OTS 3.19

3.19 RE-RECORDING OF DEFECTIVE DEED, AFTER CORRECTIONS

Problem A:

Under what circumstances may a deed containing errors of content or execution be corrected and re-recorded, and be acceptable for clearing of title?

Standard A:

The answer depends on the nature of the defect. In general, a change made to clarify or to complete a document may be accomplished by refiling, but a change made to alter the nature of the document is ineffective.

Comment A:

The following are examples of changes that are permissible to: correct a spelling to add an initial in the name of grantor or grantee; to show the correct tax-mailing address of the grantee; to make a minor correction in the legal description; to correct a minor defect in the attestation or acknowledgment.

If the grantors should reacknowledge the instrument before it is refiled, then an error or omission may be corrected; or a missing marital status may be recited; or correction made to correct serious errors or admissions in a legal description.

The following are examples of changes that are impermissible: to add or delete a grantee; to make major changes in the legal description — for example: Lot 1 conveyed, whereas Lot 11 intended to be conveyed; to add or delete restrictive covenants or easements.

Particular circumstances can alter generalities. A grantee may not confer good title on himself or herself by adding or deleting a few words to a deed and recording it; nor may a grantor diminish (although he or she may augment) a title previously conveyed.

(Effective May 18, 1994)