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Episode 3: Tax Sale Deed

Call from the Agent: My client bought property at a tax sale and has just received the "tax deed." Does my client actually own the property and can she sell it?

The Response: A "tax deed" is issued by the Delinquent Tax Office – it is not a warranty deed and title is not deemed to be either "marketable" or "insurable." Your client owns the property subject to any imperfections in the tax sale process. The tax sale process is rigidly specific and, if that process is not strictly followed, the tax sale can be set aside and the title restored to the original owner (meaning the taxpayer). If your client expects to be paid fair market value (FMV) for the property, she will probably have to file a "quiet title" action. Through a "quiet title" action, your client should expect to receive title that is both "marketable" and "insurable." If your client wishes to sell the property now (meaning without a quiet title action), a bank will not lend against the property and the title cannot be insured – this means she will need a cash buyer and should expect to receive less than FMV. In the event of such a sale, she should only tender a quitclaim deed as opposed to a warranty deed.

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