

UNDERSTANDING LIENS & ENCUMBRANCES



Liens and encumbrances are two terms associated with real estate that all people involved in a home purchase should understand. Since liens and encumbrances are directly related to property ownership, it is important to know the difference between the terms to have a clear understanding of what is involved in one of the most important purchases of our lives.

WHAT IS AN ENCUMBRANCE?

An encumbrance is a claim or other type of issue that restrains or burdens your full ownership rights to a property. It is a broad term and can reflect either a monetary-related issue such as a loan or a non-monetary claim related to the property.

TYPES OF ENCUMBRANCES:

Liens and encumbrances can often get confused. A lien is a type of encumbrance, but an encumbrance is not necessarily a lien. Here are the types of encumbrances to clear up any confusion:

Lien - A lien is a monetary claim against a property agreed to by the owner acquired by a creditor. Its purpose is to ensure payment. For example, a lien can be used to guarantee the repayment of a loan. If that loan is not satisfied, then the creditor may be legally able to seize the property. When there is a lien attached to a property, that lien must be satisfied for the real estate transaction to close. This can be done prior to closing or through using funds from the proceeds of the sale as a settlement.

Types of liens that may be initiated include failure to make payments on an auto loan, past-due child support, unpaid homeowners association fees, or unpaid property taxes.

Easements - An easement is a type of encumbrance that is not a right to ownership but a right to use a property. The most common type of easement is one designated for utility companies such as water, cable, and electricity. An easement can also be in the form of a right of way where someone is permitted to cross the land. Some easements will be on the official title report, but others may not be. These could be such circumstances as shared roads or driveways.

Liens and encumbrances should always be considered and dealt with appropriately during the home buying process. Some may be unwelcome surprises that need to be dealt with before closing, and others may be negotiated or included within the sale without much difficulty. Understanding the impact of liens and encumbrances going into a real estate transaction is central to making that home sale a success.

THE IMPORTANCE OF THE TITLE COMPANY

Working with an experienced, reputable title company is crucial to truly understanding any liens and encumbrances associated with the purchase. At Chicago Title, we work closely with you every step of the way to not only keep you informed of the process but also to make sure you have a clear understanding of all the related issues and steps to a successful home sale. Our expert team provides an unparalleled level of service, exhausting every method to ensure you receive the information you need to close on time. With origins traced back 170 years, Chicago Title is a proud member of the Fidelity National Financial family of companies, the nation's largest title insurance company that collectively issue more title insurance policies than any other title company in the United States.

Contact us for more information.