

As of June 12, 2017

Where coverage is provided, title insurance can eliminate the need for certain off-title searches. This results in significant savings to the client, which often outweighs the cost of the title insurance premium. In order to maximize the cost savings, please refer to this list when the transaction is initiated. Please note this information was compiled based on general practices in most jurisdictions. For further information please contact Stewart Title.

### **Title Search Requirements**

**Registry Properties:** A full 40-year search is required including compliance with the Planning Act. Where applicable, the search should include a review of abutting legal descriptions to determine if there are any descriptive inconsistencies resulting in a gap or overlap of legal descriptions.

**Land Titles Absolute:** Not required to search behind the parcel abstract. However for documents that appear on the parcel register or for which the property is “subject to” we request that you review those documents. Abutting land searches should be done for the current owner as listed in the abstract when you are dealing with a property where the search would normally be required for ascertaining compliance with the Planning Act. **NOTE: Your search must contain deleted instruments.**

**Land Titles Conversion Qualified (LTCQ):** Not required to search behind the parcel abstract. However, for documents that have been carried forward and appear on the parcel register or for which the property is “subject to” we request that you review those documents. Abutting land searches should be done for the current owner as listed in the abstract when you are dealing with a property where the search would normally be required for ascertaining compliance with the Planning Act. **NOTE: Your search must contain deleted instruments.**

**Refinance Transactions** – either Registry or Land Titles: Only a sub-search from the last arm’s length deed is required (including a review of the LTT affidavit for assumed mortgages). The sub-search may be conducted up to 10 business days prior to the registration of the mortgage without the need to conduct a further search. A verbal inquiry of the borrower must be conducted to determine if they have an interest in an abutting property. **NOTE: For Land Titles transactions your search must contain deleted instruments.**

### **Not Required off Title Searches**

The following searches are **not required** when acting on the purchase of a residential property of up to six units:

- (1) **Executions** against anyone other than the current vendor(s) and the purchaser(s)/mortgagor(s), if a mortgage is being insured. Similar or same name executions may be underwritten on a case-by-case basis. For both purchase and refinance transactions, the execution search may be conducted up to 10 business days prior to closing without the need to conduct a further execution search on closing.
- (2) **Water, Hydro and Gas Certificates/Arrears.** Verbal confirmation is sufficient. If a verbal confirmation is not available these searches are waived. **NOTE: Coverage is provided to the extent the arrears form a lien.**
- (3) **Municipal Realty Tax Certificate.** Verbal confirmation, a receipted tax bill or reference in a vendor’s Statutory Declaration is sufficient, however, if none of the foregoing can be obtained, we will waive these requirements.
- (4) **Corporate Profile/Corporate Status Reports.**
- (5) **Subdivision and Development Agreement Compliance.**
- (6) **Building and Zoning Compliance** – No search is required for single-family residential dwellings. No search is required for refinance transactions. A building and zoning search is required for transactions for 2 to 6 residential units (including properties where the second unit is a basement apartment or a boathouse with living accommodation), where an owner policy is being obtained and coverage for building and zoning matters is requested for the owner. Additionally, if your property is located in a municipality where two unit properties must be registered, you must determine if your units are properly registered. For transactions for 2 to 6 residential units where only a lender policy is being obtained, or where the owner does not want coverage for building and zoning matters (contact an underwriter for an exception clause for the owner), the search is not required. For properties

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located in the Greater Sudbury Area, please contact an underwriter with respect to Building and Zoning search guidelines.

- (7) **Unregistered Hydro Easements**, unless the facts known to you suggest the existence of an easement, for example by indication on a survey or by the existence of hydro transmission towers or boxes visible on the property.
- (8) **Fire Department Work Orders**. No search is required for single-family residential dwellings. No search is required for refinance transactions. This search is required for transactions of 2 to 6 residential units (including properties where the second unit is a basement apartment or a boathouse with living accommodation), where an owner policy is being obtained and coverage for the owner is requested. For transactions of 2 to 6 residential units where only a lender policy is being obtained, or where the owner does not want coverage for fire department work orders (contact an underwriter for an exception clause for the owner), the search is not required.
- (9) **Septic File Searches**. Our Septic Endorsement is designed to protect the insured regarding the status of the septic system to the extent that a lawyer could do so if the usual septic file search was performed and reviewed. What should be made clear is that neither the policy nor a solicitor's opinion will guaranty that the system is working (it is not a warranty of fitness or quality). Similarly, the coverage does not include protection against defects that would be revealed by a current inspection of the system. It is also worth recognizing that the septic inquiry may provide information which may nonetheless be useful or important to the client. Examples of such issues would include the age of the system or the location of the system on the property. Thus, notwithstanding the comprehensiveness of the Septic Endorsement, it may still be prudent and courteous practice to advise clients of the additional option of ordering a septic inquiry.
- (10) **Conservation Authority**, unless you are aware or strongly suspect that the property is subject to conservation authority jurisdiction.
- (11) **Niagara Escarpment Planning and Development Act** for properties in the Niagara Escarpment, unless you are aware or strongly suspect that the property is subject to the **Niagara Escarpment Planning and Development Act** jurisdiction (Ontario Only).
- (12) **Refinance Transactions**: On residential refinancing situations, an Estoppel Certificate/Status Certificate is not required for Condominium transactions. The execution search and sub-search of title may be conducted up to 10 business days prior to the registration of the mortgage without the need to conduct a further execution search or sub-search. For tax status, verbal confirmation, a receipted tax bill or reference in a Statutory Declaration from the Borrower is sufficient, however, if none of the foregoing can be obtained, we will waive these requirements. No building and zoning search is required.

