MID ATLANTIC REAL ESTATE JOURNAL
NEW JERSEY-PENNSYLVANIA-DELAWARE-MARYLAND-VIRGINIA

Dec. 28, 2007 - Jan. 10, 2008 Volume 19, Issue 24

MID-ATLANTIC REAL ESTATE JOURNAL

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Why Buy Title Insurance?

Did you hear about the guy who went to Atlantic City and lost a bundle? Probably, but that's only the beginning of this story. After discovering that a plum, a lemon and a bunch of grapes make a great fruit salad, but not much else, he decided that refinancing the house that he owned with his wife would solve his casino-induced financial woes.

Needless to say, he didn't want to tell his wife about the aforementioned woes, so he hit upon a novel solution – he hired a hooker to impersonate her – and took the hooker to closing to sign the necessary papers.

This carefully thought-out plan held together for approximately a month, when the first statement from the new lender arrived in the mail. When our hero's wife inquired as to its origin (politely, we're sure), the scheme fell apart, and the wife filed suit to have the mortgage invalidated

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– and filed for divorce as well.

We know all this – it's absolutely true – because this firm handled the resulting title claim. To its credit, the new lender had title insurance on its mortgage, and as a result, lost nothing by reason of the forged signature.

We could go on, but we only have another 350 words to convince you that title insurance is an absolute must in almost every real estate transaction. And it is.

Generally speaking, title insurance comes in two flavors: owner's and lender's. An owner's policy protects an owner's interest in real property; a lender's policy protects a lender's mortgage lien.

Generally speaking, title insurance comes in two flavors:owner's and lender's. An owner's policy protects an owner's interest in real property; a lender's policy protects a lender's mortgage lien. In addition, an owner's policy can be used to insure a long-term leasehold, and a lender's policy can insure a leasehold mortgage.

Title policies cover undiscovered title defects that predate recording of the vesting instrument (either the deed or the mortgage), but not those arising from later events. Therefore, if a previously-unknown spouse, child, business partner or the like appears six months after closing, and lays claim to the property that you thought you bought, the title insuror will defend your title at its own expense, and will pay you (in accordance with the policy document) if it can't settle the claim or resolve it through litigation.

Most title claims are settled, because interests in land are reasonably easy to value. When a claim is settled, the settlement is funded by the title company – if you have title insurance. Otherwise, you bear the cost yourself – and you risk a total loss if the claim can't be resolved, and renders your interest in the property valueless.

And don't forget – if you don't own the property, your mortgage lender doesn't have a lien on it. In the event of a complete failure of title, you can end up without the property – but still indebted to your lender for the mortgage debt.

Though such occurrences are blessedly rare, they are not unheard-of. Having someone to handle them for you – at their cost – is part of what makes title insurance worthwhile.

So if you don't have title insurance, you're living dangerously. Though it's unlikely that any particular property will become the subject of a claim, it could be catastrophic if it's your property on the line. And if it turns out that you only own half the house, at least you can hope that it's the half with the restroom.

William Levant of Kaplin Stewart concentrates on creditors' rights litigation, mortgage foreclosure, replevin, and real estate tax assessment appeals. ■