

# PRELIMINARY TITLE REPORTS

## What is a Preliminary Report?

A preliminary report is a report prepared before issuing a title insurance policy. This report shows the ownership of a specific parcel of land, together with the liens and encumbrances which will not be covered under a subsequent title insurance policy.

## What role does a Preliminary Reports play in the real estate process?

The report contains the conditions under which the title company will issue a particular type of title insurance policy. It lists title defects, liens and encumbrances, which would be excluded from coverage if the requested title insurance policy were to be issued as of the date of the preliminary report.

A preliminary report provides the opportunity to seek the removal of items referenced in the report, which are objectionable to the buyer prior to purchase.

## What should I look for when reading a Preliminary Report?

Pay particular attention to the extent of your ownership rights, so review the ownership interest in the property you will be buying as well as any claims, restrictions or interests of other people involving the property. The most common form of interest is "fee simple" or "fee" which is the highest type of interest an owner can have in land.

Liens, restrictions and interests of others, which are being excluded from coverage will be listed numerically as "exceptions" in the preliminary report. Interests of third parties are not uncommon and may include easements given by a prior owner, which limit your use of the property. A printed list of standard exceptions and exclusions listing items not covered by your title insurance policy may be attached as an exhibit item to your report.

## When and how is the Preliminary Report produced?

An order will be placed with the title company shortly after escrow is opened, which will then begin the process in producing the report. Processing the report entails the assembly and review of certain recorded matters relative to both the property and the parties to the transaction. The "exceptions" will remain listed as such unless they are eliminated or released prior to the transfer of title.

## Is a Preliminary Report the same thing as title insurance?

Absolutely not. A preliminary report is a statement of terms and conditions of the offer to issue a title insurance policy, not a representation as to the condition of title. No contract or liability exists until the title insurance policy is issued to a particular insured person which prevents other from claiming the benefit of the policy.

## Will the Preliminary Report disclose the complete condition of the title to a property?

No it will not. In fact, It is very important to understand that the preliminary report is not a written representation as to the condition of title and may not list all liens, defects and encumbrances affecting title to the land, but only reports the current ownership and matters that the title company will exclude from coverage if a title insurance policy should later be issued.

## How can I obtain further information regarding Preliminary Reports?

Your real estate agent and your attorney, should you choose to use one, will help explain the preliminary report to you.

A title insurance policy assures that the transfer of ownership is smoothly completed.

### Can I be protected against title risks PRIOR to the close of the real estate transaction?

Absolutely! Your title company can protect your interest through the issuance of "binders" and "commitments." A binder is an agreement to issue insurance giving temporary coverage until a formal policy is issued. A commitment is a title insurer's contractual obligation to insure title to real property once its stated requirements have been met.

### Why is title insurance necessary when purchasing or refinancing a home?

A title insurance policy assures that the transfer of ownership is smoothly completed, that your rights and interests in a property are as you expect them to be and that you receive protection from future claims against the property you are purchasing. Title insurance fees are based on the sale price of the home. Lawyers Title offers First Time Homebuyers and Senior Citizen Discounts.

Protection against any future flaws and claims is also provided by the title insurance policy that is issued after your transaction is complete. Common flaws may surface at any time in the future and the title policy protects you from any claims during the course of your ownership of the property.

If you anticipate selling a property within 2-3 years after the date of purchase, you may request a binder to be placed on your title policy, for an additional fee, that will significantly reduce the cost of the owner's policy when the property is sold. If you plan on selling your home within five years of its original purchase, some title companies will discount the cost of the subsequent owner's policy by 20%, (known as a short-term rate) regardless of the title company issuing the original policy.

### A Few Facts About Owning a Home:

Each title is made up of many different rights and interests that may be owned by different people. The owners of the property own the most valuable of the property rights and interests, but other people may also have rights to the property such as easements for utilities, mortgages, etc.

The "owners" own "fee simple" title, which means they have purchased the most vital and valuable portion of the property, including rights of possession, use, occupancy, enjoyment, inheritance, etc.

When a person purchases a parcel of real estate, it is not only the physical property that you acquire, but the seller's rights and interest (seller's title), in the property.

Before the sale of a home, the purchaser of a property needs to know what rights the seller can convey and who else may have rights or interests in the property, including any encumbrances against the property that may affect the use or enjoyment of the land.

Because land endures over generations, many individuals and entities may develop rights and claims to a particular property and these interests can impact and LIMIT the title of any seller.

### The Rights and Interests of Title:

- Rights and interests that are disclosed in the public records or by physical inspection of the property, (i.e., deeds, mortgages, leases, particle in possession, utility easements, etc.).
- Rights and interests that are not recorded, but do exist, (i.e., limitations imposed by laws and statutes).
- Rights and interests that are hidden, but still exist, (i.e., forgeries, secret marriages and unknown heirs to the property).

### What to Look for in Your Preliminary Report:

- Vested Owners' Name - Are the names as shown on the Purchase Agreement/Deposit Receipt? Have all parties executed and approved the Purchase Agreement?
- Type of Estate Or Interest - Fee title or other (leasehold/ equitable)
- Printed Exceptions - current taxes, supplemental taxes due to recent reassessment, lien for future supplemental taxes, Sale to State for unpaid delinquent taxes/ bonds.
- Easements - understand the type and location of all easements. Don't hesitate to ask your escrow officer or title officer for a copy of the recorded easements.
- Covenants, Conditions and Restrictions (CC & R's) - declaration by owners of any subdivision prior sale describing property restrictions and agreements affecting said property and future owners. Copies of all recorded CC & R's are available upon request.
- Deed of Trust - all existing loans against the property or existence of any paid-off loans which have not yet been re-conveyed of record.
- Notice of Default - alerts all parties of an existing foreclosure proceeding.
- State or Federal Tax Liens, Judgments, Bankruptcies - any court proceedings affecting the seller and/or the property therein.
- Legal Descriptions - a method of geographically identifying a parcel of land, by lot and block or meters and boundaries. It also discloses the assessor's parcel number.
- Five-Year Short-Term Rate - if applicable, a 20% savings is passed along to the buyers on properties insured by any title company within the last five years.
- Plat Map - describes the lot size and identifies street names and nearest intersections.