

# WHAT IS TITLE INSURANCE?

You are buying a new home - Congratulations!  
But how do you know what you are really buying?

Land is forever, and every owner of a piece of real estate can carve up the interests in their land in all sorts of creative ways. An owner can grant liens on the property – mortgages and construction liens being just two examples. If the owner owes money and someone gets a judgment the judgment holder may have a lien against the property. The owner can sell a few feet off the side to a neighbor, or can give easements to the electric company, the water and sewer company. The owner can give someone else the right to use the property (a license or lease); for the rest of their lives (a life estate). An owner can place restrictions on how their land may be used in the future; leave it to their heirs or transfer it to a trust; and sell whatever is still owned to the next owner – You.

If you are buying property in a subdivision, a prior owner of your property probably did most of these things. The original developer took a larger parcel and subdivided it, dedicated what became the roads to public use and gave an easement over those roads. Other easements were given to the city and local utilities so that every home built in the community could get water, sewer and electric service, and very often recorded “deed restrictions” limiting the use rights of all future property owners and obligating future owners to join and pay dues to a homeowners’ association.

For the most part, the actions and limitations of past owners are perfectly acceptable and actually increase the value of your new home. But occasionally, the recorded easements and restrictions aren’t consistent with what you might want to do with the property, and that can be a real problem. Having water, sewer and electric running to your house is a good thing. Having those same easements running through the center of the lot under where you want to build a new house or dig a hole for your new pool is not.

Neighborhood restrictions on keeping farm animals are usually considered a good thing, unless you are buying land to expand your ranch. Most people support deed restrictions prohibiting commercial uses – unless your property fronts on a major road and you bought it to build a store.

Because land is so valuable, the law in all states sets strict standards for how it is transferred, and rules for handling what happens when the owner dies. If those rules haven’t been followed at every step of the process, the seller may not really own the property you think you are buying.

My job, as your Title Agent, is to help make sure you understand exactly what you are buying, and what rights and interests may have been excluded from your new ownership rights. I do this by conducting a search of the public land records.

I first confirm that each prior owner properly conveyed the property to the next owner, that each of those conveyances properly described your property and met all other legal requirements. I confirm that all of the heirs and beneficiaries of any deceased owner are accounted for and that each properly conveyed their interests. I confirm that every mortgage, lien or judgment was paid and released in the land records. I confirm that taxes, Condo and HOA assessments are paid current and that any local government matters appearing in the land records that might have been addressed; and after I’ve done all of that, I confirm that the new conveyance from your seller to you and your mortgage to your lender satisfy all legal requirements to convey the property.

In my title commitment or preliminary title report, I tell you what I found. It will show you all of the easements, restrictions and other outstanding interests that affect the land you are about to buy. It will tell you, which liens still need to be paid off or released and what still needs to happen in order to properly convey the property to you. The title commitment or report provides information that lets you see what you are truly getting, compared to what you think you are buying.

And just in case, I made a mistake in all my hard work, for example that the Seller isn’t really the owner of the property (an imposter) or there is a forgery on some past deed, or I missed something in the search, I will issue you a title insurance policy from a large highly solvent insurer that provides you a financial backstop.

Assuming you tell me that the property – with whatever easements and restrictions – does meet your goals, I then do all the other things to coordinate the closing under your purchase agreement and act as escrow and disbursement agent for the funds.



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