

Glossary of Terms

A

Abstract - A history of all transactions shown in the public records of each county affecting a particular tract of land.

Adjustable Rate Mortgage (ARM) - Mortgage loans under which the interest rate is periodically adjusted, in accordance with some market indicator, to more closely coincide with the current rates. The extent and number of these adjustments are agreed to at the inception of the loan.

Affidavit - A written statement made under oath before a notary public or other judicial officer.

Agreement - A legally binding contract made between two or more persons.

ALTA (American Land Title Association) - The trade association of the title insurance industry, which has adopted certain insurance policy forms to standardize coverage on a national bases.

Amortization - Payment to reduce the principal of a debt in regular, periodic installments.

Amortization Schedule - A schedule showing the principal and interest payments throughout the life of the loan.

Appraisal - A report from an independent third party detailing the estimated value of real estate.

Appraised Value – An opinion of the value of a property at a given time based on facts regarding the location, improvements, etc. of the property and . . .surroundings.

Assessment - (1) The valuation of real estate for purposes of taxes or special improvement charges. (2) The amount of taxes or special improvement charges. Special improvement charges are usually for the costs of streets, sidewalks, sewers, etc.

Assignment - (1) The act of transferring an interest, such as a loan secured by a mortgage, from one person to another. (2) The instrument or paper by which one person transfers such ownership to another.

Assumption Transfer Fee – A fee assessed by the lender to the buyer to assume the present loan.

B

Balloon Note - A form of promissory note that calls for the minimum payment of principal and the payment of interest at regular intervals. This type of note requires a substantial final payment. This type of note requires a substantial final payment, which represents the entire

principal.

Bankruptcy - A proceeding in U.S. District Court wherein assets of an insolvent debtor are protected and distributed in an equitable manner.

Binder - Sometimes called "preliminary certificate" or "commitment." (1) A preliminary report as to the condition of a title and a commitment to issue a title insurance policy in a certain manner when certain conditions are met. (2) A deposit in escrow of a small part of the purchase price of real estate as evidence of good faith and to bind an agreement to purchase.

C

Chain - In real estate measurements (surveying), a chain is 66 feet long or 100 links, each link being 7.92 inches. The measurement may change when used in field other than surveying.

Chain of Title - The successive ownerships or transfers in the history of title to a tract of land.

Claim - An adverse right or interest asserted by one part against another or against an insurer or indemnitor. Claims may arise from unpaid debts or taxes, as well as from hidden title defects such as fraud, forgery, missing heirs, etc.

Clear Title - Real property ownership free of liens, defects, encumbrances or claims.

Closing - Also called "settlement." A meeting of all parties involved in a property transaction during which the transaction is consummated.

Clouded Title - An irregularity, possible claim or encumbrance that, if valid, would adversely affect or impair the title.

Commitment - Also called "binder". A document issued by a title insurance company that contains the conditions under which a policy of title insurance will be issued.

Condemnation - (1) The taking of private property for a public purpose, with compensation to the owner under the right of eminent domain. Governmental units Railroads and utility companies have the right to condemn and take private property. (2) The destruction by government of private property that imperils the life, health or safety of the public.

Conventional Loan - A loan secured by a mortgage or deed of trust for which the loan-to-value ratio is within an acceptable range for a particular lending institution.

Conveyance - The transfer of title to property from one person to another.

Covenant - A formal agreement or contract between two parties in which one party gives the other certain promises and assurances, such as covenants of warranty in a warranty deed.

Credit Report - A report on the past ability of a loan applicant to pay installment payments.

D

Dedication - The setting aside of certain land by the owner and declaring it to be for public use. Example: streets, sidewalks and parks.

Deed - A document through which a conveyance of property is affected.

Deed Restriction - A covenant contained in a deed imposing limits on the use or occupancy of the real estate or the type, size, purpose or location of improvements to be constructed on it.

Defect - A blemish, imperfection or deficiency. A defective title is one that is irregular and faulty.

Depreciation - Loss in value occasioned by ordinary wear and tear, destructive action of the elements, or functional or economic obsolescence.

Devise - A gift of real estate made by a will.

Document Preparation - A fee charged by an attorney for preparation of legal documents for the transaction.

Dominant Estate - The property for the benefit of which a right-of-way easement exists across another's adjoining piece of land is said to be the dominant estate. The land across which the easement runs is said to be the servient estate.

