



How to Read Your Home's Abstract of Title

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WHAT IS AN ABSTRACT OF TITLE?

Legally defined, an Abstract of Title is a condensed history, taken from public records or documents, of the ownership of a piece of land. It's a collection of legal documents that chronicles the activities associated with a particular parcel of land. In this case, your home. The legal documents and notations include references to:

- Deeds
- Mortgages
- Wills
- Probate Records
- Court Litigations
- Tax Sales

The Abstract of Title will also show:

- The names of all property owners
- How long a particular holder owned it
- The price the land was exchanged for when it changed owners

Rarely will an abstract mention capital improvements to the property (renovations, additions, etc). However, if there are multiple mortgages taken out by a single owner, you can guess that they were using the money to make those improvements. Another telltale sign of significant improvements is a dramatic increase in the sale price, particularly if it is over a short period of time. If this is the case in your abstract, you can check with the City to see if there were any building permits issued on your property, when they were issued and the description of work done.

WHY IS AN ABSTRACT AN IMPORTANT DOCUMENT?

More than just an intriguing historical document, your home's Abstract of Title is a certified, legal document, that states the seller of the property in fact owns the property and has a free-and-clear title (no outstanding debt against which the value of the property would be held). A free-and-clear title has no "clouds" in it, which means that no person or business other than the seller has an interest in, or claim to, the property.

Certification is complex and laborious and conducted by a trained professional who must verify that the abstract is complete, checking for dates and certification numbers, and ensuring that a proper legal description appears with each entry.

The abstractor conducts a credit and finances check on all the names appearing in the abstract to see if any of the parties has filed for bankruptcy or has incurred other debts that may have caused a creditor to file a lien against the property toward the payment of the debt.

An abstractor must refer to many different sources to verify that the title to a parcel of land is true and correct. He or she does this by verifying the original government survey, which should include gaps and overlaps in land ownership. Given improved technology, surveys have a margin of error of less than ONE FOOT! You can see how this kind of precision requires someone who understands the various means of describing the exact boundaries of a piece of land.

CLAIMS

It's important to note that claims on a property are subject to time limitations, but the limitations have certain exceptions. For example, the Forty-Year Law holds that no party with a potential claim that arose more than 40 years before can claim an interest in a property of which one person or business has been the recorded owner for at least 40 years. But some owners hold mortgages or contracts with terms that span more than 40 years and also for prior interests claimed as school or school district lands, parkland



dedications, or the property of religious corporations or associations.

All of this is to say that once

you receive your home's abstract, you can be sure that extensive work has gone into verifying that the property is free and clear of any previous debt, liens or holds.

WHAT TO LOOK FOR

1. Identifying the Land

Every Abstract of Title has to start somewhere and that somewhere is the identification of the land in question. Platted land is land described by lots and blocks. A platted parcel spans a certain number of feet, on a certain lot, within a certain block, within a certain city or county (if parcel is not yet incorporated). Another method of identifying a parcel of land is by "metes and bounds." For metes and bounds land, a parcel is identified by its boundaries according to their terminal points and angles. Platted descriptions are used in urban areas; metes and bounds descriptions are used mostly in rural areas.

2. The Original Entry

The very first entry showing ownership of your property states the time and place that the U.S. Government first conveyed this tract of land to a private individual. The

description follows a progression from small to large. Your parcel is identified by:

- Location within a certain section;
- Which is located within a certain township;
- Which is located within a certain range.

Each range spans six miles and several townships, and each township contains several sections, which in turn are divided into quarters, which can also be divided into quarters. The end of the first entry may read: "Conveys NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 6, Tp. 78, R. 24." Even if that looks like Greek to you, you'll become familiar with those citations as you comb through your abstract because they are reiterated and restated with each exchange of ownership. The original description of any parcel of land comes from the measurements of the original government survey of the 19th century.

3. Land Patent

The land patent is John Doe's title defense and is issued by the government to operate as proof of title for the first governmentally recognized owner of land. The land patent shows the date of the land transfer, the date the patent was filed with the government, the particular book of deeds containing the patent, and the land parcel as described in the original entry.

4. Platting

At some point in the story your Abstract is trying to tell you, there will likely be a notation that the land your home sits on was subdivided and platted. Generally, this happens when the land is incorporated into a city. The beginning of the entry might read: "Plat of Middlesex Addition to the City of Des Moines." The information in this entry would include the date the landowner received approval from the city, the date the subdivision was filed with the county, the particular book of plats in which the subdivision is entered, and the original description of the land.

