

Title Insurance

Title Insurance is an insurance policy covering the condition of title or ownership of real property at the time the policy is issued and is used to provide ownership protection for a purchaser against losses or damages suffered as a result of title problems. Title insurance is obtained, typically by the purchaser's lawyer prior to closing a purchase for the benefit of the purchaser.

TYPICAL NON-INSURED TRANSACTION: Traditionally, Ontario purchasers have relied solely on their lawyer's "legal opinion" that they have "good and marketable title" in order to confirm a clean title.

Unfortunately, no lawyer can completely assure a purchaser that there is absolutely no chance of an error in the government records, that there are no undisclosed claims, or that what appears to be the signature of the prior owner or consenting spouse is a true signature, there having been no prior fraud or forgery on title. Title Insurance can satisfy such "gaps" in a lawyer's opinion to cover not only frauds or forgeries prior to closing but also after closing.

THE BOTTOM LINE IS THAT: The policy protects the purchaser(s) and mortgage lender against losses suffered from matters set out below as well as other matters more specifically outlined in the policy:

- defects that would have been revealed by an up-to-date survey
- survey errors or illegibility of survey
- encroachments (before or after closing)
- contravention of municipal zoning by-laws
- unmarketability of title
- defects in the title
- invalidity or unenforceability of the mortgage on title
- liens
- easements (other than usual easements for utilities, etc.)
- contravention of subdivision, development and other agreements
- priority of certain construction liens
- priority of unregistered easements and rights of way
- fraud or forgery (prior to and after closing)
- solicitor error, omission or fraud
- unpaid property taxes or local improvement charges by a prior owner

TYPICAL COST: For residential real estate transactions with a purchase price of less than \$500,000.00, a policy can be purchased for \$150-\$299 (depending on the type of residential property and whether there is a mortgage). This cost is largely offset by the cost of certain legal disbursements which are no longer required in title insured transactions. As municipalities continue to increase their fees for zoning, subdivision and tax searches, title insurance is becoming an increasingly competitive option.

QUICK CLOSINGS: When a vendor or purchaser wishes to close a transaction quickly, a policy of title insurance is often the best option. By eliminating some of the procedures otherwise required, a policy of title insurance can facilitate closings on very short notice