

Handy Guide to Easement Preparation

Easements are prepared from ownership information shown from Title Information provided by the County Clerk's Office. Also the information can be obtained from a Title Report or Ownership list provided by a Bonded Abstractor.

If it is discovered that ownership has changed subsequent to the title search, a copy of the conveyance should be attached to the search and easements should be prepared in accordance with the new ownership information.

The following are examples of legal entities that can hold title as provided in Title 17 Oklahoma Statutes Section1:

1. **LIMITED LIABILITY COMPANY:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

Easements granted by a Limited Liability Company will be executed by the Manager/Managing Member/President/Vice President.

If President/Vice President executes request a delegation of Authority. (Common practice for LLC to sign documents as Pres/VP, even though their papers are set up with Manager and Managing Members.)

Example: John Doe, Manager/Managing Member, of ABC Company, LLC, an Oklahoma limited liability company

2. **CORPORATE OWNERSHIP:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

Easements granted by corporations must be executed by the President/Vice-President, Chairperson/Vice-Chairperson of the corporation.

If another office executes then there should be a delegation of authority executed by the corporation. President/Vice-President, Chairperson/Vice-Chairperson of the corporation must sign the delegation of authority.

Example: ABC Corporation, an Oklahoma corporation

3. **INDIVIDUAL OWNERSHIP:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

In Oklahoma, the marital status of the grantor must be shown on the easement. Titles such as John Doe, a married person and John Doe, sole owner are *not acceptable* because they do not name the spouse, and in the second instance it did not show marital status. If the grantor is married, the spouse must be named and join in the execution of the easement. If the grantor is single, the grantor must so state.

Examples: John Doe, a single person
 John Doe and Jane Doe, husband and wife

4. **PARTNERSHIPS and JOINT VENTURES:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

Easements granted by a partnership or joint venture must show the name of the partnership or

joint venture and will be executed by one or more general partners or joint venturers. A partnership or joint venture affidavit or copy of partnership or joint venture agreement showing who has the authority to convey real property should accompany the easement.

Examples: ABC Company, an Oklahoma general partnership
 ABC Company, an Oklahoma limited partnership
 ABC Company, an Oklahoma joint venture

Joint Ventures are unique in that a spouse may have a homestead interest. As a result of this if the person executing is married then the spouse must join in the execution.

5. **TRUSTS:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

Easements granted by a trust must show the name of the trustee(s) and the name and date of the trust.

Examples: John Doe, Trustee of the John Doe Trust, dated January 1, 2011
 John Doe Trust dated January 1, 2011
 Mary Jane Doe, Trustee of the John Done Trust dated January 1, 2011

If the Trustee is someone other than the name of the person's trust then a Memorandum of Trust should be provided to show the current trustee and authority to convey real property or a copy of the trust instrument for review.

6. **ASSOCIATION, ASSOCIATES:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

If the title is in the name of an Association or Associates, the legal entity will generally be a Limited Liability Company, Corporation or a Partnership. Once determined, refer back to those sections.

Examples: ABC Association, an Oklahoma limited liability company
 ABC Association, an Oklahoma corporation
 ABC Associates, an Oklahoma general partnership
 ABC Associates, an Oklahoma limited partnership

7. **CONTRACT FOR DEED OWNERS:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

If the title search shows a contract for deed owner, it will be necessary to show as grantors both the contract for deed owner and the fee owners, as all have an interest.

Example: John and Mary Doe, husband and wife, fee title, and Charles Smith and Jane Smith, husband and wife, contract for deed interest

Note: All fee title and contract for deed interest owners must execute the easement.

8. **CHURCHES:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

Incorporated: Grantor is a church and will be executed by the President/Vice President, Chairperson/Vice-Chairperson.

Example: Church of the First Born, Inc., an Oklahoma corporation

Unincorporated: Grantor is a church and will be executed by Chairperson/Vice-Chairperson of the Board of Trustees.

Example: First Baptist Church

Note: Pastor does not have authority to execute the easement.

9. **SCHOOLS:**

Forms to use: Water Wastewater: Permanent Representative with Corporate Acknowledgment

PUBLIC SCHOOLS: Easements executed by Oklahoma public schools must set out as the grantor the legal name of the school as provided in Title 70 Oklahoma Statutes Section 5-105 which includes the school district number as designated by the State Board of Education.

Example: Independent School District No. __ of _____ County
Independent School District No. 21 of Oklahoma County.

The easement must be executed by the President of the School Board.

Note: Superintendents or Principals have no authority to execute on behalf of public school districts.

PRIVATE SCHOOLS: Private schools are generally incorporated and easements will be executed by the President/Vice-President, Chairperson/Vice-Chairperson.

Example: Smart School, Inc., an Oklahoma corporation

10. **GUARDIANSHIP:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

If a minor child or an incapacitated person is owner, it is necessary to secure the easement from a court appointed guardian. The guardian will execute the easement. A District Judge will also have to approve by signing the easement.

Example: John Doe, Guardian of the Person and Estate of Joe Doe, a minor
John Doe, Guardian of the Person and Estate of Glen Doe, an incapacitated person, a single person

If the incapacitated person is married, then the easement shows the name of the spouse and that spouse must join in the execution.

Example: John Doe, Guardian of Person and Estate of Glen Doe, an incapacitated person, and Jane Doe, husband and wife.

11. **LIFE ESTATE:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

When title search shows a Life Estate, it will be necessary to secure both the Life Estate Owners and the Remainder Interest signatures. If either the Life Estate or Remainder Interest person is married then the spouse must be named and join in the execution of the easement.

Example: John Doe, single, Life Estate and Sam Doe, single, Remainder Interest.
John Doe, Life Estate, and Jane Doe, husband and wife, and Sam Doe, Remainder interest, and Sandy Doe, husband and wife.

12. **DECEASED OWNERS:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

Being Probated: Grantor will be court approved Executor, Executrix or Personal Representative. A District Judge must approve by signing the easement. Copies of letters of testamentary must accompany the easement.

Example: John Doe, Executor of the Estate of Charles Smith, deceased

Not Probated: Heirs of the deceased owner generally do not have authority to execute an easement until the property has been distributed to them through a probate. Seek Municipal Counselor's guidance in this instance.

13. **POWER OF ATTORNEY:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

Easement must be executed by the Attorney-in-Fact, which is the person who has been given the Power of Attorney by the owner. (See other sections for required signatures for individual owners.) A copy of the Power of Attorney showing authority to convey real property should accompany the easement.

The grantor will still be Mary Doe, stating current marital status and joined by spouse, if married.

Example: Mary Doe and John Doe, husband and wife.
The execution of the easement by Mary Doe will be as follows:

Mary Doe
By: _____
John Doe, Attorney In-fact

14. **DEATH OF A JOINT TENANT:**

Forms to use: Water Wastewater: Permanent Individual with Individual Acknowledgment

When title search or last deed of record indicates a joint tenancy exists, and it is learned that one of the joint tenants is deceased, it will be necessary to get some form of proof of death, death certificate, funeral home notice, newspaper clipping, affidavit, etc. to accompany the easement.

Do Not show dead joint tenant on the easement. If surviving joint tenant has remarried then the current spouse must be named and join in the execution of the easement.

Title held by John Doe and Mary Doe, husband and wife. Mary is now deceased.

Example: John Doe, a single person
John Doe and Karla Doe, husband and wife