

Can A Medallion Signature Guarantee Protect Your Property From Title Theft?

In the Dirt: A Real Estate Legal Update

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We are all familiar with commercials and ads warning real estate owners ("Owners") of title theft.

What is described as title theft occurs when a fraudster forges an Owner's name on a deed transferring real estate to themselves, later mortgaging or selling it to acquire money.

The good news is that stealing property through title theft is not as easy or as common as these commercials make it seem.

First, forgery is a crime, and a forged title will not grant enforceable property rights to a third party against the true Owner. The requirement that real estate deeds must be notarized further protects the Owner at the outset. It is possible that an Owner might be forced to incur some expense by suit to quiet title or establish ownership to their property.

The use of a Medallion Signature Guarantee ("MSG") could streamline this process and be a means of avoiding such costs of litigation.

What is a Medallion Signature Guarantee?

A Medallion Signature Guarantee provides a guarantee by the financial institution that the signatures on relevant documents are genuine.

The MSG requires that for any transfer to occur, the signature must first be presented to the MSG provider for verification and identification of the transferor. In exchange for payment, the financial institution accepts liability for invalid signatures.

MSGs are typically used to protect securities owners from having their signatures forged on documents which would allow the transfer of their shares to a third party without consent. They are also commonly used to certify the transfer or sale of securities.

In short, MSGs help prevent fraudulent transfers by providing the assurance that a signature is genuine.

What are the benefits of Medallion Signature Guarantees for Real Property?

Although Medallion Signature Guarantees are not traditionally used for real property, it is possible that they may be similarly useful for protecting against title theft.

If available, an Owner might transfer its real property to itself or accept title in the first instance by means of a deed containing an MSG. To complete protection, the deed itself would also contain a restriction against any transfer or encumbrance by lien without verification of the MSG.

If available for real property, the low cost of an MSG could be a significant weapon against title theft by reducing the risk of loss in a valuable asset.

Title insurance is not effective against title fraud because it does not cover incidents after the date of issuance. Nor does general liability insurance coverage provide protection against loss resulting from title theft.

Other options may include signing up for “property fraud alerts” or simply monitoring transactional information pertaining to the property. However, the financial institution’s assumption of liability included with an MSG is uniquely valuable, relatively inexpensive, and would not require ongoing monitoring of title.

What is the process for getting a Medallion Signature Guarantee?

A Medallion Signature Guarantee can be obtained from many financial institutions. The party seeking an MSG must generally be an existing customer, and some financial institutions provide MSGs at little to no cost for their customers.

Those interested in obtaining an MSG should contact their financial institution or visit its website to find out if it offers MSG’s, what documents are required to begin the process, subsequent steps, and whether the bank offers MSGs on deeds to protect title to real property.

Property is an expensive and valuable asset so it is worthwhile for Owners to investigate the potential use of MSG’s to protect against fraudulent transfer by title theft.

**This blog was written with assistance from law clerk Adrianna Northrop.*

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