

## ARTU 2020 Spring Edition

### Description

### Question:

You are closing a transaction in which Pine Acres is being sold by Jennifer Doubtfire. The title notes reveal that Pine Acres was purchased by Jay Williams in 2002. In August of 2013, Jay executed a properly drafted transfer on death deed (TOD) naming Jennifer as the grantee, and delivered the deed to Jennifer. In April of 2014, Jay died intestate survived by his two children, Charles and Amanda, and in May, Jennifer recorded the TOD deed. You don't like the facts of this case, especially after discovering that Charles and Amanda had great disdain for Jennifer whom they regarded as a 28 year old hussy who was only after Dad's money. You contact your friendly and erudite title company counsel and inquire as to whether you need to be concerned about Charles and Amanda.

### What is the response?

- a. It is OK to close because Charles and Amanda have not filed a suit or lis pendens.
- b. It is OK to close as long as you collect a decedent's extra hazard premium.
- c. It is Ok to close, but you should require all parties to sign the deed.
- d. It is not OK to close, because Jennifer does not own the property.

### Answer:

d. Charles and Amanda own the property, to the exclusion of Jennifer. Virginia Code Section 64.2-628 requires that to be effective, a TOD deed must be recorded prior to the transferor's death.

### Category

1. Education
2. Title Examination

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1. featured

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