

# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

Disclaimer:

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

**Land** – Not a legal term but does by its nature trigger legal consequences. Some land is property; some land is just land. Land that is owned by anyone is property. ‘Anyone’ could be an individual, group of individual, corporate or commercial entity (private land) or it could be the government (public land that \*technically belongs to everyone).

**Property** – any matter or thing capable of private ownership. Texas Tax Code § 1.04 (1).

There are two types property:

The distinction is important because, in Texas, certain types of personal property are exempt from garnishment, attachment or seizure. See Texas Property Code § Sec. 42.001 (a).

## Real Property

**Legal Definition of “Real Property”:** land; an improvement [building or structure]; a mine or quarry; a mineral in place; standing timber. § 1.04 (2)(A-E) [Note here what’s not included, e.g. crops: The trees and plants the crops grow on are real property, but the fruit, nut, grain, or vegetable itself is personal property].

## Personal Property

**Legal Definition of “Personal Property”:** The belongings of an individual, ***excluding*** any real estate property or other buildings. Generally includes tangible and intangible assets of an individual.

**Explanation of the term “Personal Property” and how it differs from “Real Property”:** Here in Texas, the word property means anything that can be privately owned. Your house, your car, your jewelry are all considered property, but not the same kind. There are two types of property: real property and personal property. **Real property**, more commonly called real estate, means land and anything attached to the land—like a building or a house—and anything in or under the land—like trees, plants, and minerals. **Personal property** is just about anything else you own that isn’t attached to the land. So, for example, your house is real estate/real property and your furniture and jewelry inside it are personal property.

# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

Disclaimer:

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

## Ownership v. Possession

**Ownership** – the state or fact of exclusive rights and control over property, which may be an object, land/real estate or intellectual property. Ownership involves multiple rights, collectively referred to as title, which may be separated and held by different parties. The process and mechanics of ownership are fairly complex because one can gain, transfer and lose ownership of property in a number of ways. To acquire property one can purchase it with money, trade it for other property, receive it as a gift, steal it, find it, or homestead it. One can transfer or lose ownership of property by selling it for money, exchanging it for other property, giving it as a gift, being robbed of it, misplacing it, or having it stripped from one's ownership through legal means such as eviction, foreclosure, seizure, or taking.

**Possession** – refers to the exercise of dominion over property, holding or having property in one's power. It is the right under which a person can exercise control over something to the exclusion of all others. It is a continuing exercise of a claim to the exclusive use of a material object.

**Estate** – A person's possessions; extent of a person's interest in real property.

**Fee Simple Estate** – The greatest interest in a parcel of land that is possible to own. Sometimes designated simply as "fee."

**Life Estate** – A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

**Trust** – A property right held by one as a fiduciary for the benefit of another.

**Trustee** – A person holding property in trust as a fiduciary for the benefit of another.



# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

**Disclaimer:**

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

## Title

**Legal Definition of “Title”:** Legal description of a person's rights or interest in land; the word also is used to designate either the means by which an owner of land has the rightful possession of a parcel of land or the legal evidence of a person's land ownership. See Restatement of Law of Property § 10, p. 28. The Texas Property Code does not define title.

**Explanation of the term “Title”:** Title is a concept, not a piece of paper. Title is a legal way of saying that you own a right to something. Think of title as a bundle of rights. Those rights, depending on the type of ownership, can include the right of possession; the right to control, the right of enjoyment; the right of exclusion, and the right of disposition.

**Legal Title** – refers to the responsibilities and duties the owner has in maintaining, using, and controlling a property. Legal title is the actual ownership of the property.

**Equitable Title** – refers to a beneficial interest in real property that gives the holder some rights to use and enjoy the property. It is not actual ownership but it gives the holder the right to acquire legal title to the property.

**The difference between equitable and legal title** – Equitable and legal title are two halves of the same whole: An owner needs both to have “full” ownership and use of a property. In general, the primary difference is that equitable title includes the right to enjoy but not to transfer or sell property. Legal title includes the right to sell, but may not necessarily include the right to use and enjoy. The more nuanced differences between equitable and legal title will vary on a case-by case basis. *Ownership laws in Texas allow equitable title and legal title to belong to two separate parties.* One person may have the rights of maintaining a property while another has rights concerning the property's benefits and use after the property owner dies or passes the property on. Legal title may go to a trustee for a specific amount of time, while equitable title will go to another beneficiary who will gain legal title after a certain date. One's rights under each title can vary according to the title agreement.



# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

**Disclaimer:**

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

## Title

**Legal Definition of “Title”:** Legal description of a person's rights or interest in land; the word also is used to designate either the means by which an owner of land has the rightful possession of a parcel of land or the legal evidence of a person's land ownership. See Restatement of Law of Property § 10, p. 28. The Texas Property Code does not define title.

**Explanation of the term “Title”:** Title is a concept, not a piece of paper. Title is a legal way of saying that you own a right to something. Think of title as a bundle of rights. Those rights, depending on the type of ownership, can include the right of possession; the right to control, the right of enjoyment; the right of exclusion, and the right of disposition.

