

TITLE INSURANCE (continued)

Title Insurance does not provide compensation for non-title related issues. While Title Insurance may satisfy a lender's requirements, it does not give a buyer the information about the land and location of buildings that a Survey does. Title Insurance is not a home warranty or home insurance policy, and **will not provide** compensation for:

- Damages due to flooding, fire or sewer backup;
- General wear and tear of your home (e.g., replacing old windows, a leaky roof, or an old furnace);
- Theft (e.g., a burglar breaks into your home and steals your television); and
- Other losses or damages due to non-title related issues.

When purchasing Title Insurance, it is important to read the policy and ask questions to be aware of the coverage that is provided.

You also need to be aware of **possible exclusions**, which may include:

- Known title defects (that were revealed to you before you purchased your property);
- Environmental hazards (e.g., soil contamination);
- Native land claims;
- Problems that would only be discovered by a new survey or inspection of your property (e.g., the property is smaller than originally thought);
- Matters that are not listed in public records (e.g., unrecorded liens and encroachments);
- Zoning by-law violations from changes, renovations or additions to your property or land that you are responsible for creating; and
- Other exceptions which are specific to your property.

TITLE INSURANCE COSTS

The cost of an owner Title Insurance policy is a one-time cost as it will protect the home owner for as long as they own the property. The cost of a Title Insurance policy starts at \$200 and is subject to change by the title insurance companies depending on the value of the property and the covered risks. Title Insurance for the lender expires upon the lender's mortgage being paid in full. Therefore, if you should refinance during your ownership of the property, and your lender requires a Title Insurance policy, an additional premium may apply.

This information is a general guideline. Each transaction is different and the covered risks will be different in each and every case.

To obtain additional information about Survey Certificates, Zoning Memorandums, how they differ from Title Insurance, and to discuss which of these options is best for you, please feel free to contact one of our lawyers.



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DISCLAIMER: Material contained in this brochure is not intended to be advice on any particular matter. No reader should act based on any matter contained in this brochure without obtaining appropriate legal advice. The information contained is of general information on typical real estate transactions only. It is not meant to cover every type of transaction. This brochure is not meant to solicit those who already have a lawyer.



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BUILDING LOCATION CERTIFICATES

It is often a term of the Offer to Purchase that the property being purchased shall be free from encroachments from neighbouring properties, that none of the buildings being purchased are encroaching onto the neighbouring properties and that the property will be in compliance with all applicable building and zoning regulations.

The only effective way for a buyer to determine if the property meets with these requirements is to obtain a Building Location/ Survey Certificate (“Survey”) from a qualified Land Surveyor and to obtain a Zoning Memorandum (based on the Survey) from the local city, town, or municipal office (“Local Government”).

If you are aware that the seller has a current Survey which accurately represents the property, you may request in the Offer to Purchase that the seller provide you with this document. Reliance on an existing Survey may not fully protect you.

Although some lenders may accept title insurance in lieu of a Survey, some **advantages** of obtaining a current Survey include:

- The apparent legal description of your property may not match the street address;
- The exact dimensions of the land can only be ascertained by obtaining a Survey;
- Without a Survey, the exact location of buildings cannot be known;
- Reliance on an existing Survey may not show encroachments from buildings beyond the limits of your property or onto your property; and
- Even if all structures are within the lot, one or more of them may not comply with zoning by-laws, which can only be obtained from the Local Government upon providing a current Survey.

If a new Survey is required, you or your legal counsel will order one from a local surveyor who will charge a fee starting at \$600 plus tax, however, this fee will depend upon the size, type and nature of the property being surveyed.

ZONING MEMORANDUMS

Upon receipt of the Survey, a certified copy of the Survey will be submitted to the Local Government Office, as applicable, in order to obtain a Zoning Memorandum which will confirm whether or not the property complies with all Local Government by-laws including yard and alignment requirements. A Zoning Memorandum will typically cost between \$40-\$125, plus GST, depending on the fee charged by the Local Government issuing the Zoning Memorandum.

Please note that it is often a requirement of your lender that a current Survey and Zoning Memorandum be obtained as part of the necessary due diligence required in order to obtain the mortgage funds. As a result, one must consider these potential additional costs when contemplating the purchase of a new property.



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an explanation of options

“At SNJ we like to take the guesswork out of buying and selling a home. We understand the process and in turn, so do you!”

TITLE INSURANCE

Title Insurance is provided by a number of different title insurance companies such as: Stewart Title, Title Plus, First Canadian Title Insurance & Chicago Title.

Title Insurance insures against losses arising out of covered title risks. This may be in the form of an alleged title defect, which was unknown to you at the time you purchased the property, but came to light at some future date during your ownership of the property. A Title Insurance policy contains provisions for the payment of losses which result from a covered claim. The Title Insurance policy also covers legal fees in defence of a claim against your property.

Two types of policies are available: an owner’s policy and a lender’s policy. A lender’s policy ensures that the lender’s security interest in the property has priority over claims that others may have in your property. A lender’s policy does not protect you. Many lenders will accept a policy of Title Insurance instead of a Survey and Zoning Memorandum.

Depending on the insurance policy, some examples of covered risks may include:

- Existing liens on title;
- Violation of Local Government by-laws;
- Encroachments from and onto your property (excludes fences and boundary walls);
- Realty tax arrears; and
- Property access.

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SURVEYS ZONING TITLE INSURANCE