

The Title Search

A title search should be required in every real estate sale or mortgage refinance.

Purpose of search:

- Establish proof of ownership [chain of title];
- Determine defects to title/ownership [if any];
- Identify outstanding mortgages and other liens;
- Disclose “adverse matters” e.g. recorded covenants, conditions, restrictions, leases and easements, condemnations, agreements [of all kinds] and Plans.

Searches are conducted by title searchers or abstractors

Searchers are experienced and skilled investigators:

- First line of defense in:
 - Spotting title issues;
 - Accurately reporting title;
 - Minimizing risk [of a later claim].

Searchers are invaluable to:

- Searching difficult, complicated titles – for example:
 - Titles passed by Sheriff Sale, Bankruptcy or a Decedent’s Estate;
 - Searches with multiple chains of titles and prior land subdivision;
 - Land affected by coal and minerals rights and railroad rights of ways.

Search is conducted in:

Recorder of Deeds [Department of Records in Phila & Department of Real Estate in Pittsburgh] & in the **Prothonotary, Orphans Court** or **Register of Wills** also may be searched.

Search Process in Philadelphia County

Department of Records:

- Deeds, Mortgages, Agreements, Easements, Secured Transactions (UCCs]
- Online access – ICRIS (1974 to date)
- Pre-1974
 - Grantor/Grantee Book
 - Mortgage Book

Prothonotary:

- Search of computer print-outs
- Court of Common Pleas Judgment Index – Monthly and Daily
 - State court judgments;
 - Federal Tax Liens;
 - Commonwealth of Pa judgments
- Municipal Court Index – Monthly and Daily
 - Small Claims
 - Code Enforcement
 - Landlord and tenant

Search Process in Philadelphia County (continued)

Prothonotary (continued):

- Locality Index – Monthly and Daily
 - Municipal liens
 - Mechanic liens
 - Nuisance liens
 - Lis Pendens
 - Real estate tax, gas, water and sewer liens
 - Special service district liens
- Search of water/tax/nuisance/w/s receivables – computerized search

Other required searches:

- Sheriff Office – check whether Land is subject to pending sale
- Divorce Index – check for possible divorce proceedings
- District Court Index [Federal Court – E.D. of Pennsylvania]
 - Possible bankruptcy
 - Federal judgments
 - Criminal actions, forfeitures
 - Bail bond proceeding
- Street Index – status of stricken or vacated streets
- City Street Plan – show rights of way reserved to City upon street vacation
- Registry Map Index

Search Process in Philadelphia County (continued)

Other possible searches:

- Register of Wills – computerized 1980 forward
 - Estate filings, shows status of inheritance tax payment
 - Discloses possible creditor claims
- Orphans Court Index - computerized 1980 forward
 - Possible court proceedings, i.e. administration, guardianship etc.

A title search DOES NOT DISCLOSE:

- Marital status [e.g. if a husband and wife in title subsequently divorced];
- Death of fee owner.
- Status of current or delinquent real estate taxes; (searcher may search tax claims)
- Status of non-real estate taxes affecting entity in title (e.g. State levied corporate taxes, Use and Occupancy or Business Privilege taxes in City of Philadelphia);
- Good standing of entity in title (subsistence certificate);
- State level UCC filings;
- Domestic relations arrearages.

Searcher does not make a physical inspection of the land, therefore the search also DOES NOT DISCLOSE...

- Past or current physical condition of the land including possible existence of environmental contamination.
- Whether the property is in compliance with zoning regulations, subdivision control law or building and housing codes.

The Examination of Title - Beginnings of Underwriting

Goals:

- Establish **requirements** to be complied with to issue insurance;
- Identify items which will be **exceptions** to title insurance coverage;
- Create a **title commitment**.

Examining the Search – Questions to be considered:

- Is the search satisfactory?
 - Establish proof of ownership [chain of title]
 - Determine defects to title/ownership [if any]
 - Identify outstanding mortgages and other liens
 - Disclose all “adverse matters”
 - Has the correct parcel(s) of land been searched?
 - Have the proper parties been searched?
 - Has the right interest (s) been searched [e.g. fee, easement]?
 - Have all tax parcel #s been accounted for?
 - Does the search meet the original request of the customer?

Role of Examiner:

- **Reads through** each reported instrument to determine whether the instrument reveals an obligation to be satisfied [Schedule B-I] **or** evidences a covenant, condition, restriction, easement, etc. which must be reported on Schedule B-II as an “exception” to title.
- **Crafts the commitment.**