

WHAT YOUR CLIENTS NEED TO KNOW WHEN USING A POWER OF ATTORNEY

Vacations, Travel, Away on Business; these are just a few examples of possible reasons why your client may need to use a power of attorney (POA). It's important that the POA be provided to the escrow company as soon as possible so that it may be examined by the title company for approval. A standard printed general power of attorney form usually contains all required language. However, a special form or one specifically prepared for other reasons may not be acceptable. In fact, certain Lenders require specific power of attorneys on all of their deals (*e.g. Wells Fargo*).

There are certain operative words needed defining all powers, such as:

- » Powers to grant (*define*)
- » Powers to convey (*define*)
- » Encumber and hypothecate real property (*define*)

Normally if a power of attorney is older than one year the title may require additional documentation, i.e. affidavit*.

If the Attorney In Fact will be executing a document to be recorded then the original notarized Power of Attorney may need to be recorded in the county where the property is located. A Seller may not be able to use a Power of Attorney if there is a recorded homestead.

If the Buyer is using the power of attorney, and is obtaining a loan, the lender will generally need to approve the power of attorney. When title is/or will be vested in a trust, a copy of the trust should be provided to the title company for review to determine if a Power of Attorney can be used.

If the power of attorney is being utilized to sign for a trust, the trust should have specific language to authorize use of the attorney in fact. A copy of the trust along with the power of attorney form should be sent to escrow to forward to the title company for review and approval.

* "Affidavit confirming authority under power of attorney" pursuant to CA probate code



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