



Don't wait for a problem to arise before checking a client's title

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Last week I got an urgent call from a commercial broker that had been in the business over 20 years. She had taken a listing and had agreed that if the owner lost the property to foreclosure, she would waive her commission.

She had an interested party and was scheduling a second showing.

Now all of a sudden her client was acting erratically, hanging up the phone before the conversation was over and ranting that the bank was going to foreclose and he was going to lose the property.

She went to the record room to check out the situation. There was nothing that appeared to be irregular. A deed had been filed into the Industrial Development Agency and there was a Memorandum of Installment Sale Agreement recorded shortly thereafter. A notice of pendency was not indexed against the property and she found no indication of any foreclosure.

At this point, I was asked to get involved. On closer look I found an Assignment of Property Interest to a bank located in New Jersey. The owner had assigned his interest in the subject property as collateral security for the payment of principal and interest payable under certain notes and for the performance of the obligations contained in a certain loan agreement and mortgage. Apparently, that loan agreement and mortgage was in default.

Armed with this information, the broker was able to maintain control of the transaction. She contacted her client's attorney and enlisted the attorney in negotiating with the bank for an extension based on the pending transaction.

As a real estate broker in these challenging times, you need to know what title issues your clients are facing. As the commercial market experiences more and more economic pressures, it is important that we know what we are dealing with so we move swiftly.

Savvy real estate brokers review the existing title policies when determining the highest and best use for the property. They review easements, right of ways and restrictions and use that information to determine the best ultimate user for the property.

These tough economic times demand that the savvy broker perform the same due diligence with regard to an update of title. A careful review of the current owner's title will ascertain if there are any pending title issues that may interfere with the final transfer of the property. Only then can the real estate broker maintain a pivotal control of the transaction and intercede to pull the deal back together should an issue arise.

Don't wait for a problem to arise before you check your client's title. Make it your practice to have complete title available as you begin your marketing process.

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