

Procedures for Submission of Water and Sewer Easement Document Package

A typical document package contains the following three items:

1. Completed *Water and Sewer Deed of Easement Routing Sheet*
2. Title Opinion Letter (“TOL”) dated within the last 30 days in accordance with the attached *Deed of Easement or Fee Simple Deed Requirements* prepared in the format of the attached sample letter.
3. Deed of Easement executed by all parties except Frederick County. The easement description should be an original (to scale) exhibit containing a metes and bounds description with (or contained within) a graphic depiction of the easement area, sealed and signed with an original signature by a licensed Maryland Surveyor with the required COMAR statement. If the easement encompasses a large area, the easement area can be set forth on a water and sewer easement plat to be recorded in the subdivision plat records. The aforesaid water and sewer easement plat must be approved by the Division of Water and Sewer Utilities prior to recording and a full-size copy of the recorded plat must be submitted with the easement document package. All documents should be prepared according to the *Standards for Real Estate Acquisition Documents* as contained in Appendix D of the *Standard Operating Procedures for Property Rights Acquisitions in Frederick County, Maryland* (approved and effective July 7, 2020).

Some projects may require additional document packages such as one or more of the following:

1. Release or Partial Release of Easement - The same description requirements listed above apply, although typically no description is required for a full release of a recorded easement. These document packages should include copies of the referenced easements being released and any associated easement plats recorded in the subdivision plat records. A TOL is not required.
2. Encroachment Agreements - While the *Design Manual for Water and Sewer Facilities* indicates encroachments of structures, private utilities, and similar obstructions are to be avoided, some projects may have unavoidable encroachments. In those cases (with prior approval), an Encroachment Agreement or a combined easement/encroachment form may be required. The exhibit(s) attached to those documents must show the limits of all easements and the details for all facilities and/or improvements in the easement areas but a surveyor certification, seal, and signature are not required. A TOL is required. The plan information and details are critical to preparation of these documents. Please ask for guidance and courtesy review prior to obtaining signatures on these documents.
3. Fee Simple Deed - If a fee simple Deed is being submitted, the document package should include a full-size copy of the recorded plat, Intake Sheets, any required tax status reports, the original Deed and required number of copies for the transfer process. As indicated in the above-referenced *Standard Operating Procedures for Property Rights Acquisitions in Frederick County, Maryland*, the Deed document must originate in the Office of the County Attorney. A TOL is required unless an Owner’s Policy of Title Insurance is provided.

All packages should have a Routing Sheet as the cover letter. Submit packages to Tracy Bowie, Frederick County Division of Water and Sewer Utilities, 4520 Metropolitan Court, Frederick, MD 21704. The package will then be reviewed by all applicable departments and, when approved, submitted for execution by the County and recorded by County staff.

DEED OF EASEMENT OR FEE SIMPLE DEED REQUIREMENTS

In order to ensure that Deeds of Easement, Agreements, and Fee Simple Deeds are properly prepared and legally effective, all applicants must submit a Title Opinion Letter (“TOL”) for the property described in the document(s) in the format of the attached sample letter. The TOL must be less than 30 days old, based upon a full title search (at least 60 years), issued by an attorney licensed to practice law in Maryland, and must be in the format of the attached sample TOL indicating:

- in whom title is vested, including a Liber/folio reference to the deed and identity of prior grantors;
- all existing liens on the property, including the identity of each lienholder (and Trustees if available) and the Liber/folio reference to the recorded security interest document; and
- the identity of any contract purchasers and lessees, or confirmation of the lack thereof, and the source of that information.

All required Deeds must be prepared and recorded prior to or contemporaneously with final plat recordation.

Proper acknowledgment blocks must be completed for all who sign the document, explicitly stating in what capacity each individual is executing it. In addition, State law requires the inclusion of the certification as to who prepared the document (see below).

All deeds must be executed by every person or entity having an interest in the property, including but not limited to: all co-owners; all lenders holding deeds of trust or mortgages; and all contract purchasers and lessees.

All exhibits to deeds must be properly marked.

Once the documents are executed, they will have extensive legal ramifications. You are strongly urged to consult an attorney before preparing or executing such documents.

One of the two forms of Certification set forth below must be included on all deeds and executed prior to acceptance of the deeds by the County.

CERTIFICATION

This instrument has been prepared by or under the supervision of the undersigned, an attorney admitted to practice law in the State of Maryland.

(Type Name)

OR

This instrument has been prepared by the undersigned, one of the parties named in the instrument.

(Type Name)

[insert date]

Kathy L. Mitchell, Senior Assistant County Attorney
Frederick County, Maryland
Winchester Hall
12 E. Church Street
Frederick, MD 21701

RE: Deed of Easement [or whatever the document is]
Lands of [insert owner name]
Property Tax ID: [insert tax account number]
[insert project name}, Frederick County Contract No. [insert contract number]

Dear Ms. Mitchell;

I hereby certify I have examined the land and Circuit Court records of Frederick County, Maryland, for an examination period of not less than sixty years through [insert date], with reference to the above-mentioned real estate, being all and the same real estate which was conveyed unto ABC Land Holdings, LLC, a Maryland limited liability company, from Mary and John Smith, husband and wife, by deed dated January 1, 2000, and recorded among the land records of Frederick County, Maryland, in Liber 0000, folio 000 (the "Property"). Based on this examination, it is my opinion that ABC Land Holdings, LLC is possessed of good and marketable fee simple title to the Property.

I find the following liens, judgments, mortgages or deeds of trust affecting the property:

1. Deed of Trust from ABC Land Holdings, LLC to Mark Jones, Trustee, for the benefit of Hometown Mortgage Corporation, dated January 1, 2000, and recorded among the land records of Frederick County, Maryland, in Liber 0000, folio 0000.
2. Mortgage from ABC Land Holdings, LLC to Big City Loans, dated June 1, 2000, and recorded among the land records of Frederick County, Maryland, in Liber 0000, folio 000.
[insert details for any liens using a format similar to the examples above or indicate there are none]

No contracts of sale or leases for the Property were found in the above-stated records for the title examination period, nor am I personally aware of the existence of any such contracts or leases, having made reasonable inquiry with ABC Land Holdings, LLC and [if applicable] XYZ Engineering Associates.
[alternatively indicate details for any contracts or leases affecting property]

This letter is intended solely for the use of the addressee and may not be relied upon by any other person without prior written approval of [insert your firm name].

[insert your firm name] assumes no liability for any loss or damage caused by errors and omissions attributed to the office of the Clerk of the Circuit Court and/or the office of the Register of Wills, including, but not limited to, erroneous indexing of documents and/or decrees, failure to index documents and/or decrees presented to said offices, and failure to file and/or maintain documents and/or decrees in the proper location. [optional acceptable language]

[optional information] This opinion is based on an abstract of title provided by [insert abstractor name] for the title examination period stated herein.

/s/