

# Deeds and Affidavits are Crucial to the Non-sale-change of Owners of California Real Property

*Deed and Record prepares and e-records affidavits and deeds for real property located in San Diego County California.*

HUNTINGTON BEACH, CA, 92649,  
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Deed and Record is available to the public to prepare and e-record [deeds and affidavits for real property in San Diego County, California](#). Deeds are used to add or remove a co-owner of real property and to transfer real property in or out of a trust. An affidavit is used to notify the county the death of an owner. An affidavit is also used to notify the county of a change in trustee due to death, incapacity or resignation.



A deed is used to add a spouse as a co-owner. It is best for the married couple to own real property as "community property with the right of survivorship" This avoids probate and obtains favorable capital gain treatment. Transfers between spouses have no negative tax implications.

If the marriage ends because of the death of one spouse, an affidavit of death is needed by the survivor to inform the San Diego County recorder of the death. If the marriage ends in divorce, the soon-to-be-non-owning spouse must transfer his or her interest by deed to the other spouse.

Adding or removing a non-spouse, co-owner of real property is also by deed. The non-spouse change in owners has the potential for negative transfer tax, property tax or capital gains tax consequences. Adding or removing a living co-owner is by deed. A deceased co-owner in joint tenancy is removed by an "affidavit death of joint tenant." If co-owners are not joint tenants, probate is needed to transfer a deceased co-owner's interest.

Trusts are created to avoid California probate court. But for a trust to work, the real property



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*Mark W. Bidwell*

must be owned by the owner’s trust. Transfer of real property to a trust is by deed from the owner to the owner as trustee of his or her trust.

Upon the death of the owner of a trust, an “affidavit of death of trustee” is prepared to inform the San Diego County recorder the owner/trustee has died and who is the new trustee. The new trustee prepares a deed to either to sell or to transfer the real property.

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California. These two documents are used to add or remove spouses and non-spouse co-owners and to transfer real property into or out of a trust.

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