

I Learned Some Things I Didn't Know About Title Insurance in a Recent CE Class

I thought I understood everything I needed to regarding title insurance, but I took a Continuing Education class about it last week anyway, thinking I might learn something I didn't already know. I wasn't disappointed!

We Realtors trust the title company's closer to explain the process and the forms to our clients, and for the most part they do. The title commitment documents delivered early in the contract process are long and involved, and we probably pay too little attention to them.

I know that many of my fellow real estate agents read this column, and this week I am writing as much to share what I learned with them as I am with the average home buyer or seller who may find him or herself in a real estate transaction.

The first thing we need to know is that title insurance is not a **guarantee**, it is an **indemnity** against covered losses. The "owner's policy" insures against a covered loss; it does not ensure that there will not be a title challenge or a loss. As our class instructor, Doug Barber, pointed out, title insurance companies are like other insurance companies in that they are diligent about paying only for those claims which are for covered risks.

Fortunately, most title companies are pretty thorough in their title

Some Guidance on Appealing Assessor's Valuation

Normally, I'd advise you to make your appeal in person, but this year the Jeffco Assessor is using Covid-19 as a reason to deny in-person appeals, and the online method being offered at his website, <http://assessor.jeffco.us>, is not as intuitive or helpful as it was two years ago.

This year, instead of sending a full-size letter to each property owner, the Jeffco assessor sent a fold-over postcard which only asks you to provide your own dollar valuation of your home and state a reason. The full-size letter of prior years had a place to enter up to three qualified comparable properties sold during the 24 months prior to June 30 of last year which justify your

searches — which I have learned they typically outsource to highly skilled companies who do the title searches for multiple insurers. Nevertheless, a claim could arise, and it's important for us agents and Realtors to be aware of that possibility and take reasonable care to warn our buyers and sellers of that possibility.

We agents like to describe title insurance as a policy that guarantees the buyer is obtaining a property "free and clear" of any claims or liens against it. That, however, is an overstatement, our instructor told us.

One mistake that we agents make — although it has yet to bite me — is to take the word of our sellers as to the ownership of their property. We should not, as most of us do, simply assume that the assessor's database has it stated correctly. Instead, we are advised to obtain an "Ownership and Encumbrance" report from our preferred title company at the time of signing a listing agreement for a property. If the property is owned by an entity — a corporation, a trust, an LLC, a partnership, etc. — it's essential to obtain written evidence of who is authorized to sign for that entity.

When the owner of a property dies, the deceased's estate could be the seller, in which case there is a "Personal Representative" who lower valuation of your property. That letter-size form can be downloaded and printed from the assessor's website. I've posted a link for it **and for the Denver appeal form at www.JimSmithColumns.com**.

Both counties allow for online appeals, but the online forms do not have a place to enter the "Qualified Sales" on which your appeal is based, which is surprising and also disappointing.

You can find those qualified comps (defined as homes similar to yours sold in the 24 months between 7/1/2018 and 6/30/2020) by clicking on the "Sales" tab on the web page for your own home on the assessor's website. Good luck!

signs for the estate, but don't take someone's word about who the PR is. Trust but verify! If the property has been inherited, then the heir is now the seller, not the estate, but that should be documented by a decree from the probate court.

Divorces can be really tricky, and it's best to obtain a court decree or signed separate agreement requiring or authorizing the sale of the property. One thing I didn't know is that if a husband or wife inherits money during the marriage and uses it to purchase a home, the portion of the purchase price paid for with the inheritance is separate property, not marital property, in case of a subsequent divorce, although the **increase** in value of the property during the marriage is marital property subject to equal division upon divorce.

A minor cannot buy or sell real estate. Legally, they are considered incompetent until they are 18.

The title insurance policy only insures the buyer of the property up to the price he or she paid for it. Thus, if you purchased a home in the 1970s for \$30,000 and it's now worth close to a million dollars, your title to the property is only

insured up to \$30,000 in case of some unexpected claim against your ownership.

When a property is owned by more than one person, they can hold it as **joint tenants** with right of survivorship — the most common form of title — or as **tenants in common**. As joint tenants, each person owns 100% of the property, and if one of them dies, the surviving person now owns that 100% by him or herself. Tenants in common each own a stated portion of the property. So, for example, if a couple owns the property 50/50, either person can sell their interest in the property without the consent of the other person.

Our instructor pointed out that, from an estate planning perspective, it might be wise for a couple who bought their million dollar property for \$30,000 to switch to tenants in common. That way, when the first partner dies, the other partner can **inherit** that half interest at its stepped up valuation at the time of death, significantly reducing the capital gains liability if that surviving spouse were to sell it — something I hadn't considered before.



Western Slope Home Just Listed by Kim Taylor

Come let your life blossom with the season! This beautiful property at **\$555 Coffey Road** in Austin is ready to blossom and grow with you. Continue making juice and wine from the vineyard or start that different hobby farm you've been dreaming about. The spacious 2,820-sq.-ft. home sits on six beautifully maintained acres in a private setting at the end of the road. Sit on the deck sipping your wine/juice and take in the gorgeous views of the Grand Mesa, San Juan and West Elk Mountains. The property comes with six Shares of Butte Ditch as well as a private well for irrigation and Orchard City Water for domestic use. The main level of this raised ranch home boasts an open concept kitchen living area with hickory floors, vaulted ceiling and lots of windows as well as granite countertops, an island, gas range and stainless steel appliances in the kitchen. The master bedroom/bath and a second bedroom and bath are on the main level as well as the laundry room. This ideal property's location is great, being just 10 minutes from both Delta and Cedaredge. For more information and a video tour of this property go to www.OrchardCityHome.info, then call **Kim Taylor** of **Taylor Real Estate Services** at 303-304-6678 for a showing. Open house will be this Saturday, May 15th, 10 a.m. to noon.



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