

Marketable Record Title Act

Number: INFORMAL

Date: October 23, 2000

The Honorable Shirley Brown
Representative, District 69
County Administration Center
1660 Ringling Boulevard, 3rd Floor
Sarasota, Florida 34236

Dear Representative Brown:

This is in response to your request on behalf of a constituent who desires assistance in determining the status of deed restrictions that may have expired under the Marketable Record Title Act, Chapter 712, Florida Statutes.

The Marketable Record Title Act (MRTA) provides that a person who has title to land for thirty years or more holds the title free and clear of all claims except as specifically provided under the act. Marketable title, however, does not affect use restrictions disclosed in the muniments of title on which the estate is based, beginning with the root of title. A root of title is the most recent title transaction creating or transferring the estate recorded at least thirty years prior to the time when the marketability is being determined. Muniments of title are the documents affecting the title to the property, commencing with the root of title and all subsequent transactions.

Section 712.03, Florida Statutes, requires that restrictions contained in a root of title must be preserved by specific reference to the book and page of record or by name of the recorded plat in order for such restrictions to remain in effect.[1] Absent such reference in compliance with the statute, the restrictions lapse after a period of thirty years.[2]

As the law presently stands, deed restrictions that have not been reserved as provided in section 712.03, Florida Statutes, may not be enforced after thirty years. Legislative amendment would be needed to alter the present protections afforded by MRTA.

I trust these informal comments will assist you in responding to your constituents.

Sincerely,

Joslyn Wilson
Division Director, Opinions Division
Assistant Attorney General

JW/tls

[1] See *also* s. 712.02, Fla. Stat., providing that any person who has been vested with an estate in land for 30 years or more shall have marketable record title, free and clear of all claims except as set forth as exceptions in s. 712.03, Fla. Stat.

[2] See *H&F Land, Inc. v. Panama City-Bay County Airport and Industrial District*, 736 So. 2d 1167 (1999) (Under MRTA, any claim or interest, vested or contingent, present or future, is cut off unless claimant preserves his claim by filing a notice within a 30-year period, and if notice is not filed, claim is lost).