

Understanding Preliminary Title Reports

After months of searching, you've finally found it, your perfect dream home. But is it perfect? Will you be purchasing more than just a beautiful home? Will you also be acquiring liens placed on the property by prior owners? Have documents been recorded that will restrict your use of the property?

The Preliminary Title Report will provide you with the opportunity, prior to purchase, to review matters affecting your property which will be excluded from coverage under your title insurance policy unless removed or eliminated before your purchase.

To help you better understand this often bewildering subject, we have answered some of the questions most commonly asked about Preliminary Title Reports.

What is a Preliminary Title Report?

A Preliminary Title Report (also referred to as a Prelim or PR) is a report prepared prior to issuing a policy of title insurance. It shows the ownership of a specific parcel of land, together with the liens and encumbrances thereon which will not be covered under a subsequent title insurance policy. You'll receive a copy of the report upon completion of the title search.

What role does a Preliminary Title Report play in the real estate process?

A Preliminary Title Report contains the conditions under which the title company will issue a particular type of title insurance policy. The Preliminary Title Report lists, in advance of purchase, 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 Title Report. The report may then be reviewed and discussed by the parties to a real estate transaction and their agents.

Thus, a Preliminary Title Report provides the opportunity to seek the removal of items referenced in the report which are objectionable to the buyer prior to purchase.

When and how is the Preliminary Title Report produced?

Shortly after escrow is opened, an order will be placed with the title company which will then begin the process involved in producing the report. This process calls for the assembly and review of certain recorded matters relative to both the property and the parties to the transaction. Examples of recorded matters include a deed of trust recorded against the property or a lien recorded against the buyer or seller for an unpaid court award or unpaid taxes.

These recorded matters are listed numerically as "exceptions" in the Preliminary Title Report. They will remain exceptions from title insurance coverage unless eliminated or released prior to the transfer of title.

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What should I look for when reading my Preliminary Title Report?

You will be interested, primarily, in the extent of your ownership rights. This means that you will want to review the ownership interest in the property you will be buying, as well as any claims, CC&Rs (Covenants, Conditions & Restrictions), or interests of other people involving the property. The report will note, in a statement of vesting, the degree, quantity, nature, and extent of the owner's interest in the real 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 Title Report. Among other things, these may be claims by creditors who have liens or liens for payment of taxes or assessments. There may also be recorded restrictions that have been placed in a prior deed or contained in what are termed the CC&Rs.

In addition to the limitations noted above, 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 Preliminary Title Report. Unlike the numbered exclusions, which are specific to the property you are buying, these are standard exceptions and exclusions appearing in all title insurance policies of the type anticipated by the Preliminary Title Report. The review of this section is important, as it sets forth matters which will not be covered under your title insurance policy, but which you may wish to investigate, such as governmental laws or regulations regarding building and zoning.

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

No. It is important to note that the Preliminary Title 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 merely report the current ownership and matters that the title company will exclude from coverage if a title insurance policy should later be issued.

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

Definitely not. A Preliminary Title Report is an offer to insure, it is not a report of a complete history of recorded documents relating to the property. A Preliminary Title 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.

These distinctions are important for the following reasons: first, no contract or liability exists until the title insurance policy is issued; second, the title insurance policy is issued to a particular insured person and others cannot claim the benefit of the policy.

How do I go about clearing unwanted liens and encumbrances?

You will want to carefully review the Preliminary Title Report. Should the title to the property be clouded, you, your escrow company and your agents will work with the seller and the seller's agents to clear the unwanted liens and encumbrances prior to taking title.

Who can I turn to for further information regarding Preliminary Title Reports?

Your real estate agent and/or your attorney can help explain the Preliminary Title Report to you. Your escrow and title company can also be helpful sources.

In conclusion, in a business which is directed at risk elimination, the efforts leading to the production of the Preliminary Title Report, which is designed to facilitate the issuance of a policy of title insurance, is perhaps the most important function undertaken.

Please be aware:

When selling a home in California, please note that the California Residential Purchase Agreement and Joint Escrow instructions (CAR Form RPA-CA revised 4/2010) states that a seller must give escrow the completed Statement of Information (SI) within 7 days of the acceptance of the agreement. Getting the SI in early helps to eliminate or clear items that can potentially cause a delay in closing the transaction.

Please call your Progressive Title Sales Representative for more information.