



Understanding Title Insurance

Karen Decker explains why protecting your home investment is important



Although it has been used in the U.S. for more than a century, title insurance was virtually unknown to Canadians until its more widespread introduction into the Canadian market more than 20 years ago. Originally used by mortgage lenders to protect the priority and enforceability of their mortgages and to simplify the refinance process, title insurance has evolved into becoming an integral part of purchase transactions, particularly in Western Canada where it is often used to replace a lender's survey requirements.

Title insurance initially gained popularity from the cost savings and closing efficiencies it afforded in real estate transactions, as lawyers or notaries no longer needed to order certain title and off-title searches and lenders did not require an up-to-date survey to advance mortgage funds. Eventually as claims arose, the benefits of the coverage that title insurance provided became apparent and over the past several years, news stories about the occurrences of real estate fraud causing significant losses hit the media bringing even more attention to the benefits of title insurance. Now, Canadian homebuyers have come to realize that similar to other assets such as cars or household belongings, their investments in their homes should also be adequately protected with title insurance.

Title insurance safeguards your ownership interest (i.e. your "title") in the property you are purchasing from losses that could arise from unknown title defects and other covered matters that exist at the time of your purchase. These include the following:

- Many forms of title and mortgage fraud including forgery and false impersonation
- Someone else claiming an interest in your title
- Existing liens against the title (e.g., realty tax arrears and municipal utility charges)
- Violations of municipal zoning by-laws
- Encroachments onto the property or adjacent properties (coverage for fences or boundary walls has certain limitations)
- Existing work orders against the property
- Lack of legal access for persons and vehicles to the property
- Unmarketable property due to issues that an up-to-date survey of the property would have revealed

Like all insurance policies, coverage is subject to certain exclusions and exceptions and insureds should review their policy for full coverage details.

During a purchase transaction, there can be two policies issued: an owner policy to protect your title to the property and a loan policy to protect your lender's priority and enforceability of the mortgage. Combined, these two policies offer the most comprehensive coverage available.

Real-Life Claims Examples

The best way to understand title insurance is through real-life claims that have been resolved and paid out via title insurance. In one claim for example, an insured homeowner was contacted by an investigator who worked for a major financial institution.

The investigator informed the insured that a fraudster had assumed his identity and transferred the title of his property to another individual's name. The fraudster then assumed the identity of the name that now held the title to the property to obtain a mortgage. To resolve this claim, the title insurance company retained and paid for counsel to restore the title to its rightful owner and to have the mortgage removed from title.

In another claim, the insureds found several issues with some of the renovations that had been completed prior to their purchase. It was discovered through a search that the previous owners had obtained the proper building permits, but a final inspection had not been completed, allowing serious issues to remain outstanding. The title insurer covered the costs of remedying the issues and closing the outstanding building permit.

Obtaining Title Insurance

The lawyer or notary acting on your purchase or refinance transaction can order title insurance on your behalf. Policies are available for residential homes, commercial properties, vacant land, cottages, condominiums, co-operatives and leased land. Your policy will remain in force for as long as you own the property.

Unlike many other insurance policies for which premiums are paid yearly, title insurance is available for a low premium that is paid only once at the time of closing. The premium cost is often offset by the savings from the reduced number of searches your lawyer or notary must complete.

Homeowners who already own a home and who did not obtain title insurance at the time of their home purchase may obtain an "existing" owner policy that covers them for losses resulting from unknown title defects including real estate title or mortgage fraud. This policy is also ordered via your lawyer or notary.

To read more claims examples or for more information on title insurance, visit www.stewart.ca or contact your real estate lawyer or notary.

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