

Title Search Periods per Stewart Title Guaranty
Bulletin TX000065
by Sarah Schneider



House Keeping

Please do not place the conference on hold. Background/Hold music makes it hard to hear the speaker.

Please mute your phones. (Un-mute to ask questions) Everything you say, every paper that gets shuffled can be heard by all participants. We are voice recording the conference.

Note: Materials and audio for the June webinar on the Mortgagee Policy by Bill Pratt are now available online at www.stewarttexas.com





STG Bulletin 65: How Far Back Do I Have to Go?

**Stewart Title Guaranty Company's
Underwriting Requirements for Title
Searches and Examinations**

**By
Sarah Schneider
Assistant Vice President
Texas Underwriting Counsel**

ONE-TO-FOUR FAMILY RESIDENCES

- Procedural Rule P-1 (u) defines residential property as any real property which has improvements thereon
- designed principally for occupancy of from one to four families and
- either situated in a platted subdivision
- or consisting of more than five acres, but no more than 200 acres
- used for agricultural production by individual insureds.



Prior Owner Policy

- If there is a prior owner policy or bona fide commitment (T-1 or T-1R):
- You may start your title examination of the land from the date of a prior owner policy or bona fide commitment for title insurance by any currently licensed title insurer.
- Include all Schedule B exceptions of that prior policy, unless they are satisfied.
- Do only a general name check of the owner in that prior owner policy and any subsequent owners. General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years.
- Do a standard tax search.
- If your transaction is a sale, we will accept a Special Warranty Deed.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

Prior Mortgagee Policy

- **If you are issuing an owner policy**, you may start your title examination of the land from the date of vesting of title in the mortgagor named in the prior mortgagee policy.
- Include all Schedule B exceptions of that prior policy, unless they are satisfied.
- **If you are issuing only a mortgagee policy**, you may start your title examination of the land from the date of a prior mortgagee policy by any currently licensed title insurer.
- Include all Schedule B exceptions of that prior policy, unless they are satisfied.
- Do only a general name check of the mortgagor and any subsequent owners. General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years.
- Do a standard tax search.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

No Prior Owner or Mortgagee Policy

- **If there is no prior owner policy or mortgagee policy** and you have a **base file** (examination of subdivision or part of subdivision which the land is in):
- You may rely upon a review of a base file and plat of the subdivision for prior restrictions, easements, minerals and other general matters.
- Include all of these prior restrictions, easements, minerals, and other general matters.
- You may start your examination of the land from the date of the most recent deed
- Do only a general name check of the owner in that deed and any subsequent owners. General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years.
- Do a standard tax search.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.
- The above guidelines do not apply to mineral reservations, easements or restrictions. You must search long enough in your county to pick up any mineral reservations and easements in the area.

No Prior Owner/Mortgagee Policy or Base File

- **If there is no prior owner policy, mortgagee policy, or base file, and you have a reference file or owner policy or mortgagee policy on another lot in the same block in a platted subdivision:**
- You may rely upon a review of two reference files or policies and plat of the subdivision for prior restrictions, easements, minerals, and other general matters. One of the reference files should be in the same block.
- Include all of these prior restrictions, easements, minerals, and other general matters. Be cautious in relying upon reference files: for example, verify the minerals and restrictions apply to the entire subdivision and do not rely upon reference files if those exceptions do not apply to your land.
- You may start your title examination of the land from the date of the first deed with vendor's lien and purchase money deed of trust and in favor of an institutional lender immediately preceding a warranty deed with vendor's lien and purchase money deed of trust vesting title in the current owner (seller or borrower).
- Do only a general name check of the owner in that first deed with vendor's lien and any subsequent owners (including the current owner). General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years.
- Do a standard tax search.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.
- Check the plat for easements and restrictions.

No Prior Title Evidence

- **If you have a platted residential property** for which you have **no evidence** of prior title insurance:
- For **platted residential property** for which you have no evidence of a prior title insurance, do a standard full search and examination as described above starting with the first warranty deed older than 25 years prior to the date of examination or begin with the subdivision plat if the plat has been recorded for more than 35 years.
- For **other residential property either used for residential purposes or to be used for residential purposes in the future less than \$500,000** for which you have no evidence of prior title insurance, do a standard full search and examination as described above starting with the first warranty deed older than 25 years prior to the date of examination.
- For **other residential property less than \$500,000** for which you have no evidence of prior title insurance, do a standard full search and examination beginning with the first warranty deed older than 35 years prior to the date of the examination.
- Check the plat for easements and restrictions.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

FARM AND RANCH LAND OR COMMERCIAL



Prior Owner Policy

- You may start your title examination of the land from the date of a prior owner policy by any currently licensed title insurer.
- Include all Schedule B exceptions of that prior policy, unless they are satisfied.
- Do a general name check only of the owner in that prior owner title insurance policy and any subsequent owners.
- Do a standard tax search.
- If your transaction is a sale, we will accept a Special Warranty Deed.
- If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

Prior Mortgagee Policy

- Please call our Texas Underwriting Counsel.
- We will rely upon a prior mortgagee policy on a case-by-case basis.

