

Search Guidelines

A Reference Tool for Lawyers/Notaries



Use this as a reference when working on one of the following residential real estate transactions:

X = search not required

| A. Single Family or 2 to 6 Units Purchase transaction | Homeowner Policy | Loan Policy |
|--|--------------------------------|--------------------------------|
| Building compliance, zoning, work orders | X | X |
| Corporate profile** | Case-by-case | Case-by-case |
| Corporate status | X | X |
| Fire department work order | X | X |
| Subdivision/development compliance | X | X |
| Taxes | Verbal or vendor's undertaking | Verbal or vendor's undertaking |
| Title search*† | Full search required | Full search required |
| Utilities | Verbal or vendor's undertaking | X |
| Where applicable | | |
| Conservation authority/ Environmental authority* | Search required | X |
| Private septic search: | | |
| ▶ Work orders | X | X |
| ▶ Water potability | Not covered | X |

| B. Condominium/Strata Purchase transaction | Homeowner Policy | Loan Policy |
|---|--------------------------------|--------------------------------|
| Building compliance, zoning, work orders | X | X |
| Corporate profile** | Case-by-case | Case-by-case |
| Corporate status | X | X |
| Fire department work order | X | X |
| Estoppel Certificate/ Status Certificate/ Form B and F* | Certificate required | X |
| Subdivision/development compliance | X | X |
| Taxes | Verbal or vendor's undertaking | Verbal or vendor's undertaking |
| Title search*† | Full search required | Full search required |
| Utilities | Verbal or vendor's undertaking | X |
| Where applicable | | |
| Conservation authority/ Environmental authority* | Search required | X |
| Private septic search: | | |
| ▶ Work orders | X | X |
| ▶ Water potability | Not covered | X |

| C. Rooming House or Live/ Work Units Purchase transaction | Homeowner Policy | Loan Policy |
|--|--------------------------------|--------------------------------|
| Building compliance, zoning, work orders* | Search required | X |
| Corporate profile** | Case-by-case | Case-by-case |
| Corporate status | X | X |
| Fire department work order* | Search required | X |
| Subdivision/development compliance | X | X |
| Taxes | Verbal or vendor's undertaking | Verbal or vendor's undertaking |
| Title search*† | Full search required | Full search required |
| Utilities | Verbal or vendor's undertaking | X |
| Where applicable | | |
| Conservation authority/ Environmental authority* | Search required | X |
| Private septic search: | | |
| ▶ Work orders | X | X |
| ▶ Water potability | Not covered | X |

| D. Refinance/Non-Purchase Mortgage transaction | Homeowner Policy | Loan Policy |
|--|------------------|--|
| Same as A, except: Estoppel Certificate / Status Certificate / Form B and F* | N/A | X |
| Taxes | N/A | Verbal or other evidence of payment |
| Title search*† | N/A | Sub search to last arm's length transfer |

| E. Existing Homeowner Policy | Homeowner Policy | Loan Policy |
|------------------------------|------------------|-------------|
| Title search* | X | N/A |

X = search not required

These searches are not required for the purpose of issuing a title insurance policy. There may be instances where the Lender may still require you to perform some or all of these searches or instances where it is prudent to conduct some or all of the customary searches. You must advise us of any adverse matters that are revealed up to the closing date.

* Where searches are required, you must advise us of any adverse matters revealed by the search, or advise us if the search will not be completed and coverage may be limited accordingly. If evidence of compliance is available without completing the search, underwriting may choose to waive the search requirement upon review of such evidence. Estoppel Certificate / Status Certificate / Form B and F must be dated within 60 days of closing.

† In Alberta, a title search with Historical Land Titles Certificate, Current Title with Historical Data is required.

** In the event that you do not know your client, you may be requested to perform a corporate profile search.

Frequently Asked Questions

1 When is a property considered urban?

A property is considered urban if it is connected to a municipal sewer and/or water system. If the property does not meet one of these criteria but the lawyer/notary has information that confirms the property is urban, the file may be underwritten on a case-by-case basis upon provision of additional information.

