

The Basics to Understanding Title

June 5, 2006

Presented by: Catharine B. LaMont

Title Insurance and Common Clouds on Title

I. General

A. What is title insurance?

1. Assures an owner or lender that the title to the land is as it is represented to be
2. American method of rendering real property liquid
3. Affirmative assurances
 - a. Face page
 - 1) Owner's policy
 - a) Title to the property being in someone else's name
 - b) Defects in or liens on the title
 - c) Unmarketability of the title
 - d) Lack of access to the land
 - 2) Mortgage policy
 - e) The invalidity or unenforceability of the mortgage as a lien on the land
 - f) Any other lien having priority over the mortgage
 - g) Lack of priority of the mortgage over mechanics liens

h) The invalidity or unenforceability of any assignment of
the mortgage

b. Schedule A

- 1) Effective date
- 2) Name of insured and amount of insurance
- 3) Nature of the estate or interest insured
- 4) Where title is vested
- 5) The legal description of the property

B. Commitment

1. Schedule A:
2. Schedule B I: Requirements
 - a. Consideration
 - b. Premium
 - c. Record necessary documents
 - d. Additional documentation
 - e. Taxes and assessments
3. Schedule B II: Exceptions
 - a. Standard exceptions
 - 1) Mechanics liens
 - 2) Survey exceptions

- b. Special exceptions

- C. Policy

- 1. Schedule A
- 2. Schedule B
- 3. Schedule BII (loan)

- II. Common clouds on title and how to remove them

- A. Lis pendens

- 1. General
- 2. City
- 3. Removal

- B. Dower

- 1. Description
- 2. Removal

- C. Taxes and assessments

- 1. General – status of taxes
 - a. Paid or unpaid
 - b. Exempt or not
- 2. Delinquency
- 3. Tax sales
- 4. Removal

D. Various liens

1. Mortgages

- a. Most common
- b. Removal: discharge or subordination

2. Judicial liens

- a. Examples
- b. Removal: Dismissal, Satisfaction, Release, QCD

3. State tax liens

- a. Income or withholding taxes
- b. MESC lien
- c. Removal
 - 1) Release
 - 2) Statute of limitations

4. Federal liens

- a. Income taxes
- b. Estate taxes
- c. Removal: Release, Statute of Limitations, Certificate of Non-Attachment

E. Water

- 1. Disclosure where taxed only
- 2. Unrecorded lien
- 3. Removal: payment

- F. State reservation
 - 1. What it is: reservation of oil, gas, mineral and aboriginal rights
 - 2. How attached: Whenever State has held an interest, usually by tax reversion process
 - 3. Removal: Release

- III. Tax reversion interests
 - A. How disclosed – various methods
 - 1. Commitment shows governmental entity in title
 - 2. Commitment shows prior (non)taxpayer in title
 - B. Consequence
 - 1. Issue: due process and notice
 - 2. History
 - a. Pre-1976
 - b. Dow v. State of Michigan
 - c. Smith v. Cliffs on the Bay Association
 - 3. Title insurers' response
 - 4. Removal