

Title Insurance - Part II

In my March 6th newsletter, I began a discussion regarding title insurance. This is the second newsletter in that series.

After you review the encumbrances listed on the insurance policy, you can request that certain items be insured with affirmative coverage protecting against forced demolition of a building. Additionally, if items have expired or should have expired, then generally, with a little research, some items can be removed or moved to Schedule B2.

There are also a number of endorsements which you are entitled to request for a title insurance policy. Some of the more frequently used endorsements are as follows:

1. Comprehensive Endorsement - This should be requested in all commercial loan closings. It insures against damages arising from the existence of covenants, conditions or restrictions which could impair the mortgage.
2. First Loss Endorsement - This provides coverage in the event that the loss under the policy exceeds 10% of the amount of insurance, the liability is triggered without requiring the bank to accelerate the note or commence exercise of its cumulative remedies.
3. Zoning Endorsement - As you know, title insurance insures record title and not zoning. A zoning endorsement offers some coverage with respect to zoning. While they are not full coverage, they do modify some of the restrictions and exclusions contained on the jacket. There is a 3.0 and a 3.1. The 3.0 is used for unimproved real estate and simply covers use whereas, the 3.1 also insures against some loss due to violation of certain dimensional requirements and certain ordinances.
4. Access Endorsement - This insures that the premises abut public access or have access to an open street.
5. Contiguity Endorsement - This provides coverage that the parcels are contiguous along a common boundary.
6. Pending Disbursements Endorsement - This limits the amount of coverage to amounts actually advanced. This is why you should obtain a disbursement endorsement each time when you make an advance on a construction loan.

Title insurance is important and is often overlooked. What is most important is that you remember to review specimen title policies well in advance of your closing.

As always, should you have any questions or comments, concerning this or other matters, please feel free to contact us.

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Sincerely,

A handwritten signature in black ink, appearing to be 'P. Shrair', with a long horizontal stroke extending to the right.

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