

**Continuing Legal Education**  
**Portfolio Acquisition Title Review Checklist**  
**Thursday, April 26, 2007**

1. Title Commitment
  - a. Policy form
  - b. Effective Date
    - i. retroactive policy
    - ii. date and time of recording
  - c. Amount of Insurance
    - i. financed
    - ii. co-insurance issues
  - d. Name of Insured Party
    - i. will you need endorsement for intra-company assignments; is such an endorsement available in your state
    - ii. organization documents of buyer
  - e. Signature of Insurance Company on Commitment
  - f. Insured Interests
    - i. fee
    - ii. easement
    - iii. leasehold
    - iv. security interest
  - g. Record title owner
    - i. proof of merger from record owner to seller, if applicable
  - h. B-1 Requirements
    - i. Outstanding taxes/liens
      1. affidavit/indemnity from seller
      2. exclude exceptions for taxes not yet due and payable
    - ii. Special state forms required
      1. insurance
      2. transfer tax forms
      3. mansion taxes
      4. broker's affidavits
      5. bulk sales transfers
      6. disclosure affidavits
    - iii. Instrument of Conveyance
      1. confirm insurability of form of deed
      2. confirm deed in recordable form
      3. Commonwealths
    - iv. Seller's/Owner's Affidavit
      1. confirm Seller will use title company's form or confirm Seller's form acceptable to title company to remove general exceptions
    - v. Survey
      1. Does client want survey?
      2. Is a lender involved

3. Confirm survey is ALTA/ACSM to remove standard survey exceptions
4. If in a State where survey exception can not be removed without an endorsement, is it worth the cost to obtain the survey and/or the endorsement?
- vi. Corporate authority documents
  1. Need for SPE?
  2. Is company formed?
  3. Is it in good standing?
- vii. Corrective Deeds
  1. scrivener's errors in vesting deed
  2. old legal descriptions
- i. B-2 Exceptions to Policy
  - i. Standard Exceptions
    1. Gap exception
    2. Liens
    3. Taxes
    4. Survey
    5. Parties in Possession
  - ii. Easements
    1. Does it benefit or burden the subject property?
    2. Blanket or Plottable?
    3. Does it impose monetary/maintenance obligations on subject property owner?
  - iii. CCR's/Declaration
    1. Approval rights to construction/design?
    2. Restrictions on use/signs/parking/access
    3. Payee Contact Information for Estoppel
    4. Does document provide for Estoppel?
    5. Liens permitted? Subordinate to mortgage?
    6. Amount of Payment Obligations
    7. Maintenance Obligations
    8. Association-Fees
    9. Common Areas-access/parking
    10. Use restrictions
  - iv. REA's
    1. Perpetual? Bind successors/assigns?
    2. Who maintains?
    3. Does it impose monetary/maintenance obligations on subject property owner?
    4. Liens permitted? Subordinate to mortgage?
    5. Payee Contact Information for Estoppel
    6. Does document provide for Estoppel?
  - v. Purchase Options, Rights of First Refusal, Rights of First Offer
    1. Who benefits?
    2. Timing/parameters controlling right

3. Affirmative coverage over expired rights
- vi. Leases
  1. Memo or Full Lease
  2. Ability to Obtain full lease
  3. Seller Affidavit Important for Removal
  4. Purchase Rights, ROFR, ROFO, Options to Extend
    - a. Contact information of Holder for waiver
    - b. Contact information of Grantor
    - c. Exercise Date of Option
    - d. Is option assignable?
  5. Lease type-Ground, Parking, Tenancy
  6. Rent
- vii. Mortgages
  1. What is the collateral?
  2. Who is mortgagor?
  3. Terms of financing
- viii. Missing/Illegible/Unavailable Documents
  1. Best Copies
  2. Highway maps
  3. Utility plans
- j. Legal Description
  - i. Does it match vesting deed? Missing property.
  - ii. Scrivener's errors
  - iii. Can you determine location on survey?
  - iv. Should a surveyor's legal description be insured?
  - v. Less and Except parcels
  - vi. Appurtenant Easements/REA's
- k. Endorsements
  - i. Provide free or nominal cost endorsements
  - ii. Negotiation for others
  - iii. What is useful to client?
  - iv. Are there any issues that require endorsement coverage?
  - v. Blanket easements
- l. Affirmative Insurance Requests
  - i. Minor encroachments
  - ii. Setbacks
  - iii. Expired ROFO's/ROFR's/Purchase Options