



How should I list property that is titled in the name of a trust?

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QUESTION: I have been asked to list a property that is titled in the name of a trust. The person who asked me to list the property is the trustee. Should I prepare the listing agreement to show the trust as the seller? Or should the listing agreement be with the trustee? And if the property goes under contract, which one should be shown on the contract as Seller?

ANSWER: It may be helpful to think of a trust as a relationship rather than as an entity. “Trust” has been defined as a relationship with respect to property where one party, the trustee, has a duty to deal with that property for the benefit of another, the beneficiary. The relationship arises as the result of a “manifestation of an intention to create it.” That “manifestation” often takes the form of a trust agreement.

Property titled in the name of a trust should more properly be considered to be owned by the trustee of the trust for the benefit of the beneficiaries named in the trust instrument. In real practice, however, ownership is so often shown in the name of a trust rather than its trustee that the North Carolina legislature passed a statute to deal with it: [NCGS §39-6.7](#). That statute states that a deed that purports to convey ownership of real property to a trust shall be deemed a transfer to the trustee or trustees of the trust. It also states that a deed signed by the trustee as trustee is sufficient to convey ownership of a property whether the property is titled in the name of the trustee or the trust.

If you are listing property titled in the name of a trust, you can certainly show that trust as Seller in your listing agreement. However, §39-6.7 makes it clear that it would also be appropriate for you to enter into a listing agreement with the trustee rather than with the trust. It would also be appropriate for any contract to show the trustee as seller and for the deed to do likewise. If you are a buyer’s agent, and your research shows the property is titled in the name of a trust, §39-6.7 gives you the flexibility to prepare an offer showing either the trust or the trustee as Seller. In either event, the contract should reflect the fact that the trustee is signing it in his/her capacity as trustee of the trust.

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