

ISSUING GUIDELINES

ALTA Endorsement: 9-06 (Restrictions, Encroachments, Minerals)

Explanation:

This endorsement to the Loan policy insures against violations of restrictions, encroachments over easements, building lines or property lines, and damage by reason of mineral development. It is similar to the CLTA Form 100 and other comprehensive endorsements. It may not be issued on an owner's policy.

Underwriting Requirements:

(1) Restrictions:

- (a) Review all restrictions. Verify that there are no forfeiture provisions. If there are forfeiture provisions, verify that the forfeiture provisions are expressly subordinate to the lien of the insured mortgage. If forfeiture provisions are not subordinate to the lien of the insured mortgage, delete paragraph 1(a) and paragraph 2.
- (b) Review all restrictions. Verify that any maintenance lien is expressly subordinate to the lien of the insured mortgage and that prior assessments are paid before closing. If the restrictions create a maintenance lien and do not expressly subordinate the maintenance lien to the lien of the insured mortgage, delete paragraphs 1(a) and 2 of the endorsement.
- (c) Review all restrictions. Verify whether the existing use materially violates the restrictions. If the use violates the restrictions, except to the violation in Schedule B.
- (d) Review all restrictions. Verify whether the restrictions create maintenance liens, easements, options, or rights of first refusal to purchase. If any of these provisions appear in the restrictions, separately and explicitly except to those provisions in Schedule B. For example, separately except to "maintenance lien set forth in . . ."

(2) Encroachments:

- (a) Unless local underwriting guidelines by the Company provide otherwise, require a survey reflecting the current improvements. Except in Schedule B to any encroachments over building lines, property lines, or easements.
- (b) If improvements encroach over more than one half of the width of an easement, delete paragraph 3(a) of the Endorsement, unless you secure underwriter approval.
- (c) If improvements encroach over adjoining land or onto a road, delete paragraph 4, unless you secure underwriter approval.
- (d) If improvements encroach over setback lines by more than one foot, delete paragraph 5, unless you secure underwriter approval.

(3) Minerals:

In order to provide the coverage of paragraph 3(b) because of development of minerals, comply with one of the following requirements:

- (a) verify that there are no outstanding minerals (other than royalties) or that surface rights have been waived;
- (b) on single family residences within platted subdivisions, you may provide the coverage even if there are outstanding minerals unless you know that the subdivision has actual mineral development;
- (c) on apartment complexes, you may provide the coverage even if there are outstanding minerals unless you know that the immediate area has actual mineral development;
- (d) on office buildings and shopping centers, you may provide the coverage even if there are outstanding minerals unless you know that the immediate area has actual mineral development;
- (e) secure underwriter approval. Factors of relevance on other land include per cent of minerals outstanding, zoning prohibitions, waivers of surface rights, and development in the area.

If you cannot comply with these guidelines, delete paragraph 3(b).

The coverage of paragraph 3(b) may not be provided in Oklahoma. You may not provide this coverage in Florida or New Mexico if surface rights for mineral development of severed mineral interests have not been waived.

(4) Notices of Violation of Environmental Covenants.

If a notice of violation of an environmental covenant has been recorded, except to it in Schedule B.

Issuing guideline applies to the following Endorsement(s):

ALTA 9-06 Restrictions, Encroachments, Minerals - 2006 ALTA Loan Policy