No Prior Owner or Mortgagee Policy

- **Commercial property valued under \$25,000,000.00:**

You may start your examination with the first warranty deed older than 25 years prior to the date of examination. General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years. The above guidelines do not apply to mineral reservations, easements or restrictions. You must search long enough in your county to pick up any mineral reservations and easements in the area. If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

- **Commercial property valued over \$25,000,000.00:**

Please call our Texas Underwriting Counsel.

- **Farm and Ranch Land and Acreage under \$1,000,000.00 :**

You may start your examination with the first warranty deed older than 25 years prior to the date of examination. General name searches should be for 20 years in order to pick up abstracts of judgments, which are effective for 10 years, and judgments in favor of the United States of America, which are effective for 20 years. The above guidelines do not apply to mineral reservations, easements or restrictions. You must search long enough in your county to pick up any mineral reservations and easements in the area. If you are offered a Quitclaim Deed, refer to the underwriting standards on page 5 of this Bulletin.

- **Farm and Ranch Land and Acreage over \$1,000,000.00:**

Please call our Texas Underwriting Counsel.

**PRIOR COMMITMENTS OR TITLE
REPORTS BY ANOTHER COMPANY ONLY**

- If you have only a prior title report or commitment issued by a title company, please call Texas Underwriting Counsel.

LIMITED PRE-FORECLOSURE POLICY (T-40).

- If you have only a prior title report or commitment issued by a title company, please call our Texas Underwriting Counsel.

QUITCLAIM DEEDS

- Under Texas law, a quitclaim deed conveys title if the grantor actually has title. The reverse is also true, if the grantor didn't have title, nothing was conveyed.
- The doctrine of after acquired title does not apply so that if the grantor subsequently obtained title, title was not conveyed by the earlier quitclaim deed.
- **Our position on the use of quitclaim deeds is as follows:**
 - a. current transaction, unrelated parties: not usually acceptable.
 - b. current transaction, related parties: ok unless buyer is using homestead property as collateral for loan buying out other parties, in which case an owelty deed will be required.
 - c. quitclaim deed, unrelated parties, more than 10 years old: ok to use without exception or requirement.
 - d. quitclaim deed, related parties, more than 5 yrs old: ok to use without exception or requirement.
- In any other situation, please call our Texas Underwriting Counsel.

SPECIAL WARRANTY DEEDS

- We will accept special warranty deeds in any commercial transaction, current or past.
- We will accept special warranty deeds in residential transactions unless the real estate contract calls for a general warranty deed.
- We will accept deeds without warranty on most commercial transactions and in most probate situations. If you have these requests, please call a Texas Underwriter.



MERS® (Mortgage Electronic Recording System, Inc.)

- MERSCorp, Inc., is a mortgage industry created corporation that: 1) operates a national electronic registry to track the changes in servicing rights and beneficial ownership interest in mortgage loans; and, 2) its subsidiary, Mortgage Electronic Registration Systems, Inc. ("MERS"), acts as the mortgagee of record on all mortgages that are registered with MERSCorp, Inc. The MERS System provides easy access to the correct loan servicer for loan payoffs and minimizes errors in the public records because of missing assignments.
- Since all national underwriters have an interest in MERS, we are comfortable accepting payoffs from MERS. If, during your title search and examination, you come across what appears to be a missing assignment, check the Deed of Trust to see if MERS is a nominee or otherwise shown as a grantee. If MERS is listed in the Deed of Trust, then the assignment has been handles in an off-record manner. You will not find a recorded assignment, therefore, the Company will not require a written, recorded assignment.

Agent Liability

- If you follow these search guidelines, we will not require contribution or reimbursement for losses and expenses under title commitments, policies or other title insurance forms based upon matters that were recorded before the record date your search commenced and were not reflected in the starter or your search.
- You must obtain over limits approval on larger transactions in accordance with your contract.
- You should undertake your normal analysis for matters such as mechanic's liens and amendment of the area and boundary exception. If you have any questions, please contact our Texas Underwriting Counsel.

Thank you

Please email password and attendees
name to Ken Wrider at
Ken.Wrider@stewart.com

(Please do this as soon as possible. Certificates will not
be produced after the start of our next webinar.)

CLE Course No. 90026826

Next Texas TIPS Online

8/16/07 Texas Legislative Update by Randy Lee and John
Rothermel

See www.StewartTexas.com for calendar and materials