

The Ins And Outs Of Title Insurance: What's Covered And What's Not

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When it comes to the single largest investment most of us will make – buying a home – you want to make sure you've protected that investment to the best of your ability.

One option to consider is title insurance – a cost-effective protection that shields homebuyers from many of the major risks that can affect the ownership and/or future marketability of title to a property. Like all insurance policies, title insurance is a contract of insurance that comes with terms and conditions. To get the most value out of your title insurance policy, it's important that you understand how title insurance works, and what risks title insurance does and does not cover.

Why even consider title insurance? **Because the unexpected can and does happen.** The most typical situation in which homebuyers call on their title insurance policies involves unpaid utility or realty tax bills from the previous owner. The second most frequent category of claims relates to building code issues. For example, a couple buys a house planning to add a new wing to their home. When the building inspector arrives for an on-site inspection, he discovers that an earlier renovation was not done to code, and the whole home needs to be rewired. If the owners have a title insurance policy in place, the insurer could compensate the homeowners for the costs of bringing the electrical work up to code.

Title insurance also protects homeowners if the house is not located on the property accurately and encroaches onto neighboring land, or if a pool has been built that is actually on a neighbour's property. A title insurer could resolve this problem by buying the piece of land that the house (or pool) actually sits on from the neighbour, and taking care of all the related legal work.

Condominium owners have also found title insurance protection useful. Take the example of a newly built condominium unit purchase. The buyer of a particular unit is shocked to find out that the unit purchased is a different unit from the one that he or she was expecting to buy. Unfortunately, the unit actually acquired is worth less because it does not have a "lakefront" view. In this instance, the legal services coverage available through the TitlePLUS policy was called on, and the buyer was compensated for the difference in value between the unit he took possession to, and the unit he thought he had bought. This legal service coverage, which protects you for losses suffered as a result of the negligent errors of your lawyer, is generally not available from most other title insurance companies.

Title insurance can also benefit you in other ways: It can eliminate the need for an up-to-date survey while protecting you against any title-related issues that would have been identified by that survey.

For many buyers, the fraud coverage provided by title insurance is particularly reassuring: it not only helps protect you if you are the victim of fraud, but also pays the costs involved in defending your ownership in the property and restoring your title to the home.

As with any type of insurance policy, certain exclusions will apply. Typical issues not covered include native land claims, environmental hazards and the buyer's rights to change the use of the land or undertake renovations or construction. Problems the buyer agreed to in the purchase agreement or failed to disclose to the lawyer will also not be covered. It is therefore vital that you tell your lawyer of any problems that your agent told you about or that came to light when you visited the property. As well, individual policies may contain exceptions specific to the homebuyers' property. For example, minor utility easements or rights-of-way for a mutual driveway may be specifically listed as exceptions to coverage.

Bear in mind that, in general, if the problem is not a "legal problem", it is likely not covered. Title insurance provides protection against title-related problems; it is not home warranty insurance, and will not protect you if your fridge breaks down or the furnace gets old. As with any insurance purchase, you should consult the policy for full details of the actual terms and conditions and have your real estate lawyer advise you. When purchasing a home, your real estate lawyer can help you sort out the various protections offered by different title insurance companies in order to get an idea of which risks are covered and which are excluded.

To help homebuyers better understand the benefits of title insurance, and the important role of a lawyer in a real estate transaction, TitlePLUS insurance has created a free **Real Simple Real Estate Guide**. You can access the guide by going to www.titleplus.ca.

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