

A

ABSTRACT - An abbreviation of the cardinal aspects of all recorded deeds, mortgages, leases and other instruments affecting the title to a particular piece of land.

ABSTRACTING - The process of making and compiling an abstract.

ABTRACTER - The person or company engaged in making title abstracts.

ADVERSE POSSESSION - The unauthorized occupation of land belonging to another, by a person who does not have the consent of the owner. Said occupier is said to hold possession adversely to the rights and interests of the owner. In most states, by operation of law, title to the land becomes vested in such occupier after a fixed number of years of peaceful occupancy.

ALTA - American Land Title Association, the national trade association for the title insurance industry. ALTA is made up of title firms that conduct your closing and issue you an Owner's Policy of Title Insurance.

AMORTIZATION - This term has developed through French and Old English from the Latin words "mors" or "mort" meaning death or dead. It is the killing off of an existing debt by regular partial payments. The word "mortgage" is also derived from the same Latin root.

APR - Annual Percentage Rate. The yearly interest percentage of a loan as expressed by the actual rate of interest paid.

APPRAISAL - An estimate of value of property from analysis of facts about the property; an opinion of value.

ATTORNEY'S OPINION - The written statement of an attorney setting forth what he believes to be the condition of a real estate title.

B

BROKER - One who acts as an agent for another in negotiating sales or purchases in return for a fee or commission.

BROKERAGE - A fee or commission paid to a broker.

C

CERTIFICATE OF TITLE - In areas where attorneys examine abstracts or chains of title, a written opinion, executed by the examining attorney stating that title is vested as stated in the abstract.

CHAIN OF TITLE - Beginning with a conveyance out of an original source of title such as a government, each succeeding deed, will or other medium which conveys and transfers the title to succeeding owners constitutes a link in the chain of title. The chain of title is the composite of all such links.

CLAIM - A right to assert, or the assertion of, a demand for payment of money due; or the surrender or delivery of possession of property or the recognition or some right. A demand for something as one's rightful due.

CLOSING - In some areas called a "settlement." The process of completing a real estate transaction during which deeds, mortgages, leases and other required instruments are signed and/or delivered, an accounting between the parties is made, the money is disbursed, the papers are recorded, and all other details such as payment of outstanding liens and transfer of hazard insurance policies are attended to.

CLOSING STATEMENT - A summation, in the form of a balance sheet, made at a closing, showing the amounts of debits and credits to which each party to a real estate transaction is entitled.

CLOUD ON TITLE - An irregularity, possible claim, or encumbrance which, if valid, would adversely affect or impair the title.

COMMISSION - The amount due a real estate broker, mortgage loan broker, or real estate professional for services performed in such capacity.

CONDITIONS - This term is first cousin to restrictions and reservations. It refers to provisions in deeds and other real estate instruments which provisions make a particular right contingent upon the occurrence of some future event.

CONTRACT - Same as "agreement," but usually more formal.

COVENANT - A formal agreement or contract between two parties in which one party gives the other certain promises and assurances, such as covenants of warranty in a warranty deed.

D

DEED - A written document by which title to real estate is conveyed from one party to another.

DEFAULT - Failure to perform a promised task or to pay an obligation when due.

DEFECT - A blemish, imperfection or deficiency. A defective title is one that is irregular and faulty.

DEPRECIATION - Loss in value occasioned by ordinary wear and tear; destructive action of the elements; or functional or economic obsolescence.

E

EARNEST MONEY - Down payment or a small part of the purchase price made by a purchaser as evidence of good faith.

EASEMENT - A right held by a person to enjoy or make limited use of another's real property.

EGRESS - The right to a path or right-of-way over which a person may leave or go away from his own real estate.

EJECTMENT - (1) Eviction or dispossession. (2) A law suit to regain possession of real estate held by another.

EMINENT DOMAIN - The right of a government to take privately owned property for public purposes under condemnation proceedings upon payment of its reasonable value.

ENCROACHMENT - The extension of a structure from the real estate to which it belongs across a boundary line and onto adjoining property.

ENCUMBRANCE - A claim, right, or lien upon the title to real estate, held by someone other than the real estate owner.

ENDORSEMENT - Addition to or modification of a title insurance policy which expands or changes coverage of the policy, fulfilling specific requirements of the insured.

ESCROW - Technically, this term strictly refers to a deed delivered to a third person to be held by him until the fulfillment or performance of some act or condition by the grantee. In title industry parlance it means the depositing with an impartial third party called the escrow agent (usually the title company) of anything pertaining to a real estate transaction including money and documents of all kinds which are to be disbursed and delivered to the rightful parties by the escrow agent when all conditions of the transaction have been met.

