



Without proper due diligence, the search of mortgage satisfaction is a complicated task

April 14, 2009 - Financial Digest

Today's economic climate has encouraged many in the industry to enter into relatively untraceable controlled relationships. As a result, many individuals are not having their title problems resolved.

If you have a steady stream of business coming from one source, you are dedicated to the maintenance of that stream. If that stream is coming from a lender, your efforts are directed to satisfying that lender's needs, sometimes at the expense of the actual client in the transaction. It is even questionable if the controlling parties are having their best interests served.

As an example, I received a call from a mortgage salesperson from a small local credit union. He had gotten a request for a refinance from a person who had been turned down by one of the large lenders because of an unsolvable title problem. He decided he would see if I could solve the problem.

Title was vested in the nephew of the original owner by a deed from the executor of the estate. It was a family transaction and was not a bona fided transaction. The uncle had apparently purchased the property back in 1965, taking out two small loans with a local savings and loan association. These loans were still showing open of record and the savings and loan was defunct. The nephew had constructed a home on the premises with his own funds and now that the construction was completed, he wanted to refinance and get some money back out of the house.

Unfortunately, the attorney who had represented the estate did not have a title search done at the time the estate was probated and the nephew apparently was unrepresented.

Not being a priority to the lender's title company, the client was simply told to get satisfactions for the mortgages and they would consider the refinance. The client turned to his local lender.

In the normal course of trying to clear up an old mortgage the first step is to obtain a copy of the mortgage. Any lender who has taken this loan over will require a copy of the original mortgage in order to produce a satisfaction. The next course of action is to check out the website of the FDIC, www.fdic.gov. This is a very useful site for those in the industry, for not only does it have a bank history lookup it also has a counterfeit check lookup. This was a dead-end.

My next step was to call some of the "old-time" title industry giants to see if they knew what happened to this bank. Unfortunately, this bank was not in their computer either.

I then faxed a note to my examiner in the county where the property was located and asked her to get me the most recent copy of a satisfaction of mortgage from this bank. We were in luck. The bank had been bought by another bank, merged with still another and then finally taken over by the FDIC. One fax to the FDIC with copies of the mortgages and I had two original satisfactions sitting on my desk.

Now I had the choice of writing off the other title company's report, or ordering a "10-year search or back to the last insured deed, whichever is longer" from my examiner. I chose the latter and it was

good I did.

The property never did make it to the uncle's estate. Prior to passing, the uncle had conveyed the property to a trust. Makes you wonder if that prior title company was even protecting the interest of the lender. If there was a relationship between the lender and the title company that hopped the deed into the trust would that mortgage have been insured? That company's lack of due diligence could possibly be considered an act of the insured and could void the lender's coverage.

The happy part of the story is that we found the trust. The unhappy part, is we now may have to have all the nieces and nephews quit-claim to the nephew who built the house.

Needless to say, controlled business does not even help to protect those in control. Let's all strive for a more open and mutually beneficial marketplace.

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