There will also be notations where the landowner has granted rights to the city in order to construct roads and infrastructure to the property.

5. Types of Real Estate Deeds

When your property changes hands, it is denoted as a **Warranty Deed**. This means that the seller has “warranted” to the buyer that he/she is the rightful owner of the land.

There are other types of deeds. A purchaser receives a **Tax Deed**, for example, when he or she buys real estate sold for nonpayment of taxes.

A **Sheriff's Deed** is given to the purchaser of land sold by court order such as in a mortgage foreclosure.

A **Quit Claim Deed** transfers title to property without warranties that the title is free and clear. This means the property owner is probably uncertain of their title's completeness so they have chosen to sell parts of their lot by quit claim deed instead of warranty deed.

Each deed entry will note the date the deed was signed and the date it was filed with the county.

6. Mortgages

In order to pay for or make significant improvements to a property, a buyer (or owner) usually needs to take out a loan to cover the cost. This is noted in your abstract. For instance, the entry may read like this:

James Callanan, Jr., and
Martha C. Callanan (his wife)
to
William Ingham and
Rufus W. Peckham

Mortgage \$5,700.00
Dated May 22, 1858

Filed May 31, 1858

Conveys NW1/4 of SE1/4 Sec. 6, Tp. 78, R. 24 and other lands. Secures note of Callanan for \$5,700.00. Dated April 1, 1858. Due three years from date.

In some instances, the description will include the terms of the loan repayment – the amount due each month, the day of the month it is due and the interest rate.

A mortgage will also be noted when the real estate is used as collateral or when a loan is taken out to complete large home improvement/renovation projects.

When a mortgage is satisfied (repaid), the date is noted in the Abstract.

7. Affidavits

Because your Abstract is a legal, binding document, the information contained within it must be true. Throughout your Abstract, you may see entries noted as “Affidavit.” These are sworn statements given by a person to verify claims such as marriage, death, surviving heirs, etc.

For example:

C.A. Dudley
to
Whom It May Concern

Affidavit.
Sworn to May 24, 1905
Filed May 24, 1905.

Affiant says that he was personally acquainted with James Callanan during his life time , and that said James Callanan died September 26, 1904, leaving no widow surviving him.

8. Will and Probate

The most valuable piece of a person's estate is usually their home which is why Abstracts will have entries related to

“Will and Probate.” Perhaps it is the wishes of the deceased to transfer ownership of the property to another member of his family upon his death. Or perhaps the property needs to be sold to cover any outstanding debts the deceased had.

Entries like these could be lengthy, and include the full text of a court decision if issues surrounding ownership of the property (or the wishes of the deceased) are brought into question.

9. Foreclosure

There may have been an owner of your property somewhere in the past who ran into some financial difficulties and could not keep up with their mortgage payments. The lender – typically the bank – has sought payment by exercising its right to force a sale of the property by foreclosing on the mortgage. The forced sale is published in the newspaper as a public notice. The dates of public notice, the publication Affidavit, and the service of notice to the property owner are all included in the Abstract. The certificate of sale and the date the forced sale was filed with the county is included as well.

When another party purchases the property at the resulting sheriff's sale, the amount paid depends on the value of the real state and the amount of the mortgage. These entries will also include reference to the court document number of the foreclosure.

10. Taxes

Before a change of ownership can occur, any taxes associated with the property or the seller must be paid. Usually toward the end of each span of ownership, you will see the taxes paid on the property, except for the current year. An entry of taxes paid is listed every time a tax assessment is made or paid in relation to the property of the abstract.

Taxes listed in the Abstract may include estate taxes,

inheritance taxes, capital gains taxes and local government property taxes. The Abstract should include the current amount of these taxes and certification that they have been paid.



11. Bankruptcy

In order to avoid financial disaster, an owner has filed bankruptcy. Your property (given as a legal description) is now being used to secure protection from creditors. The owner has given to the bankruptcy court a **Trust Deed**, which the court retains until the owner has fulfilled his obligations under the financial rehabilitation plan approved by the court.

If the owner defaults on his arrangement, the court could order a forced sale of the property, with proceeds going to the creditors.

12. Other

Some Abstracts will contain entries related to outstanding fines or court costs owed by the owner of the property. This can be anything from unpaid parking tickets to arrests in which a fine has been incurred. Anything owed to the city, county or state at the time of the property sale must be resolved before the transaction can take place.

Please see the additional PDF worksheet “Abstract Summary Form 2014”. This is a basic worksheet you can use to track your home’s ownership and will help get you started on a timeline. From there, you can add more details as you find them. Good luck!