

MIDDLESEX NORTH REGISTRY OF DEEDS

RICHARD P HOWE JR, REGISTER OF DEEDS

BILLERICA – CARLISLE – CHELMSFORD – DRACUT – DUNSTABLE – LOWELL – TEWKSBURY
TYNGSBOROUGH – WESTFORD – WILMINGTON

WHAT IS A TITLE EXAMINATION?

***CAUTION** – Doing a title examination accurately requires extensive training and experience. Before committing financially or legally to any transaction that involves real estate, you should obtain a title examination done by a professional. This handout is intended as a general overview for lay people curious about what goes in to a title examination.*

What is a title examination? - A title examination is a review of 50+ years of registry of deeds records that affect a particular parcel of real estate to (1) verify that the current owner has the right to transfer ownership; and (2) identify any liens, encumbrances, defects, restrictions, or irregularities on that parcel.

How are registry of deeds records organized? – Today, the registry of deeds is paperless with all records, old and new, in digital form. To do a title exam, however, you must understand how registry records were organized in the age of paper.

The registry had two sets of books: (1) record books, and (2) indexes. When a customer presented a document for recording, the registry would reproduce that document in its entirety in a record book. (The method of reproduction went from hand-copying by pen, to retyping, to printing from microfilm, to printing from scanned images, to relying on scanned images only). Record books were sequentially numbered as were the pages of each book. The “book and page” number where the document was located became and remains a unique identifying number for each document. Because documents are recorded in chronological order, documents relevant to a particular property are scattered throughout the record books and not kept in one place.

Registry customers use the second set of books, the indexes, to find documents relevant to a particular parcel or transaction. There are two sets of indexes: the grantor index and the grantee index. The grantor index is alphabetically sorted by the name of the person giving away something (such as the seller on a deed) while the grantee index is alphabetically sorted by the name of the person receiving something (the buyer on a deed). Besides the names of the parties, index entries contain a brief description of the property, the date the document was recorded, and the book and page of the document. When a new document is recorded, registry personnel immediately add information from that document to the indexes.

The elements of a title exam – The first step in a title examination is to follow the ownership history of a property back at least fifty years to a valid deed. The easiest way to trace ownership back through time is to find the “title reference” section of the most recent deed which will point you to the prior deed in the chain of ownership. The title reference usually comes at the end of

the property description, and says something like “For grantor’s title, see deed recorded in Book 1234, Page 56.” If you look at the deed at that book and page number, its title reference should point you to the previous deed for the property. If a deed lacks a title reference – it’s not required – then you must search the grantee index for the property owner’s name to determine when he became its owner.

If you cannot find the name in the grantee index, then it is possible that the current owner inherited the property. When someone dies owning an interest in real estate, ownership passes through the laws of probate. A recent amendment to probate law allows for the recording at the registry of deeds of a “deed of distribution” which memorializes in the registry of deeds records the transfer of ownership through the probate process. If there is no such deed recorded – and it is unlikely that there will be since it is such a new procedure – you must find evidence of the transfer of ownership in the records of the registry of probate. Unfortunately, the probate index contains only the names of decedents, not the names of those who inherited the property, so you may have to use other records (or just plain guesswork) to pick up the ownership trail.

Your chain of ownership should continue back to a valid deed that was recorded at least fifty years earlier. Once you have reached that deed, you move on to the second part of the title examination by “running” the grantor index for everyone you identified in your chain of ownership. You must note everything appearing in the grantor index under those names during their ownership of the property (and for three years after they’ve conveyed away the property to find any late-filed property tax liens).

Closely scrutinize each of the documents you identify in your search of the grantor index. Make sure all deeds are valid and sufficient to convey ownership of the property. Make sure each mortgage has a corresponding discharge executed by the holder-of-record of the mortgage at the time of the discharge. If there was a foreclosure, was it done properly? Is there a mortgage that is still outstanding? Pay particular attention to liens, tax takings, attachments, executions, and other encumbrances, ensuring that all have been properly released or dissolved by operation of law.

Conclusion – Remember, you should never purchase real estate without having a professional conduct a full title examination of the property. Even with a professionally-done title examination, you should also purchase an Owner’s Title Insurance Policy at the time of your closing.

Questions – Email or call Register of Deeds Richard Howe at richard.howe@sec.state.ma.us or at 978/322-9000.