







2. Public Records

- ▣ Contain detailed information about each parcel of real estate in a city or county. These records are crucial in establishing ownership, giving notice of encumbrances, and establishing priority of liens.

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3. Recording Documents

- ▣ The act of placing documents in the public record. (Normally you should record your interest in the county where the land is located to serve as public notice.)
 - Signed & Notarized
 - Acknowledged

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Notice

- ▣ Constructive Notice – the legal presumption that information may be obtained by an individual through diligent inquiry. Properly recording documents in the public record serves as constructive notice to the world of an individual's rights or interest.
- ▣ Actual Notice – means that not only is the information available but someone has been given the information and actually knows it.

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4. Priority

- ▣ Priority refers to the order of rights in time.
- ▣ What can change a priority of a lien???

A subordination agreement

5. Grantor/Grantee Index System

- Cross-reference filing system
- Used by recorder's office
- Title companies now use legal descriptions

6. Unrecorded Documents, "Off Record" Liens

- ▣ Certain types of liens are not recorded.
 - Real estate taxes and special assessments
 - Inheritance taxes and franchise taxes

7. Chain of Title

- ▣ Chain of Title is the record of a property's ownership. Beginning with the earliest owner, title may pass to many individuals. Each owner is linked to the next so that a chain is formed.

Chain of Title

- ▣ A "suit to quiet title"
 - Might be required when a grantor acquired title under one name and conveyed it under another name.
 - Or there may be a forged deed in the chain

Chain of Title

- ▣ A Title Search is an examination of all of the public records to determine whether any defects exist in the chain of title.
- ▣ An Abstract of Title is a summary report of what the title search found in the public record.

Chain of Title

- ▣ A Certificate of Title is a statement of opinion of the title's status on the date the certificate is issued – it is not a guarantee of ownership. Rather, it certifies the condition of the title based on an examination of the public records (a title search). – Used as evidence of ownership, but offers no defense against unknown defects.

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8. Marketable Title

- ▣ Under the terms of the typical real estate sales contract, the seller is required to deliver marketable title to the buyer at closing. To be marketable, a title must:
 - Disclose no serious defects and not depend on doubtful questions of law or fact to prove its validity;

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Marketable Title

- Not expose a purchaser to the hazard of litigation or threaten the quiet enjoyment of the property; and

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Marketable Title

- Convince a reasonably well-informed and prudent purchaser, acting on business principals and with knowledge of the facts and their legal significance, that he or she could sell or mortgage the property at a later time.

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9. TITLE INSURANCE

- ▣ Title Insurance is a contract under which the policyholder is protected from losses arising from defects in the title.

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Title Insurance

- ▣ Title Plant Records:
 - Tract system of records
 - Searching records using legal descriptions
 - Patent title plant
 - Usually has records dating back to the original patent issued by the federal or state government

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What documents can be ordered

A. Property profile

- FREE to real estate professionals to aid them in knowing who is in title to the property, a copy of the recorded plat, possible tax information, a copy of the last recorded deed.

B. Title Commitment

- Insurance binder - report of condition of title

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Title Commitment

- Normally ordered by the lender but often by buyer's agent
- A preliminary copy is delivered to the seller, buyer, lender, and the brokers and agents involved prior to closing.

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C. TITLE POLICIES (American Land Title Association)

▣ Types:

- An "owner's policy" (Standard coverage owner's policy) is issued for the benefit of the owner and his or her heirs or devisees.
- A "lender's policy" (Extended coverage lender's policy-Mortgagee Policy) is issued for the benefit of the mortgage company.

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Title Policies (American Land Title Association)

☐ Coverage:

1. "Standard coverage owner's policy" normally insures title as it is known from the public records. (Insures against forged documents, conveyance by incompetent grantors, incorrect marital statements, and improperly delivered deeds.)

Title Insurance

☐ Coverage:

2. "Extended Coverage Lender's Policy" (Mortgagee Policy...) lender is protected from certain additional "off-record" matters such as encroachments, unrecorded easements, possessory interests, discrepancies in boundaries - matters which may generally be determined by a land inspection or a proper survey. It insures the lender that they are receiving a lien which will take priority over various interest and claims to the subject property.

Title Insurance

● Coverage:

3. "Extended Coverage Owner's Policy" (standard, plus...) protects a homeowner against defects that might be discovered by inspection of the property: rights of parties in possession, examination of a survey, and certain unrecorded liens.

Title Insurance

- Extended coverage owner's policy insures the owner against post-policy claims and risks. Offers protection from forgery, easements on the land, defective title, etc. Post-policy adverse ownership, and encroachment issues.

Title Insurance

- "Endorsements" are "riders" to the standard policy that provides further coverage for special requirements in addition to the standard policy's coverage-usually required by the lender

10. Uniform Commercial Code

- The Uniform Commercial Code (UCC) is a commercial law statute that has been adopted, to some extent, in all 50 states.
- The UCC governs the documents when personal property is used as security for a loan.

Uniform Commercial Code

- The UCC requires a borrower to sign a security agreement.
- A short notice of this agreement called a financing statement

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