



Title insurance 101 for comm'l. brokers and agents

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As savvy as we are when it comes to real estate transactions, title often times holds a mystery for even the most experienced Realtor.

In this world of easements, covenants, restrictions and liens we tread lightly, wondering when the proverbial other shoe will drop.

Continuing education classes touch on the subject, but that's just it. They hardly even touch it.

So as a Realtor, what do you really need to know that nobody ever bothered to tell you?

First and foremost is that title insurance is a contract between the buyer of the property and the title insurance company. It insures that the buyer has marketable title and that the buyer, his successors and assigns has the right of ingress and egress to and from the subject premises. The title policy also insures against the claims of third parties in the back chain, such as forgotten heirs or neighbors claiming a portion of the property through adverse possession or a boundary line dispute. Most importantly, the title company will not only pay the loss if there is an adverse claim against the title but will also pay the cost of defending the title.

A title policy also contains a long laundry list of items that are exceptions to owner's rights. These exceptions to rights can contain items that limit what an owner can do with the property and what the owner can build on the property. It also can contain language that allows others certain rights over and through his property.

It is interesting to note that while easements and rights of others in and to the subject premises are always excepted from coverage, the buyer needs to specifically ask for "affirmative insurance" to insure certain rights that actually benefit the property. There is no implied coverage for the exercise of a right that benefits the subject premises.

When listing a commercial property it is essential that you know exactly what you are listing. How high are the ceilings? How many s/f is warehouse space? How much is office? What is the electrical service? How important is it also to know if there is an easement on the property that would prevent the purchaser from building an addition to the rear of the premises or if the property cannot be improved with a brewery or slaughterhouse or any "noxious or offensive" use?

The most cost effective way to discover these items with regard to your listing is to request a copy of the title policy from the owner or the owner's attorney. What if a copy cannot be found? Obtain a copy of the deed of record and see if you can find any title numbers on it. Most title companies put their file number somewhere on the document. An established company will have access to various numbers and a correlation list as to which company was using what number combinations. Once a match is obtained a copy of the policy, the old report and even an existing survey may be obtained.

What is the next step? Unfortunately, it is to read the policy. How many of us never even read our homeowner's policy? On first blush, it may be a bit confusing, but welcome to the world of title. You are on your way.

To help you on your journey, you may wish to do what many of the best realtors do. The best realtors always cultivate a good relationship with a title person. The title person can not only translate what all of those terms in the policy mean, but can also provide assistance on how to clear up title problems.

Nan Gill is the president of Gill Abstract Corp., Goshen, N.Y. and New York, N.Y.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540