ESCROW AGREEMENT - A written agreement usually made between buyer, seller, and escrow agent, but sometimes only between one person and the escrow agent. It sets forth the conditions to be performed incident to the object deposited in escrow, and gives the escrow agent instructions with respect to the disposition of the object so deposited.

ESTATE - (1) A sizable piece of rural land usually with a large house and other pretentious improvements. (2) The whole of one's possessions, especially all of the property, assets, debts, and liabilities left by a deceased or bankrupt person. (3) The nature and extent of an owner's rights in real estate.

EXAMINATION - In title industry terms, to peruse and study the instruments in a chain of title and to determine their effect and condition in order to reach a conclusion as to the status of the title.

EXAMINER - Usually referred to, in title industry terms, as title examiner. One who examines and determines the condition and status of real estate titles.

F

FEE SIMPLE - The highest degree of ownership which a person can have in real estate. An interest in real estate which gives the owner unqualified ownership and full power of disposition.

FIRST MORTGAGE - A mortgage having priority as a lien over any other mortgage or lien on the same property.

FORECLOSURE - A legal proceeding for the collection of real estate mortgages and other types of liens on real estate, which results in cutting off the right to redeem the mortgaged property and usually involves a judicial sale of the property to pay the mortgage debt.

G

GENERAL WARRANTY - A warranty provision in a deed or mortgage or other real estate instrument containing all of the common law items of warranty. Also known as a full warranty.

GOOD FAITH ESTIMATE - An estimate of closing costs the lender is required (under the federal Real Estate Settlement Procedures Act) to give to the buyer within at least three days of applying for a mortgage loan. This is the lender's estimate - it must be completely accurate regarding the lender's own charges and is supposed to be reasonably close to the charges third-party providers such as title insurers/agents, attorneys, surveyors, etc., may charge. You should check with those third-party providers, however, regarding how much they will charge if you have any questions or concerns prior to settlement.

H

HAZARD INSURANCE - Real estate insurance protecting against fire, some natural causes, vandalism, etc., depending upon the policy. The buyer often adds liability insurance and extended coverage for personal property.

HEIR - A person who inherits or who is entitled to inherit real estate by provisions of law or under the provisions of a will.

I

INGRESS - The right or permission to enter; also the means or place of entry such as a right-of-way across adjoining land.

INTESTATE - Dying without leaving a legal will.

J

JOINT TENANTS - Two or more persons who hold title to real estate jointly, with equal rights to share in its enjoyment during their respective lives with the provision that upon the death of a joint tenant, his share in the property passes to the surviving tenants, and so on, until the full title is vested in the last survivor. A joint tenant cannot legally sell or encumber his interest without the consent or joinder of all of the other joint tenants.

JUDGMENT - A conclusion or determination by a court of law usually awarding the payment of money or relief of some kind to one of the parties to a lawsuit.

L

LEASE - An agreement granting the use or occupancy of land during a specified period in exchange for rent.

LIEN - The liability of real estate as security for payment of a debt. Such liability may be created by contract, such as a mortgage, or by operation of law, such as a mechanics lien.

LIS PENDENS - A pending lawsuit. A lis pendens notice is legal notice to the world that a lawsuit is pending.

LOAN POLICY - A policy of title insurance issued to the mortgage lender insuring against loss by defects in, liens against, or unmarketability of title.

M

MARKETABLE TITLE - A title which a court of equity considers to be so free of material defects and liens that it will force the title's acceptance by questioning purchaser. Also known as a merchantable title.

MARKET VALUE - An average between the highest price which a buyer, willing but not compelled to buy, would pay and the lowest price a seller, willing, but not compelled to sell, would accept.

MECHANIC'S LIEN - A lien on real estate, created by operation of law, which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvements on the real estate.

METES AND BOUNDS - A land description in which boundaries are described by courses, directions, distances, and monuments.

MORTGAGE - A temporary conditional pledge of property to a creditor as security for the payment of a debt which may be cancelled by payment.

O

OPINION - In title industry terms, referred to as title opinion. The conclusion and judgement of a skilled person as to the status of a title, based upon a title examination.

OWNER'S POLICY - A policy of title insurance usually insuring an owner of real estate against loss occasioned by defects in, liens against, or unmarketability of the owner's title.

P

PLAT – The map of an area of land laid out and divided into lots, blocks, and building sites, and in which public facilities are laid out, such as streets, alleys, parks, and easements for public utilities. It is recorded in the land records of the county in which the land lies.