Dower - A right that a wife has in her husband's property at the time of his death.

E

Earnest Money - A deposit of funds by the purchaser of a piece of real estate as evidence of good faith.

Easement - A right to use all or part of the land owned by another for a specific purpose. An easement may, for example, entitle its holder to install and maintain sewer or utility lines.

Eminent Domain - The right of a government to take privately owned property for public purposes under condemnation proceedings subject to payment of its fair market value.

Encroachment - Any building, improvement or structure located on one property (such as a wall, fence or driveway) that intrudes upon the property of another.

Encumbrance - Any interest, right, lien or liability attached to a parcel of land (such as unpaid taxes or an unsatisfied mortgage) that constitutes or represents a burden or charge upon the property.

Equity - The market value of real property, less the amount of existing liens.

Escheat - The reversion of property to the state when an owner dies leaving no legal heirs, devisees or claimants.

Escrow - A method of closing a real estate transaction in which all required documents and

funds are placed with a third party for processing and disbursement.

Escrow Fee - A fee charged by the title company to service the transaction, to escrow monies, and to cover documents. The amount varies by company, usually split between buyer and seller.

Escrow/Impound Account - Funds held by the lender for payment of taxes and insurance when due. Usually does not include maintenance fees.

Estoppels - A legal restraint that stops or prevents a person from contradicting or reneging on his previous position or previous assertions or commitments.

Examination - The study of the instruments incident to a chain of title to determine their effect and condition in order to reach a conclusion as to the status of the title.

Exception - A provision in a title insurance binder or policy that excludes liability for a specific title defect or an outstanding lien or encumbrance.

Execute - To sign a legal instrument. A deed is said to be executed when it is signed, sealed, witnessed and delivered.

F

Fannie Mae (FNMA) - Federal National Mortgage Association. A private corporation dealing in the purchase of first mortgages.

Fee Simple Deed - The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power of disposition.

FHA (Federal Housing Administration) - A federal agency that insures first mortgages, enabling lenders to lend a very high percentage of the sale price.

Fixed Rate Mortgage - A mortgage having a rate of interest that remains the same for the life of the mortgage.

Fixtures - Personal property that is attached to real property and is legally treated as real property while it is so attached. Examples: medicine cabinets, window blinds and chandeliers.

Foreclosure - A legal proceeding in which real estate secured by a mortgage or deed of trust is sold to satisfy the underlying debt.

Forgery - The fraudulent signing of another's name to an instrument such as a deed, mortgage or check.

Freddie Mac (FHLMC) - Federal Home Loan Mortgage Corporation. A federal agency that purchases both conventional and federally insured first mortgages from members of the Federal Reserve System and the Federal Home Loan Bank System.

G

General File Number (GF Number) - and internal filing number which is assigned by title companies to individual real estate transactions.

Ginnie Mae (GNMA) – Government National Mortgage Association. A federal association working with the FHA that offers special assistance in obtaining mortgages and purchases mortgages in the secondary market.

Grant - To bestow or confer, with or without compensation, a gift such as land or money by one having control or authority over the gift.

Grantee - One to whom a grant is made.

Grantor - One who makes a grant.

H

HAR - Harris County Association of Realtors.

Hereditaments - Any and all kinds of estates, interest and rights in real estate that can be inherited.

Homeowners Insurance - Protects the property and contents in case of loss; must be at least the loan amount of for 80% of the value of improvements, whichever is greater. Protects against loss caused by fire, some natural causes, vandalism, etc., depending on the terms of the policy. Also includes coverage such a personal liability and theft away from home.

HUD (Department of Housing and Urban Development) - The federal department responsible for the major housing programs in the United States .

I

Index - (1) An alphabetical listing in the public records of the names of parties to recorded real estate instruments together with the book and page number of the record. (2) The listing in abstract and title plants of recorded real estate instruments in groups according to land descriptions, known as a geographic index. (3) The alphabetical listing in abstract and title plants, by names of the parties, of all recorded instruments that affect but do not describe particular real estate, such as judgments, powers of attorney, wills and probate proceedings. Such indexes are known by various names, such as “general index,” “judgment index” and “name index.”

Instrument - Any written document having a legal effect.

Interest- Rate charged for the use of loan funds. Always paid in arrears.

J

Judgment - The determination of a court regarding the rights of parties in an action. A judgment of debt on a property owner can create a lien on all of that owner's land within a certain jurisdiction.

