

HOMEBUYERS

Do you know what you're buying?

The purchase of a new home or property can be a little overwhelming but it's important that buyers pay attention to the details before they sign on the dotted line.

Here are some real scenarios where an individual bought something that was not exactly what they were expecting.

SCENARIO 1: I bought more land than I thought!

Upon review of the survey, the purchasers realized that the property line in the back of the property did not end at the fence, but continued back another 100 feet. While this sounds great, the survey also revealed that the neighbor behind the property built an encroaching fence.

What Happened?

The seller came back and said that he had never stated his property ended at the fence. Turns out, the listing did show the correct property area and the buyers were stuck having to deal with the neighbor's fence.

When buying your home, it is important to understand the protections that your title insurance policy provides with respect to encroachments. An encroachment is the projection of a building, improvement or object onto adjoining land belonging to another. Problems can arise when adjoining landowners begin to treat a portion of your property as if it was their own.

SCENARIO 2: Where is my parking space?

The sales contract called for limited "common element parking space 27" to be conveyed. The buyer never looked at the space, thinking that it was a space just like any other in the building's garage. After closing, the buyer couldn't find the space in the garage, and discovered that the space was instead an outside space.

Other variations on this issue:

- The parking space was too narrow for my vehicle
- The parking space was supposed to be near the elevator but was not
- The parking space was on a different floor than expected, etc.

Always make sure to inspect the parking space.

A title insurance company will look at all aspects of a parking space, the CC&Rs, the definition of the parking space and the legal description of the parking space. The legal description that appears in the preliminary report will take into account all of these factors and reflect whether the parking space is insurable. When a parking space is being questioned, please contact your title company for assistance in determining the insurability. Parking spaces can be troublesome and problematic for a title company due to the fact there are multiple ways they can be created. However, once all documents are reviewed, the answer will be very apparent as to its insurability.

SCENARIO 3: The seller told me that I had an easement!

The seller told me that there is an easement for me to...

- Access the back of my property through the neighbor's yard
- Use the neighbor's driveway to get to my backyard
- Use the neighbor's driveway to access the alley, etc.

But then, upon further investigation, no written document turns up. When the seller is asked to provide the easement, the response is, "that's what the previous seller told us when we bought the house."

If anybody tells you that a property has an easement, right of way, etc., ask for them to provide you with a copy of the document. If they claim it has been recorded, the title company can provide you a copy of the recorded document.

Do not trust that one exists simply because somebody tells you that you have "an easement."

An easement is an interest in land owned by another party, entitling the holder of the easement to a limited use or enjoyment of the land in which the interest exists. An easement does not contemplate possession. An easement is all about use.

Easements are created and they are transferred, subject to rules governing real property conveyancing. Easements must be created by an instrument in writing as in the case of a direct grant deed; by reservation or by exception in a deed; or by agreement. All the essentials of a real property conveyance are generally applicable.

Contact Equity Title for more details on easements as well as the other scenarios mentioned in this article.



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