

Fix & Flip Bulletin 2022-09-09

Title Review and Requirements

Acra Lending's Bridge Lending Division wants to clarify the following requirements:

All Fix and Flip Bridget/Rehab Loans have the following Title Requirements that will be reviewed and approved by the Underwriter. Processors will complete a cursory review to ensure the title items are accurate before submitting to Underwriting.

- Title Items
 - o Preliminary Title Report/Commitment
 - Title Underwriter – Must be a title company on Acra's list of approved title companies (Fidelity, First American, Stewart, Old Republic, Chicago, Westcor and their respective family of companies are acceptable)
 - Type of Policy: ALTA Extended coverage 2006 or 2021
 - Name of insured: Citadel Servicing Corporation ISAOA
 - Plat Map Included
 - APN must be listed
 - Title Supplement confirming Title Exceptions that will be deleted **(Further detail attached hereto as Exhibit A)**
 - Standard exceptions
 - Standard survey exception
 - Mechanics lien exception etc.
 - Endorsements
 - ALTA 9-06
 - ALTA 22-06
 - ALTA 27
 - ALTA 32 **(Delete if no rehab holdback)**
 - ALTA 33 (9 draws) **(Delete if no rehab holdback)**
 - Acra reserves the right to request any additional exceptions to be removed and/or endorsements once we are in closing
 - o Closing Protection Letter
 - Mortgagee Clause:
 - Citadel Servicing Corporation ISAOA
 - 25531 Commercentre Drive, Suite 160, Lake Forest CA 92630
 - Loan Number - see subject line of email
 - Borrower Name - must match the Entity
 - Subject Property Address
 - o Wiring instructions with one of the following identifiers
 - Borrower Name - must match the entity
 - Subject Property Address
 - Loan Number – see subject line of email
 - o Survey – If required to meet title exception expectations laid out above

Please distribute this information to the appropriate individuals.

Exhibit A

A. Documenting Exceptions Approved

The Underwriter will condition for a title supplement confirming removal of exceptions not allowed on the final title policy.

B. Reviewing the Preliminary Title Report

To begin, be sure you have identified the proper section of the Prelim. NOTE: A Prelim typically has a section with requirements. These are the items the title underwriter has identified that need to be cleared prior to funding. These are NOT what you are reviewing, you need to look for the exceptions to coverage. An exception to coverage means that the title company will insure Acra UNLESS the issues falls within one of the exceptions to coverage.

Example of the Exceptions to Coverage Section:

Schedule B-II
AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Exceptions

THIS COMMITMENT DOES NOT REPUBLISH ANY COVENANT, CONDITION, RESTRICTION, OR LIMITATION ON ANY DOCUMENT REFERRED TO IN THIS COMMITMENT TO THE EXTENT THAT THE SPECIFIC COVENANT, RESTRICTION, OR LIMITATION VIOLATES STATE OR FEDERAL LAW BASED ON RACE, COLOR, RELIGION, SEX ORIENTATION, GENDER IDENTITY, HANDICAP, FAMILIAL STATUS, OR NATIONAL ORIGIN.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attached subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest in the property or mortgage thereon covered by this Commitment.
2. Facts which would be disclosed by an accurate and comprehensive survey of the premises herein described.
3. Rights or claims of parties in possession.
4. Construction, Mechanic's, Contractors' or Materialmen's lien claims, if any, where no notice thereof appears of record.

Example of the Requirements section.

Schedule B-I

AMERICAN LAND TITLE ASSOCIATION COMMITMENT

Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Excep
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be prop executed, delivered, and recorded in the Public Records.
5. **Warranty Deed from LuxVillas Development, LLC, a Florida limited liability company to the proposed insured.**

i) The Company will require the following as to LuxVillas Development, LLC:

A. Proof the LLC was in existence in its state of organization at the time it acquired title and is currently i standing.

1. Title Exceptions Typically Approved

Typically there are certain types of exceptions that will always be allowed to remain as an exception to coverage.

- Property Taxes, see exception #1 below. This is an example of the property tax exception. This exception is allowed and as a protection the Closing Disclosure and Closing/Funding group always ensure that all taxes due and payable are paid through closing.
- Supplemental Taxes, see exception #2 below. This is a standard exception in a number of states. The section referenced will differ but ultimately the result is the same. For the same reason above, this exception is allowed
- Mining and Water Rights, see exception #3 below. Again these are standard and allowed as it will not affect our lien position or title to the property.
- Covenants, Conditions and Restrictions, see exception #4 below. This is also a standard exception that is allowed as it will not affect our lien position or title to the property. Also included here are exceptions pertaining to HOAs for condos. See examples below

