

## Understanding Your Title Commitment

In a real estate transaction, all parties of the contract including the buyer, seller, mortgage broker, lender, listing agent, selling agent and others receive copies of the title commitment upon contract acceptance. Title commitments are often misunderstood documents, and even very experienced agents inquire about what they contain. This provides you with a quick overview of how to read a title commitment and the importance of it in your transaction.

**The Delivery Receipt** contains the names, addresses and contact information for each party of the transaction receiving a copy of the title commitment.

- Are the buyer and seller addresses accurate? If not, the Realtor should contact the title company and either have the commitment resent or deliver it themselves to the buyer or seller as required.
- Make sure each party that requires a copy of the title commitment is listed on the Delivery Receipt. Real Estate Brokers, lenders, attorneys, 1031 Exchange Qualified Intermediaries, and others should receive copies as identified in the contract.
- Contact information for the closing agent is also typically contained here.

**Schedule A** should be reviewed upon receipt to verify several details:

- Is the purported (common) address correct?
- Is the buyer's name spelled correctly? Will they be using a Power of Attorney in the transaction? If so, please contact your closer to discuss details and the approval process for using a POA in the transaction by underwriters.
- Is the purchase price correct?
- Is your seller entitled to a reissue rate for the title policy premium? Guardian Title offers a 5 year reissue rate regardless what title company insured the prior transaction.
- Is there a purchase loan to be placed on the property?
- Endorsements are subject to change based upon contract and lender requirements, and standard endorsements are typically identified as often issued with the final title policy.
- Is the seller the same as that who executed the contract?
- Does the legal description match the legal listed on the contract?

**Schedule B - Section 1** confirms any title requirements to be completed at or prior to closing.

- Premiums agreed upon will be collected on the final closing settlement statement and are not required to be paid in advance.
- Is the buyer or seller a trust, corporation, limited liability company or partnership, or other? If so, there may be requirements for a Statement of Authority, estate, trust agreement, Letters of Appointment, articles of incorporation, or other. The sooner you are able to provide documentation to the closing agent, the sooner the title department and underwriters are able to review them. This will help closing go more smoothly at it nears the closing date.
- It is common these days for a title commitment to show two or more Deeds of Trust encumbering a property. Your seller will need to provide your closer with lender contact information as soon as possible so that research, payoffs, a Release of Deed of Trust or a Letter of Indemnity may be obtained to clear title requirements.
- Are there additional Liens or Judgments to be satisfied? If they apply to the buyer or seller, payoffs must be obtained and paid to clear title. Often, liens or judgments may be presented when the client has a common name. If this is the case, the client may be asked to complete a supplemental affidavit to confirm they are not the same person named in the filing.
- ALTA surveys are sometimes required for survey protection, particularly on vacant land. ALTA surveys are more costly than Improvement Location Certificates (ILC).

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Understanding Your Title Commitment (continued)...

The **Disclosure Attachment** confirms the Colorado Regulatory Statutes that are or must be complied with in the real estate transaction. These reference both title and escrow requirements for the state that apply to the parties of the transaction.

**Schedule B - Section II** identifies and describes the exceptions to the final title policy to be issued after closing, or items NOT being covered by the insurance policy. Standard Exceptions, items #1 through #8, are listed here. These include claims that may affect the property but are not currently shown in public record. The standard exceptions include:

- 1) Rights and claims of parties in possession not shown by the public records.
- 2) Easements or claims of easements not shown by the public records.
- 3) Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts in which a correct survey and inspection of the premises would disclose and which are not shown by public records.
- 4) Any lien, or right to a lien, for services, labor or material hereto or hereafter furnished, imposed by law and not shown by the public records.
- 5) Unpatented mining claims; reservations or exceptions in patents or in acts authorizing the issuance thereof.
- 6) Water rights, claims or title to water, whether or not shown by public records.
- 7) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- 8) Defects, liens, encumbrances, adverse claims or other matters, if any, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by the Commitment. This exception is often referred to as the "gap" exception wherein the title company closes the transaction based upon the effective date and insures title through which the conveyance documents are then recorded.

These standard exceptions are found on every title commitment but may be deleted or revised on the final title policy issued. In example, with Owner's Extended Coverage (OEC) or additional payment for deletion of standard exceptions, some or all of these items may be deleted. Also in example, upon payment of prior or current taxes, item #7 will be deleted.

Any exceptions to title as shown by public record will be identified here, and may include items such as covenants, conditions, and restrictions (CC&Rs), easements (such as for utilities or access), and mineral rights. Upon underwriter review and approval, additional endorsements to the title policy may be added to insure over some such items identified as exceptions.

A **Privacy Policy** is included with title commitment deliveries to outline the types and use of information obtained and used by the closing agency in the transaction process. It also confirms the confidential nature of the information along with a security and safeguarding policy for the issuing company.

Subsequent Title Commitments may be issued to parties of the transaction as any revisions to the commitment take place prior to closing. Typically, a "C2" or "-2" is used by the title company, in example, to recognize a 2nd commitment revision update, and subsequently a "C3" or "-3".

If you have further questions on reading a title commitment, please contact your local Guardian Title associate or closer for assistance.

***Buyers who have concerns about exceptions identified in a title commitment should consult a real estate attorney. If you find discrepancies or have questions about any items contained in the title commitment, contact your closer immediately to address issues as necessary.***