POWER OF ATTORNEY - A legal instrument authorizing one to act as another's agent or attorney.

PROBATE - A legal procedure in which the validity and probity of a document, such as a will, is proven.

PROMISSORY NOTE - A written promise to pay or repay a specified sum of money at a stated time, or on demand, to a named person. In addition to the payment of principal, a promissory note usually provides for the payment of interest.

PUBLIC RECORDS - The transcriptions in a recorder's office of instruments which have been recorded, including the indexes pertaining to them.

Q

QUIET TITLE SUIT - A lawsuit brought by an owner of real estate for the purpose of cancelling, wiping out, and putting a quietus upon claims and interests which cloud his title.

QUIT CLAIM DEED - A deed which does not imply that the grantor holds title, but which surrenders and gives to the grantee any possible interest or rights which the grantor may have in the property.

R

REALTOR - A copyrighted trade name which can be legally used only by those persons belonging to the National Association of Realtors.

RECORD TITLE - The aspects of a title which appear in the public records as distinguished from unrecorded title aspects and interests.

RIGHT OF WAY - (1) The right to pass over property owned by another, usually based upon an easement. (2) A path or thoroughfare over which passage is made. (3) A strip of land over which facilities such as highways, railroads, or power lines are built.

RIPARIAN RIGHTS - The many rights of a person in, to, and over the banks, bed, shallows, shore, and water of a stream or body of water upon which his land borders.

S

SEARCH - In title industry terms, a careful exploration and perusal of the public records in an effort to find all recorded instruments relating to a particular chain of title.

SECOND MORTGAGE - A mortgage ranking in priority immediately below a first mortgage.

SETTLEMENT – see Closing.

SPECIAL WARRANTY DEED - A deed which warrants the title only with respect to acts of the seller and the interests of anyone claiming by, through, or under him.

SURVEY - (1) To determine the location, boundaries, area, or the elevations of land and structures upon the earth's surface by means of courses, and the measuring of angles and distances by using the techniques of geometry and trigonometry. (2) The map or plat drawn by a surveyor which represents the property surveyed and shows the results of a survey.

T

TAX LIEN - The lien which is imposed upon real estate by operation of law which secures the payment of real estate taxes.

TENANCY BY ENTIRETIES - An estate or interest in real estate predicated upon the legal fiction that a husband and wife are one person. A conveyance or devise to them (unless contrary intent is expressed) vests title in them as one person. Upon the death of either husband or wife, full title passes to the survivor.

TENANT - (1) Usually one who holds possession of real estate under a lease. (2) In a broader sense, one who holds or possesses lands and tenements by any kind of title.

TENANTS IN COMMON - Two or more persons in whom title to a single piece of real estate is vested in such a manner that they have a common or equal right to possession and enjoyment of the property, but each holds a separate individual interest or estate in the property. Each owner may sell or encumber his respective interest or dispose of it by will, and if he dies without leaving a will, his heirs inherit his undivided interest.

THIRD PARTY - A term usually applied to persons who are not principal parties to a contract or other instrument, but who have some right, interest or duty which such contract or instrument affects. For example, where a sale contract between buyer and seller of real estate provides that the money and documents involved in the transaction will be deposited with a title company pending the closing of the deal, the title company becomes a third party to the transaction.

TITLE - (1) A combination of all the elements that constitute the highest legal right to own, possess, use, control, enjoy, and dispose of real estate or an inheritable right or interest therein. (2) The rights of ownership recognized and protected by the law.

TITLE COVENANTS - Covenants ordinarily inserted in conveyances and in transfers of title to real estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received. A group of such covenants known as "common law covenants" includes: (a) covenants against

encumbrances; (b) covenant for further assurance (in other words, to do whatever is necessary to rectify title deficiencies); (c) covenant of good right and authority to convey; (d) covenant of quiet enjoyment; (e) covenant of seisin; (f) covenant of warranty.

TITLE DEFECT - (1) Any possible or patent claim or right outstanding in a chain of title which is adverse to the claim of ownership. (2) Any material irregularity in the execution or effect of an instrument in the chain of title.

TITLE EXAMINATION - See Examination.

TITLE INSURANCE - Indemnity against loss resulting from defects in or liens upon a title.

TITLE SEARCH - A search and perusal of the public records for recorded instruments which affect the title to a particular piece of land.

TITLE SEARCHER - One who searches titles.

U

UNDERWRITER - An insurance company which issues insurance policies either to the public or to another insurer.

W

WAIVER - The voluntary and intentional relinquishment of a known right, claim, or privilege.

WARRANTY DEED - A deed containing one or more title covenants.