### Required Off Title Searches

The following searches **are required** as responses received may reflect issues not covered under the policies:

- (1) **Estoppel Certificate/Status Certificate** for Condominiums, *except* for residential refinance transactions. A Status Certificate dated up to 30 days prior to closing is satisfactory and no update is required. For Status Certificates dated 31 – 60 days before closing, an attempt must be made to obtain a verbal update. If a verbal update is not available, we will waive this requirement. For Status Certificates dated 61 - 90 days before closing, a verbal update is required. If a verbal update is not provided, a new Status Certificate should be obtained. For Status Certificates dated greater than 90 days before closing, a new Status Certificate is required.
- (2) **Building and Zoning Compliance** – A building and zoning search is required for transactions of 2 to 6 residential units (including properties where the second unit is a basement apartment or a boathouse with living accommodation), where an owner policy is being obtained and coverage for building and zoning matters is requested for the owner. Additionally, if your property is located in a municipality where two unit properties must be registered, you must determine if your units are properly registered. For transactions of 2 to 6 residential units where only a lender policy is being obtained, or where the owner does not want coverage for building and zoning matters (contact an underwriter for an exception clause for the owner), these searches are not required. No search is required for single-family residential dwellings. No search is required for refinance transactions. For

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properties located in the Greater Sudbury Area, please contact an underwriter with respect to Building and Zoning search guidelines.

- (3) **Fire Department Work Orders.** This search is required for transactions of 2 to 6 residential units (including properties where the second unit is basement apartment or a boathouse with living accommodation), where an owner policy is being obtained and coverage for the owner is requested. For transactions of 2 to 6 residential units where only a lender policy is being obtained, or where the owner does not want coverage for fire department work orders (contact an underwriter for an exception clause for the owner), the search is not required. No search is required for single-family residential dwellings. No search is required for refinance transactions.
- (4) **Mining Land Tax Search** with the Ministry of Northern Development & Mines (Ontario) – for applicable properties only.

#### **Additional Considerations Falling outside the Scope of Stewart Title Coverage**

- (1) **Environmental Clearance** – Any concerns about soil or contamination or toxic pollutants on the property should be addressed by obtaining an environmental audit. Such certification is not usually included in a traditional solicitor's opinion.
- (2) **Residential Tenancies Act, 2006 (Ontario)** – Landlord liability for illegal rent increases or other claims arising from residential tenancy legislation are not matters covered by title insurance. Where tenanted properties are concerned, you may want to seek the usual comforts in the form of landlord warranties, tenant acknowledgments and/or a search with the local rent authority.
- (3) **Fire Retrofit Issues** – In the cases of tenanted and multi-unit properties, while title insurance does cover the usual work orders and zoning related matters, it does not cover fire retrofit issues such as the sufficiency of smoke alarms or fire barriers, unless they form work orders or are zoning deficiencies which would have been revealed by a regular building and zoning search conducted prior to closing. This is consistent with the principle that title insurance is not a warranty regarding quality or fitness for purpose, but rather a protection regarding matters which can be disclosed by a local authority search.
- (4) **Water Potability and Quantity** – If the property is serviced by a well, a solicitor should seek the usual protections to ensure marketability and safety, including confirmation of a water potability certificate (preferably more than one) and a well driller's certificate (if available).
- (5) **PPSA Re: Chattels** – Title insurance covers land, not chattels. When significant chattels are included in a purchase or when a transaction involves the likes of a mobile home, consideration should be given to PPSA search and registration.
- (6) **Underground Fuel Oil Tanks** – In the event there is an underground fuel oil tank on the property, a solicitor should contact the Technical Safety and Standards Association to determine the tank's registration status for fuel delivery purposes and its compliance with removal, upgrading, and inspection requirements.
- (7) **Ministry of Natural Resources Boathouse Leases (Ontario)** – The Ministry of Natural Resources may require that certain boathouses located on Crown Land, including the beds of most waters, must enter into a lease with the Crown and pay rent in order for the boathouse to remain.

**IMPORTANT NOTE:** It is a requirement of Stewart Title that you obtain Canadian Federal or Provincial Government issued PHOTO ID for all clients, that you review and confirm the validity to the best of your ability, and that you keep a legible photocopy in your file. Due to the ease in which Citizenship Cards may be forged, if you are relying on such a card, we ask that you obtain a second piece of ID that has a name and signature. We will not insure a transaction for which Canadian Federal or Provincial Government issued PHOTO ID is not obtained. If you are unable to obtain Canadian Federal or Provincial Government issued PHOTO ID please contact a Stewart Title underwriter PRIOR to closing.