

Overview of Contract for Deed Survey

Please review the survey carefully before administering and ask your team leader if you have any questions. What follows are some key areas to review ahead of time, including areas where questions will most likely arise.

BACKGROUND

The primary focus of this survey is to understand the titling practices colonias when the residents become or seek to become landowners. The bulk of questions in the survey get to how title to the land transfers (or doesn't transfer) when a resident buys a lot: How many residents are obtaining formal, legal title via a deed when they buy their land vs how many are becoming "informal" owners without transfer of the legal title. There are also questions that get to how title transfers are handled when a resident become an owner through other means, primarily through inheritance or gift from a family member.

Time limits: We have a very limited time to complete a large number of surveys in a week. **Please work hard to limit the survey interview to no more than 20 minutes.** Otherwise, we will not be able to hit our target numbers of surveys we need to complete for statistical validity. Please keep track of time during each interview.

Mannerisms: It's very important to be as warm and polite as possible to the residents you are interviewing. Be sure to smile, and kindly take no for an answer if the resident is not interested in talking to you. Speak slowly and use eye contact.

INTRODUCTION

Page 1: Header (top of survey). Be sure to enter here your name and the name of the subdivision. If you know it, please also enter the block and lot #, but since you are working off of google maps, you will probably not have this information available, which relates to the legal description of the lot.

Page 1: Introduction. You will need to gauge up front whether the resident is more comfortable speaking to you in Spanish or English. If you are unsure, you can ask the resident. You are welcome to work from the introduction on the survey, but the survey instructions include a more conversational introduction. After the first day, you may find it more comfortable to modify the introduction, but **you will need to be sure to cover the following points:**

- Who you are and that the survey is being conducted by U.T. for the State of Texas Department of Housing and Community Affairs.
- The survey will take 15-20 minutes to complete.
- The survey is being conducted with support of local community leaders.
- Their participation is entirely voluntary. They can skip over any answers they don't want to answer and can end the survey at any time. Confirm they want to participate.

- All of the information they provide will be kept completely confidential. None of the information will ever be connected with them, their family, or address/home.
- Confirm that the person answering is the head of household or spouse.
- Hand them the cover letter to the survey and point the contact info if they have any questions.

The person completing the survey needs to be the head of household or the head of household's spouse. At the end of the introduction, you will be asking if the person is the head of household or the head of household's spouse. If not, then please ask if the head of household is available. Only complete the following sections of the survey if you are speaking to the head of household or spouse.

What does it mean to be the “head of household?” The head of household is the primary person or couple who manage the affairs of the family living in a household. It need not be the husband/father or wife/mother (or both), but could be a grandparent, uncle, aunt, son or daughter. What's important here is that the person answering the survey considers himself/herself to be the head of household vs your opinion.

SECTION A: DEMOGRAPHICS AND LOT OWNERSHIP

Page 2, A.11. The term “lot” is first introduced in the survey here. Be sure to read the definition of “lot” on page 2 to the respondent. Our focus is on the titling practices surrounding real property, which may or may not include the home (that's because mobile homes are often titled as personal property and often have different legal ownership from the lot). Thus, the focus in the survey is on asking about ownership of the “lot” vs the “home.”

The term “owner” is also introduced here. Many residents will have legal or equitable ownership rights but not consider themselves to be owners if they are still making payments to buy their lots. For purposes of the survey, whenever the term “owner” is used, it is inclusive of persons who are making payments to buy their lots, even if they don't consider themselves to be the owner.

Page 3, A.15: The main focus of the survey is on owners. If the survey respondent is not an owner, or spouse of the owner (this includes persons who are NOT in the process of buying their lot), then you should check the appropriate box to explain the respondent's relationship with the lot—and then skip ahead to the appropriate section (I or J) as indicated in the survey.

SECTION B: ACQUISITION OF THE LOT

This section should be answered only by owners or spouse of owners (including persons in the process of buying their lots). The survey questions here are getting at how the person became an owner. If they became an owner through a

process other than purchase of the lot (i.e., inheritance or gift), then after completing Section B, the respondent will skip ahead to Section E.

SECTIONS C and D: PAYMENT FOR THE LOT & PROPERTY TITLES

These two sections should be answered only by persons or their spouses who are buyers: persons who finished paying or are currently making payments to buy their lot. Persons who became owners via inheritance or gift need to skip ahead to Section E.

Section D: Property Titles. This is the trickiest section of the survey in that it asks about what type of title papers respondents received when they started purchasing their lot. Many respondents are not going to know or are unsure of what type of title papers they have but will at least remember if they signed anything in writing or instead had an oral agreement.

Reviewing documents: If the respondents say there was some type of written documentation as part of the transaction but they are unsure what type of transaction it was, ask them politely if they have their papers handy and would mind showing them to you for confirmation. If it is going to take them awhile to locate them, then you will need to judge whether it makes sense to move forward through the survey without looking at the papers (if your prior interviews took less than 20 minutes, then this will give you more wiggle room to go over a few minutes in other interviews; but if all your interviews are running long, you won't be able to wait for more than a couple of minutes). Ideally, another adult in the household will be available and can look for the title papers while you move on with the interview--and you can come back to Section D when the papers are located.