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND **EXCEPTIONS TO COVERAGE** IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. Property taxes, including any personal property taxes and any assessments collected with taxes, for the tax year(s) 2020, Tax ID 057450002000

Tax Effective Date	: 1/20/2021		
Installment 1	: \$2,237.15	Status	: Paid
Install 1 Due	: 12/10/2020		
Penalty	: \$0.00		
Installment 2	: \$2,237.15	Status	: Open
Install 2 Due	: 4/10/2021		
Penalty	: \$0.00		

Total : \$4,474.30

Land : \$127,500.00

Improvements : \$280,500.00

Assessed Value : \$408,000.00

Tax Agency : MADERA COUNTY
Address : 200 W. 4TH ST
 MADERA, CA 93637
Phone : (559) 675-7713
Fax : (559) 673-0262

2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.
3. (A) Unpatented mining claims; (b) Reservations or exception in patents or in acts authorizing the issuance thereof; (c) Water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the public records.
4. (1) Covenants, conditions and restrictions, if any, appearing in the public records deleting there from any restrictions indicating any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin.
 (2) Easements or servitudes appearing in the public records
 (3) Leases, grants, exceptions or reservations of minerals or mineral rights appearing in the public records.

- Easements. Typically you will see easements for the city for maintenance on water lines, electricity lines etc. In addition, when the property is a condo you will see easements for the HOA to allow them access on the property for maintenance etc. See examples below
- Restrictions are typically allowed when the property is a condo, see examples below

5. Matters contained in that certain document

Entitled: Reciprocal Easement Agreement; Covenant to Maintain
Dated: July 23, 1999
Executed by: Bryant Square, LLC, a California limited liability and between Bryant
Square Lofts, LLC, a Delaware limited liability company
Recording Date: July 27, 1999
Recording No.: [1999-G626555-00](#), Book H435, Page 548, of Official Records.

Reference is hereby made to said document for full particulars.

Said covenants, conditions and restrictions provide that a violation thereof shall not defeat the lien mortgage or trust deed made in good faith and for value.

An Amendment to Reciprocal Easement Agreement; Covenant to Maintain recorded September 1
Instrument No. 2009-1833152, Official Records.

6. Notice of Special Restrictions under the City Planning Code of the City and County of San Francisco the terms and conditions contained therein

Recording Date: January 30, 2002
Recording No.: [2002-H099581-00](#), Book I064, Page [845](#), of Official Records.

Reference is made to said document for full particulars.

- Survey exception. This exception is only allowed when it is referencing a survey on file that has been reviewed/approved by the Underwriting Group. Otherwise the survey exceptions will NOT be allowed. Below is an example of one that could be allowed.

12. Any facts, rights, interests, or claims which may exist or arise by reason of the following facts disclosed by survey, Job No. S-6683, dated September 4, 2007 prepared by Martin M. Ron Associates:

- A. Encroachments of shoring and fences into adjacent public rights of way of Bryant and 20th Streets
- B. Encroachments of structural appurtenances to improvements onto adjacent Lot 61 (conduit, sewer pipe, water pipe) by a maximum distance of approximately 0.6'
- C. The present use of unspecified portions of adjacent Bryant Square Lofts adjoining on the East for service lines for telephone, electric and water
- D. Encroachment of three lights approximately 18' up affixed to building on adjacent Lot 61 by approximately 0.1'
- E. Encroachment of a portion of adjacent Bryant Square Lofts common area by 0.03'
- F. Ongoing new construction and renovations of existing improvements in progress

2. Title Exceptions NOT Allowed

- Deed of Trust – All Deeds of Trust are NOT allowed unless the Underwriter has approved a subordination of the Deed of Trust and there is a valid approved subordination agreement on file. Example below

5. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount : \$197,500.00
Dated : 8/11/2018
Trustor : Chawntay A. Hernandez
Trustee : First American Title Insurance Company
Beneficiary : MERS, Inc., as nominee for Citadel Servicing Corporation
Loan No. : MIN: 100741900070153385
Recorded : 8/16/2018
Instr No. : 2018018456
of Official Records

- General Survey Exception. This exception is not allowed as it does not reference an actual survey that is approved by the Underwriting Group.

2. Facts which would be disclosed by an accurate and comprehensive survey of the premises herein described.

- Parties in Possession. This exception can affect our borrower's right to have access to the property (on a purchase), therefore this exceptions is not allowed. Example below.
- Mechanics Liens can affect our lien position and therefore it is not allowed. Example below.

3. Rights or claims of parties in possession.

4. Construction, Mechanic's, Contractors' or Materialmen's lien claims, if any, where no notice thereof appears of record.

- Other types of exceptions not allowed. NOTE: there really can be anything so if you are ever unsure always ask
 - o Solar Liens
 - o Judgments
 - o Liens