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What Is Title Insurance And Do You Need It?

Dear Friends,

We're often asked what title insurance is and why our clients should consider buying a title insurance policy. There seems to be quite a bit of confusion around title insurance, so below I'll outline what title insurance is and how it can save your property.

What Is Title Insurance?

Simply, title insurance is policy of insurance (technically an indemnification policy) protecting homeowners and lenders from actual financial loss in the event that certain title defects are uncovered regarding the rights to ownership of property.

There are two types of title insurance: lender's and owner's policies. Lender's policies are required by most every lender in the U.S., and are typically paid as part of closing costs. Owner's policies are optional and paid for by home buyers.

The owner's policy of title insurance ensures that the owner has good marketable title to the property free of any encumbrances or liens that would adversely affect the property, except those made known to the buyer, and ensures to the owner that if any such liens, encumbrances, defects or other title problems become known, then the title insurer will defend the buyer's title to the property.

Common Myth: A Title Examination Was Performed Before I Bought The Property, So I Don't Need Title Insurance

While it is correct that the closing attorney will have title examination performed and will certify title prior to a buyer's purchase of property, there are often hidden title defects that even the most careful title search will not reveal. A buyer should not rely on a title examination and attorney's certification as a reason not to purchase title insurance. There are plenty of title defects which could never be discovered by a title examination.

If a title defect did arise after a buyer purchases the property, an owner's title policy will protect from financial loss and the title insurance company pays the costs of defending against any covered claim.

Just What Type Of Title Defects Could Cause A Problem With Your Title?

On our website, we have provided a list of 70 ways that a title defect could arise and cause a major problem in the marketability of your property, which could lead to significant financial loss for those who do not have an owner's title insurance policy.

Should I Purchase A Title Insurance Policy?

This is the most common question we're asked. We highly recommend buying an owner's title insurance policy for a few reasons.

First, the premium for purchase of the title insurance policy is a one-time charge. Unlike a lender's title policy, which you are required to purchase for your lender each time you finance or refinance a property, an owner's policy is good for as long as you own the property.

Second, it is usually cheaper to buy an owner's policy when you purchase the property. Since a buyer is likely borrowing money to finance the purchase, the majority of the cost of the title insurance policy that the owner would receive has been paid through the premiums for the lender's policy which is required by the loan. Generally, if the buyer purchases an owner's title policy at the same time, they receive a significant discount on the cost of the owner's policy. For a relatively inexpensive amount, a buyer can cover their interests for as long as they own the property.

Third, even though the buyer may pay for the lender's title insurance protection, the lender's policy of title insurance does not protect the buyer. If a title defect arises and a buyer does not have an owner's policy, then only the lender's interest will be protected, leaving the buyer to fend for themselves. We have represented numerous clients who decided not to purchase an owner's policy when they bought their property. They generally end up spending significant amounts of money to cure the title defect. They certainly spend more than the cost of the owner's policy and they end up having to resolve the defects themselves, instead of having the title company resolve the issues for them.

A closing attorney will share the premium on a title insurance policy with the insurer. However, I think you'll find most attorneys themselves would not hesitate to purchase an owner's policy for their own property. For all the reasons stated above, title insurance is a good buy for the relatively small one-time cost considering the significant protection it provides. For most people their home is their largest investment ... make sure it's protected.

As always, feel free to contact us with any questions you may have about title insurance. We are happy to help.

Very truly yours,



Michael B. Cabral, Esq.