If the papers are provided, the student conducting the interview should ask his/her interview partner (if available) to look over the documents while the interviewer proceeds with the interview. Please ask if the respondent is ok with you taking a picture of the first and last page of each document, informing him/her that the pictures will be confidential. If the person presents you with multiple receipts instead of a legal document, you can take a picture of just 2 of the receipts instead.

If the person is not able to provide the papers and is unsure of the type of transaction, you can go through the different options listed in D.2. And if, after going through this list, they still are unsure, then check the "do not know," box but list any details they remember about the agreement in terms of how long payments would be made for, whether title was ever discussed, etc.

Page 5, D.2—Types of Title Papers from First Purchase: This question relates to the type of title papers the respondents received when they first started

buying their current lot, which may be different from the title papers they currently have—especially if they have lived on their lot for a long time. There are 3 primary classifications of title papers listed in D.2:

1. **Written contract for deed.** This is also referred to as a contract for sale or executory contract. You will know it is such by looking at the title at the top of the document. A second indicator, which you probably will not have an opportunity to confirm, is a statement in the contract that payments are being made over multiple months and that a deed will be provided at the end of the transaction. There a wide range of contracts for deed—ranging from a single piece of paper written out by hand to multiple-page formal documents.
2. **Deed.****This document will have the word “deed” at top and includes “warranty deeds,” “quitclaim deeds,” and “special warranty deeds.” A deed usually also comes with a document called a “deed of trust,” which is a financing mechanism versus a titling instrument, but if they do show you a deed of trust make note of that as well.
3. **Other.** There are two primary types of documents in this category. The first type is the rent to own agreement. These documents will have “rent to own” or “lease to own” at the top of the document. Please note to the right of the check box the title appearing at the top of the document. The second type is a receipt or receipts over time. This will be some type of document simply verifying that payment was received for the lot—either from a down payment or the monthly payments. Only check the “other” box for receipts if the person did not also receive a contract for deed or deed.

**In cases where a deed was provided, we have recently seen several instances where the buyer was also required to sign over the seller a document called a “deed in lieu of foreclosure.” This document gives the seller the right to take back the property without going through the foreclosure process and is sometimes used in run of the mill foreclosure transactions. But, in the colonias, this document is being abused because some buyers are being required to sign over the deed in lieu up front before they have missed any payments, thus allowing the seller to always bypass the foreclosure process and strip the buyer of equity built up in the land. In essence, the deed in lieu is being used as a way to turn the deed into a contract for deed. Because of the recent proliferation of the use of deed in lieu, there is a sub-question in the survey (under D.2./Deed), where you will be asking persons who have a deed whether they also signed a deed in lieu.

Page 6, D.4—Types of Current Title Papers: This question relates to the questions the person CURRENTLY has for the lot. The same types of classifications in D.2 are listed here. The sub-questions to the right of each classification (written contract for deed, deed, etc) should only be asked if the respondent’s current title papers are different from the original ones. One of the sub-questions under “deed” here asks whether the respondent now has a deed

as a result of a conversion program. Over the past several years, nonprofit and government agencies have run contract for deed conversion programs in Texas colonias, under which the residents gets help converting the contract for deed into a warranty deed.

SECTION E: INHERITANCE PLANNING

As the survey points out, this Section is for all owners, including those who have bought the lot, are still in the process of making payments or received the property through gift or inheritance. This Section is focused on understanding how owners are making plans, if any, about transfer of title to their property after they die.

SECTION F: HOUSEHOLD INFORMATION

This Section is for all owners as well—anyone who completes Section E should also complete Section F. These questions are focused on understanding how married couples are handling the titling of their property when they get divorced—whether they are handling the transfer formally via divorce decree files in the county records or informally.

SECTION G: LOT SALES

This Section is for all owners as well—the same persons who completed Sections E and F above. These questions are focused on understanding how owners who have sold another lot in the past handled the transaction.

SECTION H: INHERITANCE OF LOT

This Section is only for owners who inherited the property from someone who died. The questions here are focused on understanding whether the respondents obtained formal title to the lot via a probated will, or whether instead they obtained title to the property through more informal means, such as intestacy (i.e., the prior owner who died—the descendant--did not have a will). The questions also seek to understand what type of title the respondents inherited—did the prior owner have formal title via a deed or more informal title, such as a contract for deed.

SECTION I: RENTER-OCCUPIED UNITS

This Section is only for renters.

SECTION J: Wrap-Up of Survey

This section is for EVERYONE completing the survey. Some of the language here is targeted towards persons completing the mail survey—you can delete this. What you need to cover here: Thank the residents profusely for taking the time to talk to you. Also ask them if they would be willing to provide their number in case we have any follow up questions. The phone # will be discarded as soon as the answered are recorded.