

# MBH

Settlement Group, L.C.

## Why You Need Title Insurance

If you bought property during the Middle Ages, your claim to ownership was probably recorded twice on a piece of parchment and then torn in half. If there was a dispute over who owned what, the pieces of parchment would be lined up to see who really had title and who didn't. While we've made great progress since the era of ripped parchment, establishing property ownership continues to be an arcane process. To start, we need to know what is being sold. Properties have both a common address (14 Smithville Rd) and a legal description (Lot 7, Block 6 of Eller's Subdivision). The catch is that the legal description may be correct on paper, but wrong in fact. For instance, a neighbor may have built a deck which now extends onto someone else's property – a so-called "encroachment." Or, a seller may have built a garage that extended onto a neighbor's property – not good news if the neighbor wants it removed or demands rent.

To verify that the property and its improvements are where they should be – a major part of the title process – one should require a survey before closing. But to assure title, we not only have to know the property location; we also need to know something about the owners. What we are really interested in is the matter of "capacity" – the ability of buyers and sellers to enter into a contract. Alas, personal matters are not included in the local land records, and these can be hazards that confound owners years later. For example, there may be a "cloud" on the title because unknown to anyone, a prior owner was insane. Other clouds can result from bigamy, alcoholism, drug use, improper surveys, land record errors, easements, and forgery.

We also need to search local records to assure that the home is free and clear of all liens, except those a buyer might want to assume, such as a 4-percent assumable mortgage. The process of looking through local records is called a "title search" – an expression which means that someone sifts through local land records to see who has owned the property in the past, and what ownership claims and debts remain outstanding. And "abstract" or short summary is then developed which details the highlights of the title search. What is not shown, however, are claims which may not be on record.

To protect against unrecorded title defects and lien claims, lenders require buyers to purchase title insurance to protect the lender's interest in the property. A loan policy will not protect the owner, which is why it is imperative that the owner also obtain protection through an Owner's policy.

If a title problem is found before closing, then either the seller can resolve the problem, or the title insurance company will offer to issue a policy that excludes the cloud from coverage. Since buyers typically purchase real estate with the understanding that title will be "free of encumbrances" (unless otherwise agreed) and "marketable and insurable," a clouded title can doom a real estate sale if not resolved.

If a problem comes up after the property is acquired, the title company will defend the insured (the Owner via an Owner's policy or the Lender via a Loan Policy) and pay such claims and legal fees as may be required to resolve the matter.

Title insurance is purchased with a single premium at closing and the policy remains in force as long as the policyholders and/or their heirs have an interest in the property – a small price to pay to protect such a large investment.

### Alexandria (Old Town)

703-739-0100  
703-739-8339 (fax)

### Annandale

703-852-3000  
703-852-1685 (fax)

### Arlington

703-237-1100  
703-237-1737 (fax)

### Burke

703-913-8080  
703-913-8082 (fax)

### Fair Oaks

703-279-1500  
703-279-1600 (fax)

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540-373-1300  
540-373-8834 (fax)

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703-468-2021 (fax)

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703-417-5001 (fax)

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703-734-9069 (fax)

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703-318-9333  
703-471-8606 (fax)

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540-658-0992  
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703-242-2860  
703-995-6622 (fax)

### Warrenton

540-349-7990  
703-995-6624 (fax)