

ISSUING GUIDELINES

ALTA Endorsement: 09.10-06 (Restrictions, Encroachments, Minerals – Current Violations)

Explanation:

This endorsement to the Loan policy insures against violations at Date of Policy of covenants or restrictions, encroachments over easements, building lines or property lines, and damage by reason of mineral or other subsurface substance development. 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 all assessments and fees set forth in the Covenant(s) due and payable, or past due, as to the land have been paid before closing. If such assessments and fees have not been paid, delete Section 3(a).
 - (c) Verify whether the existing use materially violates the Covenant(s). If the existing use violates the Covenant(s), delete Section 3(a) and except each violation in Schedule B.
 - (d) Verify whether there are existing violations of the Covenant(s) concerning the Land or Improvements. If there are existing violations, delete Section 3(a) and except each violation in Schedule B.
 - (e) If there is a recorded notice of a violation of a Covenant relating to environmental protection relating to the Land, delete Section 3(d) or except to the recorded notice in Schedule B.
- (2) Encroachments:
 - (a) Unless underwriting guidelines by the Company provide otherwise, require a survey reflecting the current Improvements. Except in Schedule B to all encroachments over building setback lines, property lines, or easements.
 - (b) If an Improvement encroaches over a building setback line shown on the recorded plat, delete Section 3(c) of the Endorsement or except each such encroachment in Schedule B.
 - (c) If Improvements on the Land encroach over more than one half of an easement, delete Section 4(a)(i) and Section 4(c)(i) of the Endorsement, unless you secure underwriter approval.

- (d) If Improvements encroach over adjoining land or a road, delete Section 4(a)(i), unless you secure underwriter approval.
- (e) If an improvement on adjoining land encroaches onto the Land, delete Section 4(a)(ii) or except to the encroachment on Schedule B.
- (f) Verify that there is no court order or judgment requiring the removal of any encroachment onto adjoining land identified in Schedule B. If there is such a court order or judgment, delete Section 4(b).

(3) Minerals and Other Subsurface Substance:

1. 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.
2. If you cannot comply with these guidelines, delete Section 4(c)(ii).

Issuing guideline applies to the following Endorsement(s):

ALTA 09.10-06 Restrictions, Encroachments, Minerals - Current Violations - 2006 ALTA Loan Policy