



What are encumbrances on title?

A: An encumbrance is a claim or lien on a parcel of real estate and the ownership interests in the property.

A preliminary title report (prelim) issued by a title insurance company is intended to disclose the current vesting and all encumbrances reflected on the public record affecting a property's title.

Encumbrances set out in a prelim include:

- general and special taxes;
- assessments and bonds;
- covenants, conditions and restrictions (CC&Rs);
- easements;
- rights of way;
- liens; and
- real estate interests held by others.

The buyer, their agent and escrow review the report for encumbrances on title inconsistent with the terms for the seller's delivery of title set in the purchase agreement and escrow instructions.

However, both the seller's agent and buyer's agent review the prelim immediately for any reported conditions that may interfere with closing the transaction.

In practice, the buyer's agent looks for title conditions which conflict with any intended use or change in the use of the property contemplated by the buyer. Interferences with use come in the form of unusual easements or use restrictions (CC&Rs) which obstruct known plans the buyer has to make improvements.

Ultimately, the escrow officer, on review of the prelim, advises the seller of any need to eliminate defects or encumbrances on title which interfere with closing the transaction as instructed.