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TITLE CURATIVE INVESTIGATIONS

A Must When Clearing Title to Real Property

Abstract: Title curative investigations are a less expensive way to solve problems with title. Real estate attorneys can obtain clear title to property by having a private investigator conduct a title curative investigation to cure title problems, and avoid purchasing a bond. If a quiet title action is needed, a title curative investigation will identify who needs to be named as the defendant.

Title insurance is a crucial element in every real property transaction. In order to proceed with a transaction, you must have title insurance to cover the costs in case there is a problem. A title search is done prior to the issuance of a policy, to make sure there are no problems. If the insurer finds a problem, the policy is not issued, and everything comes to a halt until the problem is resolved.

Although there are many kinds of problems identified during a title search, most of them have to do with old deeds of trusts that are not reconveyed. Frequently, a title search will find the deed of trust, but not the reconveyance. Since there are typically no expiration dates on deeds of trusts, a creditor on a 30-year loan; issued 50 years ago will still be the senior lienholder. As real property attorneys know, senior lienholders can stop the sale of the property, demand payoff, file a lawsuit, or other action delaying the current transaction. Sometimes title insurance companies will exclude that deed of trust in their preliminary report, and escrow companies may purchase a bond, that is a percentage of the amount on the senior lien in order to proceed with the transaction. These steps, however, do not clear title, and a bond has to be typically purchased every time the property goes on the market. But what if

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there are multiple deeds of trusts without reconveyances for a single property? What if the senior lien is for over a million dollars? You can see how purchasing bonds can get very expensive, and are not a real solution. The end result is that multiple bonds may need to be purchased, which can be very expensive and not a real solution.

Instead, title curative investigations involve finding the reconveyance; or obtaining a new reconveyance. Sometimes the reconveyance is recorded in the wrong county, or there is an error on the document. A title curative investigation locates the document, and corrects the issue. More often, for one reason or another, there is no reconveyance, and a title curative investigation assists in locating the beneficiary from that old deed of trust; and have them issue a new reconveyance. How can a title curative investigation help? Frequently, in cases of old deeds of trust, the beneficiary no longer exists such is the case banks that go out of business, mortgage companies, or, in the case of a private beneficiary, the beneficiary has passed away. In those circumstances, a title curative investigation identifies the successor beneficiary, a task that sometimes requires specific skills and persistence. The successor beneficiary may then issue a new reconveyance on behalf the original beneficiary, or if the beneficiary refuses, this is where the lawyer comes in. A quiet title action is filed with all known beneficiary listed as defendants. Lastly, another benefit of a title curative investigation is that it usually costs a lot less than a bond, and it actually clears title to the property.

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