Junior Mortgage - A mortgage lower in lien priority than another

L

Leasehold - The right to possession and use of land for a fixed period of time. The lease is the agreement that creates the right.

Lessee - A tenant holding leasehold.

Lessor - A landlord, one who gives leasehold to a lessee.

License - Permission to go upon or use the land of another, the permission being a personal privilege and not constituting an interest in the land.

Lien - A monetary charge imposed on a property, usually arising from some debt or obligation.

Lien Waiver - Also called "waiver of liens." A waiver of mechanics' lien rights, signed by contractors or subcontractors.

Link - In surveying, a length of 7.92 inches.

Loan Policy - Also called "mortgage policy." A title insurance policy insuring a mortgagee, or beneficiary under a deed of trust, against loss caused by invalidity or unenforceability of a lien, or loss of priority of the mortgage or deed of trust.

Lis Pendens - A legal notice intending to bind third parties of litigation claiming an interest in real estate.

Loan Application Fee – Paid to the lender at time of application; check with lender for amount.

Loan Discount – The points a lender charges; may be paid by either buyer or seller on conventional loans; number of points fluctuates with mortgage money market.

Lot - Generally, any portion or parcel of real property. Usually refers to a portion of a subdivision.

M

Market Value - The average of the highest price that a buyer, willing but not compelled to buy,

would pay and the lowest price a seller, willing but not compelled to sell, would accept.

Mechanic's Lien - A lien on real estate, created by operation of law, which secures the payment of debts due to persons who perform labor or services or furnish materials incident to the construction of buildings and improvements on the real estate.

Metes and Bounds - A land description in which boundaries are described by courses, directions, distances and monuments.

Mortgage - A conditional pledge of property to a creditor as security for the payment of a debt.

Mortgage Insurance - Insurance written by an independent mortgage insurance company protecting the mortgage lender against loss incurred by a mortgage default, thus enabling the lender to lend a higher percentage of the sale price.

Mortgagee - The holder of a mortgage. The party to whom a mortgage is made, generally the lender.

Mortgagee Policy – See Loan Policy.

Mortgagee's Title Policy – Required by the lender to insure that the lender has a valid lien; does not protect the buyer.

Mortgagor - A person who mortgages property. A person who executes a mortgage, generally the property owner.

Multiple Listing - The pooling in a central bureau of listings of properties for sale. These listings are held individually by members of a group of real estate brokers, with the agreement that any member of the group may sell the properties and, in the case of a sale, the commission will be divided between the broker making the sale and the broker who filed the listing.

N

Note - Also called "promissory note." A written promise to pay a sum of money, usually at a specified interest rate, at a stated time to a named payee.

O

Origination Fee - A fee the buyer pays the lender to originate a new loan.

Owner's Policy - A policy of title insurance insuring an owner of real estate against loss occasioned by defects in, liens against, or unmarketability of the owner's title.

Owner's Title Policy – Insures that the buyer has title to the property.

P

Plat - Also called "plat map." A map dividing a parcel of land into lots, as in a subdivision. A plat book contains the plat maps for a given area.

Point - Also called "commission points" or "discounted points." One percent of the amount of the loan.

Premium - The amount payable for an insurance policy.

Prepayment Penalty – Charged by the lender for premature payment of a loan balance.

Principal - (1) A sum of money owed as a debt on which interest is payable. (2) A person who empowers another to act as his representative or agent. (3) The person having prime responsibility for an obligation as distinguished from one who acts as a surety or endorser.

Private Mortgage Insurance - Insurance against a loss by a lender (mortgagee) in the event of default by a borrower (mortgagor).

Purchase Money Mortgage - A mortgage given by a purchaser to a seller on the subject property to secure payment of a part of the purchase price.

Q

Quit Claim Deed - A deed that does not imply that the grantor holds title, but that surrenders and gives to the grantee any possible interest or rights that the grantor may have in the property.

R

Real Estate - Also called "real property." (1) Land and anything permanently affixed to the land, such as buildings, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other such items that would be personal property if not attached. (2) May refer to rights in real property as well as the property itself.

Realtor Fees - An amount paid to the realtor as compensation for his/her services.

Recording - The noting in a public office of the details of a legal document - such as a deed or mortgage - affecting the title to real estate. When such an instrument is properly recorded, it is considered to be a matter of public record. Legally, that means that all subsequent purchasers are deemed to have constructive knowledge of the information.

