
ARTU December 2022

Description

Question:

1. In 2005 acreage was conveyed to Development Company, Inc. (DDI).
2. In 2008 DDI properly recorded a subdivision plat of Happy Acres (the original subdivision plat).
3. In June 2009 DDI conveyed Lot 12 of Happy Acres, containing 4.5 acres, to Richardson Thompson.
4. In August 2009 DDI recorded a resubdivision plat of Happy Acres, which increased the size of Lot 12 from 4.5 acres to 11.5 acres.
5. In 2012, Thompson encumbered Lot 12 of the original subdivision plat to Commerce Bank with a \$200,000 deed of trust.
6. In 2013 Thompson defaulted, and Commerce Bank purchased at the foreclosure.

You are underwriting counsel and are being asked if you will accept a corrective affidavit under 55-109.2 (to reflect Lot 12 as resubdivided at 11.5 acres), and then insure a purchaser from Commerce Bank. In reviewing the file, you note that Lot 12 of the original plat and Lot 12 of the resubdivision plat have the same tax parcel ID. How do you opine?

- a. You cannot insure because this is not an obvious description error.
- b. Yes, you can insure because the tax parcel ID is the same.
- c. Yes, you can insure because Commerce Bank intended to take a deed of trust on Lot 12 on the resubdivided plat.
- d. Both b and c.

Answer:

- a. Title company would not insure because it is not an "obvious description error". There is nothing wrong with the description in the 2009 deed, and there was no corrective deed to Thompson increasing the acreage.

Category

1. Settlements
2. Title Examination
3. Uncategorized
4. Underwriting

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