate court.

## **How do I obtain Power of Attorney if my loved one is unable to make decisions?**

A power of attorney may be given to another only when the person granting the power has the legal capacity to do so. Once there is no legal capacity (ability to make legal decisions), a power of attorney cannot be given. If the person does not have legal capacity to execute a power of attorney, you can petition the probate court for what is called a conservatorship which grants you power over the person’s financial affairs, real and personal property. A conservatorship is different from a guardianship which also grants you power over the person.

## **What if my loved one doesn’t have a will?**

A person who passes with a will dies “testate” and a person who dies without a will dies “intestate.” If a person dies intestate, their property is distributed according to Ohio’s Statute of descent and distribution (R.C. 2105.06) and must go through the probate court.

**Please note that every situation is different, and the information given herein is not intended to be legal advice but is for informational purposes only. For further information, you should contact an attorney.**

