

CHAPTER XXIX

LIMITED LIABILITY COMPANY CONVEYANCES



STANDARD 29.1

CONVEYANCE OF LIMITED LIABILITY COMPANY REAL PROPERTY BEFORE DISSOLUTION

STANDARD: A CONVEYANCE OF LIMITED LIABILITY COMPANY REAL PROPERTY EXECUTED IN THE COMPANY NAME BEFORE DISSOLUTION IS BINDING UPON THE COMPANY IF THE CONVEYANCING INSTRUMENT IS:

- (A) EXECUTED BY ALL MEMBERS, IF THE COMPANY IS MEMBER-MANAGED;**
- (B) EXECUTED BY ALL MANAGERS, IF THE COMPANY IS MANAGER-MANAGED (SUBJECT TO ANY CONTRARY PROVISION OF THE COMPANY'S ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT); OR**
- (C) EXECUTED BY ONE OR MORE BUT LESS THAN ALL MEMBERS OR MANAGERS AND:**
 - (1) THE EXECUTING MEMBER(S) OR MANAGER(S) HAVE EXPRESS AUTHORITY TO MAKE THE CONVEYANCE;**
 - (2) THE CONVEYANCE IS AUTHORIZED OR RATIFIED BY ALL MEMBERS, IF THE COMPANY IS MEMBER-MANAGED;**
 - (3) THE CONVEYANCE IS AUTHORIZED OR RATIFIED BY ALL MANAGERS, IF THE COMPANY IS MANAGER-MANAGED (SUBJECT TO ANY CONTRARY PROVISION OF THE COMPANY'S**

ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT); OR

(4) THE EXECUTION OF THE CONVEYANCING INSTRUMENT BY THE MEMBER(S) (IF THE COMPANY IS MEMBER-MANAGED) OR THE MANAGER(S) (IF THE COMPANY IS MANAGER-MANAGED) APPARENTLY CARRIES ON IN THE USUAL WAY THE BUSINESS OF THE COMPANY UNLESS:

(i) THE EXECUTING MEMBER(S) OR MANAGER(S) ARE NOT AUTHORIZED TO MAKE THE CONVEYANCE; AND

(ii) EITHER:

(a) THE GRANTEE HAS ACTUAL KNOWLEDGE THAT THE EXECUTING MEMBER(S) OR MANAGER(S) LACK AUTHORITY TO MAKE THE CONVEYANCE; OR

(b) THE ARTICLES OF ORGANIZATION OR THE MICHIGAN LIMITED LIABILITY COMPANY ACT ESTABLISH THAT THE EXECUTING MEMBER(S) OR MANAGER(S) LACK AUTHORITY TO MAKE THE CONVEYANCE.

Problem A: Blackacre Plat was owned by Acme Land LLC, a Michigan limited liability company managed by its members and engaged in the residential subdivision development business. On February 7, 2003, a deed to Weldon Jobs describing Lot 10 in Blackacre Plat was executed on behalf of the company by Millie Green, a member. Green's execution of the deed on behalf of the company was not expressly authorized, a fact of which Jobs did not have actual knowledge. Also, Green's execution of the deed was not contrary to the operating agreement, nor was her lack of authority established by either the company's articles of organization or the Michigan Limited Liability Company Act. Did Jobs acquire marketable title to Lot 10?

Answer: Yes. The conveyance is binding upon Acme because the execution of the deed apparently carried on in the usual way Acme's land development business and the other statutory requirements were satisfied. The same result would occur if Acme were manager-managed and Green were a manager of the company.

Problem B: Widget LLC, a manager-managed Michigan limited liability company engaged in the manufacturing business, owned Whiteacre, along with other real property. Widget's operating agreement provided that no conveyance of Whiteacre was to be executed without the consent of the members. On July 7, 2003, Clayton Moore, in his capacity as the sole manager, executed a deed describing Whiteacre to George Reeve. The members had not consented to the conveyance. Did Reeve acquire marketable title to Whiteacre?

Answer: No.

Authorities: MCL 450.4401, 450.4402 and 450.4406.

Comment: Operating agreement, as used in this Standard, is defined in MCL 450.4102(2)(q).

