



Understanding the Role of Title Companies in Commercial Transactions

Property transactions involve numerous legal requirements and regulations that can be challenging for the average buyer or seller to navigate. That's why title companies play an essential role in the process, providing critical support to ensure the transaction is executed smoothly without any legal hiccups. One of the vital services provided by title companies is a thorough title search, which helps identify any issues with the property's title that could create legal trouble down the line.

The Title Search

One of the first actions a title company will do when it becomes involved is performing a title search on the property. It will review all the public records related to the property and help to determine ownership of the property and any encumbrances that might impact the sale of the property.

During a title search, a title company or a real estate attorney will typically review various documents, including deeds, mortgages, tax records, court judgments, and other public records related to the property. This process helps to ensure that the seller has the legal right to transfer ownership of the property to the buyer and that the buyer will have a clear and marketable title to the property at the closing.

The Commitment

Once the title company reviews the search, it will examine it and determine whether the title to the property is insurable and will prepare a commitment that is shared with all the parties in the transaction.

The commitment will contain a list of "requirements," which are steps that need to be taken by either party leading up to the closing. If any issues with

the title need to be resolved before closing, the steps to resolve such issues will be listed on this schedule. It is essential to review the requirements to ensure that you are taking the steps necessary leading up to closing.

The commitment will also contain a list of "exceptions," which is a list of items that the title insurance policy will not cover. The title company should be able to provide you with any documents listed in the exceptions, which you should review to see how they will impact your property and your use of the property in the future. For example, if



there is an easement on the subject property, it will be referenced as an exception. The easement will continue to impact the property going forward, so that document and any other document referenced should be carefully reviewed.

Just because a commitment is issued and the title is insurable, doesn't mean the commitment should be ignored. For example, if you are buying a property, a well-drafted real estate purchase contract should condition your obligation to proceed with the transaction through closing on your satisfaction with the commitment. A careful

review and analysis of the commitment can help a buyer decide whether to proceed with the transaction. For example, there could be specific restrictions on the subject property, and a review of said restrictions could reveal that the property cannot be used as the buyer intends. Since the conditions are contained in the exceptions to the policy, the fact that said restrictions negatively impact the buyer's use of the property is not insured. If the buyer doesn't find this out until after closing, they are simply out of luck.

Mitigating Your Risks

A title company's services are essential to ensuring a smooth and legally compliant property transaction. By conducting a comprehensive title search, the company can identify any issues with the property's title and work to resolve them before closing. It's crucial for buyers and sellers to carefully review the commitment provided by the title company and seek legal advice if necessary to understand any exceptions or requirements listed. Property transactions can be executed efficiently and confidently with the proper support from a reliable title company, minimizing the risk of legal complications. Looking for additional ways to reduce your risks? Check out the other article in this two-part series to learn about additional title policy basics.

If you are involved in a real estate transaction and are trying to decide whether title insurance is the right option for you, or if you have decided to obtain title insurance and have questions about all the documents involved in the process, please reach out to your Carlile Patchen & Murphy attorney or any member of our title agency to discuss your situation.