**Legal Title** – refers to the responsibilities and duties the owner has in maintaining, using, and controlling a property. Legal title is the actual ownership of the property.

**Equitable Title** – refers to a beneficial interest in real property that gives the holder some rights to use and enjoy the property. It is not actual ownership but it gives the holder the right to acquire legal title to the property.

**The difference between equitable and legal title** – Equitable and legal title are two halves of the same whole: An owner needs both to have “full” ownership and use of a property. In general, the primary difference is that equitable title includes the right to enjoy but not to transfer or sell property. Legal title includes the right to sell, but may not necessarily include the right to use and enjoy. The more nuanced differences between equitable and legal title will vary on a case-by case basis. *Ownership laws in Texas allow equitable title and legal title to belong to two separate parties.* One person may have the rights of maintaining a property while another has rights concerning the property's benefits and use after the property owner dies or passes the property on. Legal title may go to a trustee for a specific amount of time, while equitable title will go to another beneficiary who will gain legal title after a certain date. One's rights under each title can vary according to the title agreement.



# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

Disclaimer:

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

## Abstract of Title

**Legal definition of “Abstract of Title”:** A history of all transactions shown in the public records of each county affecting a particular tract of land. [Note: Still in use in some states, but in Texas mostly replaced by issuance of title insurance.]

**Explanation of Term “Abstract of Title”:** When a sales contract is authorized, an abstract of title is created that shows everything that has been recorded about the property at the county courthouse. The abstract usually includes a summary of the original grant, subsequent changes of ownership, any encumbrances on the property, and a statement by the person preparing the abstract that all the information is complete and accurate. Think of the abstract of title as the legal footprint that is made when you exercise your ownership rights.

**Color of title** – The appearance of a valid title with an underlying defect; title provided to ostensibly show valid ownership when, in reality, the title is actually defective.

## Clouded Title/Cloud on Title

**Legal definition of “Clouded Title”:** an actual or apparent outstanding claim on the title to real property.

**Explanation of Term “Clouded Title”:** occurs when more than one person has a claim to a piece of property. This can happen, for example, when a person dies without a will and there are many heirs, some of whom cannot be located. Other times, this can happen when a deed filed by a prior owner does not contain an accurate description of the property leading to confusion about who actually owns the land. Another common example is when a utility easement runs across a lot that prohibits development on the lot. Other common “clouds” on title include:

- Forged documents
- Divorce agreements
- Liens
- Conflicting wills
- Clerical mistakes in public records
- Confusion due to the similarity of names
- Mineral rights



**THE TEXAS FREEDOM COLONIES PROJECT**

 @freedom\_colonies\_project

 @thetexasfreedomcoloniesproject

 freedomcoloniesproject@gmail.com

 www.thetexasfreedomcoloniesproject.com

# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

Disclaimer:

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

**Title Insurance** – Insurance against loss or damage resulting from defects or failure of title to a particular parcel of real property. **Texas Title Insurance:** A) insurance that insures, guarantees, or indemnifies an owner of real property, or another interested in the real property, against loss or damage resulting from: (i) a lien or encumbrance on or defect in the title to the real property; or (ii) the invalidity or impairment of a lien on the real property; (B) personal property title insurance, as defined by Chapter 2751 of the tax code; or (C) any business that is substantially equivalent to the insurance described by Paragraphs (A) and (B) and is conducted in a manner designed to evade the provisions of this title.

**Quiet Title** – legal action to remove record defects or possible claims of other parties named in the action. [Texas has a high number of these.]

**Encumbrance** – Any right or interest in land held by persons other than the owner that lessens the value of the title. Examples are judgment liens, easements, mortgages, restrictions.

## Lien

**Legal Definition of “Lien”:** A security interest or legal right acquired in one's property by a creditor. A lien generally stays in effect until the underlying obligation to the creditor is satisfied. If the underlying obligation is not satisfied, the creditor may be able to take possession of the property involved.

**Explanation of the term “Lien”:** a lien gives a creditor (alternatively, a person who a property owner owes money) the right to foreclose on a property and take it back as collateral for unpaid debts.

# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

**Disclaimer:**

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

**Attachment** – Legal seizure of property to force payment of a debt.

**Seizure** – act of law enforcement officials taking property used in connection with or acquired by illegal activities or to satisfy an unpaid judgment, as long as proper notice of the amount due has been served. See Texas Code of Criminal Procedure. In Texas, property used as a home or burial ground is exempt from seizure for certain types of unpaid debt. See *generally* Texas Property Code Sec. 41.001. A court or civil authority decides what is to be done with the property, such as selling it at a sheriff's sale. The state treasurer usually maintains an accounting of all properties either civilly or criminally forfeited and subsequently sold and all proceeds therefrom, which is available to the public.

