

December 9, 2024

TITLE SEARCH REQUIREMENTS

For all purchase and refinance transactions, a current search of Title must be conducted at the time of order. Additionally, a search must be performed on the closing date and any new registrations reported to Stewart Title prior to closing.

For properties in BC and Alberta, your Title search must include pending registrations and pending applications. Simply checking when the last change of title was registered is not sufficient, as this will not reveal any charges that are pending registration.

GAP COVERAGE

Gap coverage is provided in all Stewart Title commercial owner and lender policies. In addition, Stewart Title offers a commercial Gap Policy (available for both owners and lenders) that provides coverage for gap only.

Gap coverage in both forms of policy insures against loss or damage arising from intervening registrations that arise between the date of closing and the date of registration of the instrument giving rise to the insured interest (i.e. transfer or mortgage).

Please contact a Stewart Title underwriter for details of both Stewart Title's commercial policy and gap only policy.

SURVEY REQUIREMENTS

For Owner:

An up-to-date survey is *not* required to obtain a survey endorsement for:

- developed properties up to \$25 million;
- vacant land, or properties under construction, up to \$12 million.

For all other thresholds, an up-to-date survey is required to obtain a survey endorsement; however, survey coverage may be negotiated in the event that a suitable survey is available and the vendor(s)/mortgagor(s) is willing to provide a suitable statutory declaration confirming that there have been no improvements to the subject property, up to the Policy Date.

For Lender:

For all Commercial Transactions: An up-to-date survey is *not* required to obtain the survey coverage found in the commercial lender policy jacket.

OFF-TITLE SEARCH REQUIREMENTS

(1) **Judgment Registry Search (Saskatchewan)** is required against the current vendor(s) and if a mortgage is being insured, against the purchaser(s)/mortgagor(s).

(2) **Public Utility Certificates/Arrears**

For Owner: For transactions up to \$25 million, no public utility certificate is required, provided you are able to obtain one of the following: (i) a receipted utility bill, (ii) confirmation that utilities are paid to closing in a vendor's statutory declaration, or (iii) verbal confirmation from the relevant department/agency that utilities are paid in full to date. Public utility certificates are required on transactions over \$25 million.

For Lender: Regardless of the mortgage amount, no public utility certificate is required, provided you are able to obtain one of the following: (i) a receipted utility bill, (ii) confirmation that utilities are paid to closing in a vendor's/mortgagor's statutory declaration, or (iii) verbal confirmation from the relevant department/agency that utilities are paid in full to date.

NOTE: Coverage is provided to the extent the arrears form a lien.

(3) **Municipal Realty Tax Certificate**

For Owner: For transactions up to \$25 million, no tax certificate is required, provided you are able to obtain one of the following: (i) a receipted tax bill, (ii) confirmation that taxes are paid to closing in a vendor's statutory declaration, or (iii) verbal confirmation from the municipality that taxes are paid in full to date. Tax certificates are required on transactions over \$25 million.

For Lender: Regardless of the mortgage amount, no tax certificate is required, provided you are able to obtain one of the following: (i) a receipted tax bill, (ii) confirmation that taxes are paid to closing in a vendor's/mortgagor's statutory declaration, or (iii) verbal confirmation from the municipality that taxes are paid in full to date.

(4) **Corporate Profile Report or Certificate of Status** is required against the vendor(s), and the purchaser(s)/mortgagor(s). They are not required against prior corporate owners.

(5) **Zoning Compliance**

For Owner: A zoning search is not required in order to obtain a zoning endorsement if the purchase price is up to \$25 million.

For Lender: A zoning search is not required in order to obtain a zoning endorsement for lender policies up to \$50 million*.

NOTE: The policy will insure that the land will be permitted to continue its present use. If the land is vacant or if a change of use is contemplated, the client or solicitor may wish to confirm that zoning corresponds with future plans for development/improvements. For construction loans, Stewart Title will require sufficient confirmation that the intended use is permitted.

(6) **Work Orders**

For Owner: No coverage is provided for this matter.

For Lender: No work order search is required in order to obtain our *governmental and quasi-governmental (excluding environmental)* work order endorsement coverage for lender policies up to \$50 million*.

(7) **Estoppel Certificates/Status Certificates/Form B/F Certificate** this search is required for all condominium transactions except for condominium/strata property refinances up to \$50 million. **NOTE: For Alberta only** – the estoppel certificate may be obtained up to 120 days after closing provided appropriate undertakings are obtained prior to closing, requiring payment of any amounts owing by the seller of condominium fees and special assessments that are disclosed on the estoppel certificate.

(8) **Subdivision and Development Agreement Compliance**

For Owner: This search is not required for owner policies up to \$25 million *unless the property is currently under construction or construction is intended post-closing*, in which case this search should be completed regardless of the policy amount. For all transactions over \$25 million, this search is required.

For Lender: No search is required for lender policies up to \$50 million*. Where the loan is for the purpose of funding construction, this search is required for loans over \$10 million.

(9) **Fire Department Compliance**

No file search is required for lender policies up to \$50 million*. For all owner policies, no coverage is provided for this matter.

*Where searches are waived for lenders between \$25 million and \$50 million in paragraphs 5, 6, 8, and 9 above, a suitable statutory declaration from the vendor (purchase mortgage transaction) or borrower (refinance) must be obtained where the LTV is greater than 75%. Please contact Stewart Title to obtain a sample declaration.

NOTE: Where a policy includes a Government Response Endorsement, coverage may be provided for losses resulting from incorrectness in a written statement received, prior to or at the date of policy, with respect to the off-title governmental inquiries listed in the endorsement. Please see the endorsement for full details.

ITEMS NOT COVERED BY COMMERCIAL POLICIES

Please Note: **Existing Owner and Existing Lender Policies** are **not available** for Commercial Properties

The following searches may reveal title or other defects which are of relevance to your client and are NOT covered by commercial title insurance policies:

- (1) Conservation Authority (except as may be available in a Government Response Endorsement)
- (2) Environmental Matters
- (3) Residential Tenancy/Legality of Rents
- (4) Water Potability and Quantity
- (5) Safety Codes Council
- (6) PPSA Re: Chattels
- (7) Estoppel Certificate/Status Certificate for Condominium (except as provided in No. 7 above)
- (8) Fire Department Compliance (except as provided in No. 9 above)
- (9) Bank Act Issues
- (10) Bankruptcy Act
- (11) Public Health Department Issues (except as may be available in a Government Response Endorsement)
- (12) Septic System
- (13) Boilers Safety Association
- (14) Work Orders (except as provided in No. 6 above)

Stewart Title Commercial Policies do not provide coverage for the foregoing matters. This list is for guidance only and is not intended to be an exhaustive list of searches that Solicitors should consider. Solicitors should determine if any of the above or other searches are relevant to the subject transaction and if so, which of the above or other searches need to be conducted to adequately protect their client's interests. Please review the actual policy documents for full particulars of coverage.

IMPORTANT NOTE: In addition to your normal corporate due diligence, it is a requirement of Stewart Title that you obtain Canadian/Provincial Government issued PHOTO ID for all private individuals and corporate signing officers for private corporations, that you review and confirm the validity to the best of your ability, and that you keep a legible photocopy in your file. We will not insure a transaction for which acceptable PHOTO ID is not obtained. If you are unable to obtain acceptable PHOTO ID please contact a Stewart Title underwriter PRIOR to closing.

It is imperative that you order your title insurance policy *prior* to the closing date. This ensures all underwriting matters can be considered in the coverage provided for the Insured. Please inform Stewart Title immediately if your deal has been delayed over 30 days.

Email: underwriting.western@stewart.com