

ISSUING GUIDELINES

ALTA Endorsement: 9.7-06 (Restrictions, Encroachments, Minerals – Land under Development)

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 or other subsurface substance development with respect to Improvements and Future Improvements. It is similar to the CLTA Form 100 and other comprehensive endorsements, and provides the similar coverage as the ALTA Endorsement 9-06. It provides coverage with respect to Future Improvements that are shown on identified Plans (survey, site and elevation plans or other depictions or drawings prepared by an architect or engineer and identified in Section 2.d of the endorsement). It may not be issued on an owner's policy.

Underwriting Requirements:

- (1) Covenant(s) (covenant, condition, limitation, or restriction in a document or instrument in effect at Date of Policy):
 - (a) Verify that there are no forfeiture provisions in the Covenant(s). 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 Section 3(a).
 - (b) Verify that any maintenance lien in the Covenant(s) is expressly subordinate to the lien of the Insured Mortgage and that prior assessments are paid before closing. If the Covenant(s) create a maintenance lien and do not expressly subordinate the maintenance lien to the lien of the Insured Mortgage, delete Section 3(a).
 - (c) Verify whether the existing use materially violates the Covenant(s). If the existing use violates the Covenant(s), except to the violation in Schedule B.
- (2) Encroachments:
 - (a) Unless underwriting guidelines by the Company provide otherwise, require a survey reflecting the current Improvements and Future Improvements. Except in Schedule B to all encroachments over building setback lines, property lines, or easements.
 - (b) If current Improvements or Future Improvements encroach over more than one half of the width of an easement, delete Section 4(c)(i) of the Endorsement, unless you secure underwriter approval.
- (3) Minerals and Other Subsurface Substance:

In order to provide the coverage of Section 4(c)(ii) relating to minerals and other subsurface substances, comply with one of the following requirements:

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

If you cannot comply with these guidelines, delete Section 4(c)(ii).

(4) Notices of Violation of Environmental Covenants.

If a notice of violation of a Covenant relating to environmental protection has been recorded in the real property records (the "Public Records"), except to it in Schedule B.

Issuing guideline applies to the following Endorsement(s):

ALTA 9.7-06 Restrictions, Encroachments, Minerals –
Land under Development - 2006 ALTA Loan Policy