**Taking** – encroachment on private land by the government, for public use, requiring just compensation to the owner. U.S. Const. Art. 5; Texas Const. art. 1 § 17.

**Easement** – A privilege or right of use or enjoyment which one person may have in the lands of another; for example, a right of way to install, operate, and maintain utility lines.

**Escheat** – The transfer of title of property to the state if the owner dies intestate and without heirs, or if the owner is unknown or fails to claim property within a set amount of time.

**Mechanic's Lien** – (In Texas a contractor lien is called a mechanic's lien). A lien or claim of lien allowed by statute to contractors, laborers and material suppliers on buildings or other structures upon which work has been performed or materials supplied.

**Right of Ingress or Egress** - The right to enter or leave designated premises. EG: You buy a tract of land and build a house directly behind a house on a piece of property the same seller owns. The tract of land in front of your house blocks access to the road. Creating a driveway across the tract of land in front of you gives you the right of possession, but not ownership. You may use/enjoy just that piece of the tract you don't own to enter and exit the property you do own.

**Partition** – Division of land, usually by a legal proceeding, among the parties who were formerly co-owners.



# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

Disclaimer:

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

## Deed

**Legal Definition of “Deed”:** A sealed instrument, containing a contract or covenant, delivered by the party to be bound thereby, and accepted by the party to whom the contract or covenant runs; In a more restricted sense, a written agreement, signed, sealed, and delivered, by which one person conveys land, tenements, or hereditaments to another. *Sanders v. Riedinger*, 30 App. Div. 277. 51 N. Y. Supp. 937; *Reed v. Hazleton*, 37 Kan. 321. 15 Pac. 177; *Dudley v. Sunnier*, 5 Mass. 470; *Fisher v. Pender*, 52 N. C. 485.

**Explanation of the Term “Deed”:** Unlike title, a deed is physical, legal document. A deed is a buyer’s guarantee that a seller owns the property free and clear with no trouble on the title. To be valid, the deed must include the names of the buyer and the seller, along with a complete legal description of the property. The deed is usually signed by the seller in front of a notary public, in order to verify the signatures. The deed must be a written document and it must be recorded in the county courthouse or the tax assessor’s office or it might not be legally binding. Failure to record will not change the transfer of title, but it could result in clouded title or, bad actors could sell the same property to more than one buyer. It is important to note that recording gives public notice of deed contents but does not validate an otherwise invalid deed.

### **What is the difference between deed and title?**

The easiest way to remember the distinction, is to think of title as the concept of ownership, while the deed is a document that proves a valid transfer of that ownership from one person to another. The person the deed is transferred to now has title.

**Special Warranty Deed** – A deed containing a covenant whereby the seller agrees to protect the buyer against being dispossessed because of any adverse claims to the land by the seller, or anyone claiming through the seller.

**General Warranty Deed** – The most common type of deed used in Texas is a general warranty deed. This type of deed guarantees the title comes without any liens, easements, or other title problems. A general warranty deed also assures the buyer that there will be no issues with the title.

**Quitclaim** – A deed which transfers whatever interest the maker of the deed may have in the particular parcel of land.



# LEGAL VOCABULARY



Please find a list of helpful vocabulary that you will encounter in many legal documents and resources. We have included the traditional legal definition of each term along with an explanation of the term to help you understand the legal jargon better.

**Disclaimer:**

This vocabulary is provided solely for general informational and educational purposes and it is not intended to constitute nor substitute legal advice. Nor should it be construed as an offer to perform future legal services. If you think you need legal advice, please consult a state-licensed attorney in your area.

**Conveyance** – (1) A document which transfers an interest in real property from one person to another; e.g., a deed. (2) The act of executing and delivering a deed or mortgage.

**Grantor** – A person, who, by a written instrument, transfers to another an interest in land.

**Grantee** – A person who acquires an interest in land by deed, grant, or other written instrument.

**Heir** – The person who, at the death of the owner of land, is entitled to the land if the owner has died without a will or if part or all of a will is ineffective.

**Covenant** – An agreement written into deeds and other instruments promising performance or non-performance of certain acts, or stipulating certain uses or non-uses of the property.

**Metes and Bounds** – A description of a parcel of land by describing the boundary lines in length and direction.

**Bona fide purchaser** – a common law concept referring to a person or party who (i) gives valuable consideration for interest in real property, and (ii) who does not have notice of a prior claim and/or the conflicting interest in the real property held by of a prior purchaser.

**Consideration** – something given in exchange for a thing of value (in this case real property); can be money but can also be a set of conditions or tasks, the performance of which is exchanged for a thing of value.

**Co tenancy** – Ownership of the same interest in a particular parcel of land by more than one person; e.g., tenancy in common, joint tenancy, tenancy by the entirety.

**Tenancy in Common** – An estate or interest in land held by two or more persons, each having equal rights of possession and enjoyment, but without any right of succession by survivorship between the owners.

**Improvements** – Those additions to raw lands tending to increase value, such as buildings, streets, sewer, etc.