Recording Fees - Charged by the County Clerk to record documents in the public record.

Reinsurance - A contractual relationship between two insurance companies under which one

insurer assumes a portion of the risk of the insurance policy written by the other.

Release - (1) To relieve from debt or security or abandon a right, such as the release of a mortgage lien from a part or all of the land mortgaged. (2) The instrument effecting a release.

Restrictions - Certified copy of deed restrictions required by lender. A set of limitations on the use of property imposed or created by deeds or other documents in the chain of title. A restriction, for example, may prohibit the placement of a trailer or the construction of a commercial structure on the property.

Riparian Rights - The rights of owners of land bordering watercourses which relate to the water and its use.

S

Sales Agreement - A contract entered into between a buyer and seller, setting forth the terms, provisions and conditions of a sale of real estate.

Sale and Leaseback - The sale of an asset to a buyer who immediately leases it back to the seller.

Search - The careful exploration and perusal of the public records in an effort to find all recorded instruments relating to a particular chain of title.

Second Mortgage - A mortgage ranking in priority immediately below a first mortgage.

Subordination - The actor or process by which a person's rights are ranked below the rights of others. For example, a second mortgagee's rights are subordinate to those of the first mortgage.

Surety - (1) A person who agrees to be responsible for a debt or obligation of another. (2) The pledge or agreement by which one undertakes responsibility for the debt or obligation of another.

Survey - Confirms lot size and any encroachments or restriction violations.

T

Tax Proration - Seller pays buyer taxes from January 1 to the date of closing.

Tax Certificates - Certificates issued by taxing authorities showing the current year's taxes, the last year the taxes were paid, and any delinquencies, to be collected from seller at closing.

Title - (1) A combination of all the elements that constitute the highest legal right to own, possess, use, control, enjoy and dispose of real estate or an inheritable right or interest therein. (2) The rights of ownership recognized and protected by the law.

Title Covenants - Covenants ordinarily inserted in conveyances and in transfers of title to real

estate for the purpose of giving protection to the purchaser against possible insufficiency of the title received. A group of such covenants known as “common law covenants” includes: covenants against encumbrances; covenants for further assurance (in other words, to do whatever is necessary to rectify title deficiencies); covenants of good right and authority to convey; covenants of quiet enjoyment; covenants of seisin; covenants of warranty. (See Warranty or Covenant.)

Title Defect - (1) Any possible or patent claim or right outstanding in a chain of title that is adverse to the claim of ownership. (2) Any material irregularity in the execution or effect of an instrument in the chain of title.

Title Insurance Policy - A guaranty of title insurance under which the insurer, in keeping with the terms of the policy, agrees to indemnify the insured against loss arising from claims against the insured interest.

Title Plant - Also called “abstract plant” in some areas. A geographically filed assemblage of title information that helps in expediting title examinations, such as copies of previous attorneys’ opinions, abstracts, tax searches and copies or take-offs of the public records.

TLTA - Texas Land Title Association, a statewide association representing the title insurance industry in Texas. Founding in 1908 and serving a membership of over 2,500, TLTA provides regulatory and legislative advocacy, continuing education and up-to-date information in keeping with their mission to enhance and protect the title industry.

U

Underwriter - An insurance company that issues insurance policies to the public or to another insurer.

V

Variable Interest Rate - Also called “flexible interest rate.” An interest rate that fluctuates as the prevailing rate moves up or down. In mortgages, there are usually maximums as to the frequency and amount of fluctuations.

Veterans Administration (VA) Loans - Housing loans to veterans by banks, savings and loans, or other lenders that are guaranteed by the Veterans Administration, enabling veterans to buy a residence with little or no down payment.

W

Waiver - The voluntary and intentional relinquishment of a known right, claim or privilege.

Warranty - In a broad sense, an agreement or undertaking by a seller to be responsible for present or future losses of the purchaser occasioned by deficiency or defect in the quality, condition or quantity of the thing sold. In a stricter sense, the provision or provisions in a deed,

lease or other instrument conveying or transferring an estate or interest in real estate under which the seller becomes liable to the purchaser for defects in or encumbrances on the title. (See Title Conventions.)

Will - A testamentary disposition of property, usually in a form prescribed by law, that takes effect upon death.

Z

Zoning - Laws passed by local governments regulating the size, type, structure, nature and use of land or buildings.