



## **Hidden Danger: 7 Unforeseen Title Issues that Could Ruin Your Real Estate Purchase**

Most property buyers do their best to avoid “money pits,” or properties that require too many repairs and renovations before they can be used as intended. While you should be wary of spending money on unexpected repairs—the physical aspect of your property, as it were—did you know that property title issues can also lead to unnecessary expenses? Even seemingly small title issues should be resolved long before the transaction is closed. These potential title issues could cause your purchase to fall through, make you spend additional time and money to resolve legal issues, or even lose your claim to a property you’ve already bought.

### **1. Outstanding Liens**

Before general contractors start working on a property, they often use mechanic’s liens to make sure they get paid. The lien stays on the property’s title until the job is done. If the contractor is properly paid, they should file a “satisfaction” of the lien to have it removed from the property’s title. When the contractor fails to file the satisfaction, or when the lien is contested, it can remain on the property’s title, causing potential problems for owners down the line. Besides mechanic’s liens, many other types of liens can come up in a real estate transaction. Banks and financing companies can place other types of liens on a property in hopes of collecting on unpaid debts, even after someone else has closed on the sale. A property could also have a lien for overdue spousal support, delinquent taxes, and other debts.

### **2. Illegal Ownership**

In some cases, prior deeds cannot be enforced because they were made illegally. Examples may include deeds created by minors, undocumented immigrants, and people who lack the mental capacity to understand the legal implications of a deed. It could also involve spousal fraud, like when one spouse uses the other’s signature to sign a deed without their knowledge. A property’s rightful owners can also be obstructed by past forgeries or fabricated documents. Sometimes property owners can even be impersonated by other people with similar names. When a prior deed comes into question for any of these reasons, it can potentially affect your present ownership of the property. After all, you can’t purchase a property from someone who doesn’t legally own it.

### **3. Filing Errors and Missing Information**

While they don’t seem as shocking as the prospect of a forgery or false impersonation, accidental filing or clerical errors can cause a great deal of trouble for property buyers. Erroneous or missing information could prevent certain public records from showing up in your title search. You need to know about any documents that could potentially affect the title to the property, because anything you miss could come back to bite you. Get an experienced attorney to conduct a title search on your behalf. They know how to seek out potential issues that you are more likely to miss.

#### **4. Boundary Disputes**

You may think you are up to speed on the boundaries of your property, but what happens when you encounter a conflicting survey? If neighbors or other parties have surveys showing different boundaries, they may be able to claim ownership over sections of property that you previously thought were yours. You can head off a legal battle by searching for these differing surveys in advance.

#### **5. Zoning Conflicts and Easements**

When buyers are in the market for commercial real estate, they should understand the zoned status of their prospective property. While sellers should always disclose this information, they may not be aware or they may simply neglect to tell you. Make sure the zoned status matches with the intended use of your property. For instance, do the zoning laws provide for you to build an apartment complex, or do they only allow single-family residences? Similarly, unknown easements could prevent you from using your property in certain ways. They could even allow government agencies, businesses, or other parties to access some or all of your property. Your attorney's due diligence inquiry should include research into both the zoning laws and the easements connected to your property.

#### **6. Undiscovered Wills**

Sometimes a property owner passes away with no evident will or heirs. In these cases, the state may sell the person's assets and property. You might decide to purchase that person's house, becoming its rightful owner (as far as you know). What happens if the deceased owner's will is discovered years later, or a person thought to be missing reappears with a claim to the property? If you find yourself in this situation, your legal claim to the property may be in jeopardy.

#### **7. Forgotten Encumbrances**

When you purchase a property, you may be unknowingly buying a host of issues associated with that property. For instance, does a former mortgage or lien give a third party claim to all or part of your property? Do any non-financial restrictions or covenants limit the ways you can use your property? Even resolved liens could show up in a title search and prevent the sale of a property. This commonly happens when the person who placed the lien forgets to remove it, even once the debt has been paid. When you get professional attorney to perform your title search, they can use the various techniques at their disposal to find potential issues you may not think to look for on your own.

Title issues can occur for a variety of reasons, ranging from a dishonest seller (or even a criminal one) to a human mistake (like a clerical error or forgotten lien). For these reasons and more, your commercial or residential real estate purchase should always be treated with the utmost care. It's critical that you have a competent attorney who can conduct title searches, do your due diligence, and draft your purchase agreements and other contracts. You can always trust Rosen Law with your important real estate transactions. Give us a call at (516) 437-3400 to make use of our intelligent and creative legal solutions. We will take every step to ensure your real estate purchases and sales are successful—and free of any hidden dangers.