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 Office of Judicial Records, 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

Office of Judicial Records:

- 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)

Office of Judicial Records (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.**