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*Lawyer and Notary Public
Since 1975*

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TITLE INSURANCE

Introduction: I have written this report based on questions often asked of me while in private law practice in British Columbia and Alberta, Canada, since 1975. Although my first hand experience is limited to those jurisdictions, wherever possible I have written in non-legal terms and with general principles in mind.

Can I get Title Insurance instead of having a Survey done?

Many institutional lenders, like Chartered Banks and Credit Unions, are regularly recommending Title Insurance as an alternative to obtaining a Survey of your land. They require either a Survey or a Lender's Title Insurance Policy. When you are considering that recommendation, we believe you should also consider the following cautions.

1. A Lender's Title Insurance Policy, as indicated by the name, protects only the Lender.
2. While you may also obtain a Borrower's Title Insurance Policy, Title Insurance is seldom less expensive than a Survey.
3. Title Insurance is only in place for the transaction for which it was intended (like a loan), whereas a Survey is valuable for an indefinite time.
4. Having a Survey in hand will give you the best information possible on whether you have any survey related problems in respect of your land.
5. Title Insurance does not give you any knowledge about your land, but merely says that if there is a problem, and if the problem is (according to the terms of the Title Insurance agreement) covered by the Insurance, that the Title Insurance company will provide the benefits described by the Title Insurance agreement.
6. In the legal system, knowing about a problem and avoiding it (which is the nature of a Survey) is always better than ignoring a potential problem and putting in place a system that might deal with a problem in the future should such a problem arise (which is the nature of Title Insurance).

Title Insurance Companies and Your Mortgage

Some Title Insurance companies are involved directly or indirectly in document preparation, related work, and registrations, including arranging for and contracting with lawyers to witness documents as "Officers". These companies expressly prohibit the lawyer from providing legal advice. This service, they say, will save you money. Where is the problem? The problem is that borrowers lack the advantage of legal advice. A lawyer may be there when you sign the documents, but that lawyer is not there to provide legal advice.

Lawyers have received a lot of pressure from lenders and Title Insurance companies to participate in this process. However, many lawyers, like my office, refuse to do so, because their presence implies that they are giving legal advice.

You wouldn't expect to read anything "legal" without some kind of caution - so here it is: This report is general information only and not to be relied upon without legal advice. For legal advice, call us.

I hope this helped answer your questions. For more answers to common legal questions, please visit our website: www.salmonarmlaw.com

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