

LAWYERS LINK



UNDERSTANDING THE SIGNIFICANCE OF THE CHAIN OF TITLE IN REAL ESTATE

In real estate, the concept of the “chain of title” is the key to understanding the complexities of property ownership. When it comes to buying and selling real estate, it’s crucial to ensure that there are no issues or

discrepancies that could cloud the ownership rights. Failing to clear the chain of title can lead to legal complications, financial losses, and even the loss of the property itself.

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What is a chain of title?

A chain of title represents the historical and public record of title transfers that individuals use to establish their interest in a property. It covers the current owner all the way back to the original owner. A chain of title should always reflect continuous, unbroken ownership. Every piece of property, whether it's a house, a commercial building, or undeveloped land, has a title detailing who retains ownership rights.

Why is a chain of title important?

In real estate, the chain of title has considerable significance. It provides a record of the property's ownership history, which is used to verify ownership and identify any potential defects or liens on the property. A chain of title is also pivotal in disputes related to title priority - particularly in cases where competing lien holders claim the first interest in a property. The party that recorded first typically has a higher position and priority claim.

What does the chain of title consist of?

There are several documents that play a role in a chain of title. Along with a list of all owners of a specific property, a chain of title may contain information like CC&Rs, deeds of trust, easements, judgment liens, tax liens, death certificates, and many other types of documents that impact who holds priority claims to record title. All mentioned documents work together as the chain of title. The easiest way to determine the chain of title is by obtaining a preliminary title report from a reputable title company offering an external perspective on property ownership history.

How is a chain of title established?

The chain of title is developed through the years. Each time the title is transferred to a new owner, the

chain grows. To add to the chain, specific documents generally need to be filed with the appropriate county or local record office.

From a homebuyer's perspective, the chain of title is researched on behalf of the buyer by a title company through a comprehensive title search. The title search involves examining public records, including deeds, mortgages, liens, and other relevant documents, to trace the history of ownership. This search will reveal any potential issues or encumbrances that need to be addressed before proceeding with the transaction.

If there is a break in the chain of title or other issues come to light that were not revealed when the title search was conducted, others might have a right to



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challenge an individual's ownership of the property. Title insurance is purchased by buyers to protect against any unforeseen issues or claims that may arise after the purchase. It is highly recommended to obtain title insurance to safeguard your investment. In case any hidden defects or claims on the title surface in the future, title insurance will cover the legal fees and potential losses.

How do liens affect the chain of title?

When establishing the chain of title, the title company might uncover a lien on the property. Liens follow the property, not the owner. If you buy a house with an unknown lien in place, even though a previous owner's debt is not your own, it becomes your financial responsibility. Liens must be paid before any sale or transfer of title can happen. Sometimes the buyer will agree to pay some or all the liens against the property, so the seller doesn't have to, but either way, someone has to pay them.

Here's how different types of liens can impact a chain of title:

Mortgage liens: Mortgage liens are very common. Homes with mortgages are encumbered with a mortgage lien, which simply means that you can't sell the property on which the mortgage is based unless you pay the mortgage in full, either with the sale proceeds or out of pocket. A mortgage lien is called a voluntary lien because you chose to have it applied when you took out the mortgage.

Tax liens: Tax liens are considered involuntary liens. These are also common. When property taxes are unpaid, the government can place a lien on the property for the amount owed.

Judgment liens: Another involuntary lien is a judgment lien. These can result from unpaid contractor bills or homeowners' association dues.

Title companies play a crucial role in a real estate transaction, particularly when it comes to clearing the chain of title and providing peace of mind to all parties involved. Contact your Lawyers Title Representative for more information and assistance with your transaction.

Disclaimer: This information is deemed reliable but not guaranteed, and is for informational purposes only.



MONTHLY INDUSTRY TERMS

Adjustable Rate Mortgage (ARM)

A mortgage in which the interest rate is adjusted periodically in accordance with a market indicator, to more closely coincide with the current rates. Also sometimes known as renegotiable rate mortgage, the variable rate mortgage, or the graduated rate mortgage.

Amortization

Reduction of the principal of a debt in regular, periodic installments.

Realtor®

A real estate broker or an associate holding active membership in a local real estate board affiliated with the National Association of Realtors.