TITLE INSURANCE

What is title insurance & Why Do I Need it?

Title is a bundle of rights in real property. Protecting purchasers and lenders against loss is accomplished by the issuance of a title insurance policy. Usually, during a transaction the lender requests a policy (commonly referred to as a Lender's Policy) while the buyer's receive their own policy (commonly referred to as an Owner's Policy).

In short, the policy states that if the status of the title to a parcel of property is other than as represented, and if the insured (either the owner or lender) suffers a loss as a result of a title defect, the insurer will reimburse the insured for that loss and any related legal expenses, up to the face amount of the policy, *subject to exceptions and exclusions contained in the policy*.

Typically there are two policies issued. **The Mortgagees Policy** insures the lender for the amount of the loan. **The Owner's Policy** insures the purchaser for the purchase price.

How is Title Insurance Different than other types of insurance?

While the function of most other forms of insurance is risk assumption through the pooling of risks for losses arising out of unforeseen future events (such as sickness or accidents), the primary purpose of title insurance is to eliminate risks and prevent losses caused by defects in title arising out of events that have happened in the past. To achieve this goal, title insurers perform an extensive search and examination of public records to determine whether there are any adverse claims (title defects) attached to the subject property. Said defects/claims are either eliminated prior to the issuance of a title policy or their existence is accepted from coverage. Your policy is issued after the closing of your new home, for a one-time nominal fee, and is good for as long as you own the property.

What 's involved in a title search?

A title search is actually made up of three separate searches:

- **Chain of Title** (History of the ownership of the subject property)
- **Tax Search** (Reveals the status of the taxes and assessments)
- **Judgement & Name Search** (Searches for judgement and liens against the owners' and purchasers' names)

Once the three searches have been completed, the file is reviewed by an examiner who determines:

- Whether or not the chain of titles shows that the party selling the property has the right to do so.
- The status of taxes for the property. The tax search will also indicate the existence of any special assessments against the land and whether or not these assessments are current or past due.
- Whether there are any unsatisfied judgments on the judgement and name search against the previous owners, sellers, and or purchasers.

Rights established by judgement decrees, unpaid federal income taxes and mechanic liens all maybe prior claims on the property, ahead of the buyers or lenders rights. The title search will only uncover defects in title that are of public record, thus allowing the title company to work with the seller to clear up these issues and provide the new buyer with title insurance.

In Summary

After the searches have been examined the title company will issue a commitment, stating the conditions under which it will insure title. The buyer, seller, and the mortgage lender will proceed with the closing of the transaction after clearing up any defects in the title that have been uncovered by the search and examination.

ESCROW

Understanding the In's and Out's of the Escrow Process...

What is Escrow?

Escrow is an arrangement in which a neutral third party (The escrow agent) assembles and processes many of the components of a real estate transaction, records the transaction, and ultimately, disburses and distributes funds according to the buyers, sellers and lenders instructions.

Your transaction is typically closed by an Escrow Officer. People buying and selling real estate usually open an escrow for their protection and convenience. Both the buyer and seller rely on the escrow agent to carry out their written instructions relating to the transaction and to advise them if any of their instructions are not mutually consistent or cannot be carried out. If the instructions from all parties to an escrow are clearly drafted, the escrow officer can proceed on behalf of the buyer and seller without further consultation. This saves much time and facilitates the closing of the transaction.

Typical Roles in the closing process

The **Selling Agent /Seller**:

- Delivers a fully executed Purchase & Sale Agreement to the escrow agent
- Executes the paperwork necessary to close the transaction

The **Buyer's Agent /Seller**:

- Deposits collected funds required to close (with the escrow agent)
- Approves the commitment for title insurance, or other items as called for by the Purchase & Sale Agreement
- Executes the paperwork and loan documents necessary to close the transaction

The **Lender**:

- Deposits loan documents to be executed by the buyer
- Deposits the loan proceeds
- Directs the escrow agent of the conditions under which the loan funds may be used

The **Escrow Agent**:

- Clears Title
- Obtains title insurance
- Obtains payoffs and releases documents for the underlying loans on the property
- Receives funds from the buyer and/or lender
- Prepares vesting document affidavit on seller's behalf
- Prorates insurance, taxes, rents, etc
- Prepares a final statement (often referred to as the "HUD Statement" or "Settlement Statement") for each party, indicating amounts paid in conjunction with the closing of your transaction
- Forwards deed to the county for recording
- Once the proper documents have been recorded, the escrow agent will distribute funds to the proper parties

In Summary

Escrow is the process that assembles and processes many of the components of a real estate transaction. The sale if officially closed when the new deed is recorded and funds are available to the seller, this transferring ownership from the seller to the buyer. The escrow agent is a neutral third party acting on the behalf of the buyer and seller under the Escrow Law.