Title Agent & Examiner Mishaps

Description

By Glenda Brooks, Middlesex Title Company

Title problems can show up in various ways. The best practice is to resolve the issues before closing.

Breaks in the chain of title occur quite frequently and it is the responsibility of the title examiner to try to piece together the chain. Each time the property changes hands a chain is formed. A missing link should be a red flag to the examiner. The most common reasons for this break in the chain are missing documents, errors in the documents, or not all parties to the transaction signing (i.e. missing heirs). Misspelled names and poorly drafted documents can also cause problems. If the issue cannot be resolved it is up to the examiner to report the problem to the attorney so it can be.

Another thing to carefully pay attention to is your legal description. If you are instructed to search Lot 6 of Anyplace Subdivision that is owned by Joe Blow, and you find out in your search that Lot 6 is not owned by Joe Blow, you must question this immediately. Also it is not unusual to find that a legal description was typed erroneously years ago and for some reason rather than catching it, it continues to be passed on using the incorrect description.

Many times examiners do not look for a final accounting when doing a search on property that has been foreclosed on. An examiner doing a search on a property that is lot and block sometimes does not pay attention to the legal in the chain. Example, the examiner is searching Lot 5, Block B, and in the chain they see Lot 5, but does not necessarily make sure that it is not another block in the subdivision. Examiners do not always cross-reference the description to any mortgage documents and other legal records.

Liens can be a serious problem and should be dealt with in a very serious manner. Unpaid liens are one of the most common examples of cloud on title. Liens may exist but not be looked for. That can be a particular problem if a woman has changed her name numerous times and the examiner has been given only her current name. You must watch for names that seem similar also. Smith can by Smyth, Brooks can be Brookes, etc.

Often times, title examiners fail to read certificates of satisfaction to make sure the release is in fact for the existing mortgage. In some courthouses certificate of satisfaction information is written marginally on the existing deed of trust and examiners do not always go to that deed of trust to make sure it is correct, and is actually releasing the existing deed of trust.

It is the responsibility of the title examiner to thoroughly search the records carefully and slowly, ask questions and report any issues that you think may exist.

Also it is the responsibility of the title agents to question any issues that might be a red flag to them. Many title agents prepare their own binders and they need to make sure that there are no issues regarding the examinerâ??s report. It is also their responsibility to make sure that all requirements are met concerning the issues reported on the examination results.

There are literally dozens of potential impediments when searching title, and the title examiner and title agent must examine with due diligence, pay attention and make sure all issues or problems are solved so there will be no future claims.

Glenda Brooks began her service to the VLTA Board of Directors in 2009 and has since served as the Director of Membership, Secretary, acting Treasurer, Vice President, and President of the Association. Glenda has also chaired the PAC Committee, and has served on the Events, Membership, and Examiner Committees. Glenda has penned the *Examiner* Magazineâ??s crossword puzzles for several years, and has earned the Associationâ??s highest credentials, VCTE and VCTSA. In fact, Glenda was the second person to ever earn both designations. Glenda owns Middlesex Title Company with her husband, Rob.

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