



# Clark's LAWS PC

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## Assigning Unassignable Short Sale Deals

We hear it often; the bank is restricting the assignment of an approved short sale. You either close on the purchase or pass on the deal. Well that's not entirely true. If you're willing to be creative and work a little harder at it, short sales are assignable as any other deal.

### Here's how you assign an unassignable short sale deal:

1. Make sure the approved buyer is a **NEW** corporate entity (emphasis on new, more later).
2. Secure your end buyer, transfer the stock of the new corporate entity to your end buyer., and secure your assignment fee.
3. Your end buyer closes on the short sale as the shareholder of the new corporate entity.

Sounds so easy, right? Actually there's a lot more to it, but these are the basics on how you can assign an otherwise unassignable short sale deal. It's a new bent on a combination of old structures to make dead deals come alive. The ingredients include a great deal, willing buyer, good familiarity with corporate share purchases and a smart title company.

We have seen quite a few of these deals lately, and all of the elements of a good wholesale deal needs to be present, plus the use of a fresh corporate entity as the missing link.

You need a fresh corporate entity because most buyer attorneys will strongly advise against taking over the shares of an existing corporate entity – too much possibility of past liabilities creeping in on the new buyer make it high risk. How new of an entity, when and who should form it are all critical details for which we don't have enough space to talk about here.

The critical point that makes this all work is the distinction between the buyer (who is a corporate entity) and the shareholder of the entity. They are **NOT** one and the same. So while the short sale approval says that you cannot assign to another buyer, it usually doesn't say anything about not being able to assign the **SHARES** of the buyer to another shareholder.

Of course no deal structure is fool proof, and we always recommend having multiple exit strategies, just in case your end buyer gets spooked at the last minute, but having this structure available to you could provide another way to make money on an otherwise dead deal.

Want to hear more about assigning otherwise unassignable short sale deals? Give us a call, and we'd be happy to evaluate your deal to see if there's another way to be creative and make it happen.

*Attorneys for landlords  
and active real estate  
investors.*

LEASING & EVICTIONS  
WHOLESALEING & ASSIGNMENTS  
FIX, FLIP & REDEVELOP  
RESIDENTIAL BUY & HOLD  
COMMERCIAL BUY & HOLD  
COMMERCIAL DEVELOPMENT  
PARTNERSHIPS & JOINT VENTURE  
SYNDICATION  
ASSET PROTECTION  
REAL ESTATE LITIGATION  
LAND USE & ZONING

*"Do the right thing, for the  
right people and for the  
right reasons."*

Coach Greg Glassman,  
Crossfit, Inc., Founder

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## Fred's Tenant Problem

We had a client come to us with a problem he was having with a new tenant. Fred (not his real name) was a long time landlord (30+ years) with 9 rental houses, no mortgages and he's never had to evict a tenant. He's in his 80's and he had a nonpaying tenant. Fred couldn't understand why the tenant couldn't be made to leave immediately, after all that's what the lease says!

Anyway, we took care of the eviction, but because of the legal process, his use of a 20 year old lease form and a lot of other reasons, the tenant was able to live rent-free for months and destroyed his house on the way out causing thousands of dollars in damage.

Yes, we got them evicted, and yes we got him a money judgment, but the tenants didn't

have money to pay him and they're not going to have money to pay the judgment, so the loss is his alone.

So there he is, in his mid-80's, retired with a significant disruption of his cash flow, and the need to totally rehab the house to make it rent ready again.

While not all tenant problems can be avoided, this one could have.

Find how and hear the rest of Fred's story as well as how we set him up on a plan to make sure this never happens again for pennies on the dollar. Email: [getmore@clarkslaws.com](mailto:getmore@clarkslaws.com), with "Fred's Tenant Problem" in the subject line and we'll reply back with the complete write-up.

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*It's very comforting to know that I have attorneys who enjoy what they do, have seen it all, gone toe-to-toe with the best and most importantly have MY best interests at heart.*

*- Chris G., East Islip, New York (Residential Landlord & Investor)*

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### More Info?

Interested in hearing more about us and if we might be a good fit you. Here's how:

1. Give us a call at the office at 631.669.6300 and schedule a call with Jim Clark.
2. Send me an email at [jclark@clarkslaws.com](mailto:jclark@clarkslaws.com)

**CLARK'S LAWS PC** focuses exclusively on representing landlords and active real estate investors. We help clients reach their real estate investment goals, and seasoned investors preserve and enhance their real estate assets.

**James E. Clark, Esq.** is the principal and founder of the firm.

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## Jim Clark Family & Investment Update

I had the family over for Christmas this year. With the warmer weather my plan was to use my "modified" outdoor turkey fryer for making fried dough for the kids. I haven't had fried dough in decades, so I figured, "why not?" The kids were psyched, the wife thought I had a screw loose and everyone else thought it would be a cool thing to watch. All of this nonsense led to talk about all the other things you could fry if you really wanted to. My brother, who lived down south for a few years told us how they fry ice cream at the annual state fair and the lines for it are crazy. Fried ice cream! Only in America, from the inventors of the nuclear bomb, would someone come up with the idea of putting ice cream in a fryer!

What does this have to do with real estate investing? Not much, but it has everything to do with American ingenuity—which some argue is dead given our hyper regulated economy. I'm not so sure, but what I am sure about, is that American ingenuity is alive and well in real estate—not run of the mill owner-occupied real estate, but creative investment real estate.

I see it every day - landlords using strict rental permit laws to find new ways to make their rental properties more valuable, commercial developers using telecommuting and flex time trends to make office space that meets changing tenant demands, and flippers using anti-fraud rules to trounce the competition for short sale deals. It's enough to warm your heart like a jacked-up turkey fryer. So if you're looking for new ways to capitalize on boring real estate, give us a call.

Happy deal making!

*-Jim Clark*

