

ISSUING GUIDELINES

ALTA Endorsement: 9.3-06 (Covenants, Conditions and Restrictions)

Explanation:

This endorsement to a Loan Policy insures against violations of restrictions, encroachments over easements, building lines or property lines, and damage to existing and future improvements by reason of mineral development. It is similar to the ALTA Endorsement 9, CLTA Form 100 and other comprehensive endorsements. It may not be issued on an Owner's Policy.

Underwriting Requirements:

(1) Restrictions:

- (a) 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 of the endorsement.
- (b) 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) Verify whether the existing use materially violates the restrictions. If the use violates the restrictions, except to the violation in Schedule B.
- (d) 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 . . ." or "right of first refusal to purchase set forth in..."

(2) Encroachments:

- (a) Unless local or national 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 of the Endorsement, unless you secure underwriter approval.
- (c) If improvements encroach over adjoining land or onto a road, delete paragraph 5 of the endorsement, unless you secure underwriter approval.

- (d) If improvements encroach over setback lines by more than one foot, delete paragraph 6 of the endorsement, unless you secure underwriter approval.
- (e) If you do not require or otherwise receive a survey and our underwriting guidelines allow you to issue without a survey, you do not need to make any exceptions unless you actually know of encroachments.
- (f) If there are no existing improvements on the Land, then delete the text that refers to "encroachment of existing improvements located on the Land."

(3) Minerals:

In order to provide the coverage of paragraph 4 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 4 of the endorsement.

(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 9.3-06 Covenants, Conditions and Restrictions - 2006 ALTA Loan Policy