2 Under what circumstances would a lender and a homeowner receive automatic survey/real property report/building location certificate coverage?

Lenders automatically receive survey/real property report/building location certificate coverage regardless of the type of property. Homeowners automatically receive survey/real property report/building location certificate coverage unless any part of the property is bound by water (waterfront lots). Waterfront lots may be underwritten for survey/real property report/building location certificate coverage with provision of satisfactory information regarding lot size, location of any improvements made to the property, and duration of ownership by the vendor.

3 The vendor has submitted the survey/real property report/building location certificate for compliance and the results have not been received prior to closing, can I still order a title insurance policy?

Evidence of compliance is not required when ordering a title insurance policy. However, if you have sought compliance and the results have not been received prior to closing, one of the advantages of ordering a title insurance policy is that if compliance is denied after closing the Insured will be compensated for actual loss if the municipality enforces compliance. Any undertakings and/or holdbacks provided by the vendor's solicitor must be realized on, and disclosed to FCT at the time the Insured submits a claim. If there is an indication that compliance will not be granted or non-compliance is received prior to closing, this must be disclosed to FCT.

4 When insuring a homeowner and a lender on a condominium/strata property, do I have to obtain an Estoppel Certificate?

When the property being purchased is a condominium/strata unit, an Estoppel Certificate must be obtained and reviewed by the lawyer/notary ordering the policy within 120 days after the completion day. Estoppel Certificate is not required when ordering only a lender policy.

5 When insuring a homeowner or a lender in a purchase transaction, do I have to obtain a verbal or written confirmation of the tax and utility account payment status?

For a new home purchased from a builder, the standard vendor's undertaking is acceptable, and we do not require verbal or written confirmation. For a resale home purchase we ask that you attempt to obtain verbal confirmation, but we do not require written confirmation. If you are unable to obtain such verbal confirmation we will accept the vendor's standard undertaking to pay all outstanding taxes and utility accounts to the date of closing. In any event, we would suggest that the lawyer/notary still provide the various municipal/utility offices with a notice of change of ownership.

When insuring the lender only, we do not require verbal or written confirmation, provided the vendor's standard undertaking will be obtained on closing. With respect to a refinance/non-purchase mortgage transaction, we require confirmation that the realty taxes are in good standing and evidence of payment or a Declaration provided by the borrower is sufficient.

6 Are utility arrears and unpaid final bills covered by the policy?

The policy provides coverage for utility arrears and unpaid final bills, provided they form a lien against the property.

7 Does your Policy provide Gap coverage?

Yes, provided that:

- ▶ The title search has been completed 14 days prior to submission of documents;
- ▶ All documents are completed, executed and submitted for registration; and
- ▶ The title insurance policies are ordered for all parties (i.e. purchaser and lender).

In the event there are intervening registrations that are recorded between the time the documents are submitted and registration taking place, your clients will be compensated for actual loss as a result of intervening registrations. You do not require any special endorsements or confirmation letters in order to benefit from our gap coverage.

8 Does the policy cover water potability?

Potability of water from a private water source is not covered under the policy for the homeowner. For the lender however, a potability endorsement is attached to every loan policy throughout Canada, when we are advised that the water is supplied from a private water source. This endorsement provides the lender with additional coverage should it suffer a loss because the water was not potable as of the Policy Date.

9 Are there any special requirements if the Land is under the jurisdiction of a conservation authority or other environmental protection agency?

If you are aware that the land is under the jurisdiction of a conservation authority or other environmental protection agency, you must advise us accordingly. We will require evidence from the conservation authority or other environmental protection agency that the land complies with its requirements, or there will be an exception to the homeowner policy.

10 Is coverage available under the policy for environmental matters?

Yes, the policy provides coverage when:

- ▶ The violation or the enforcement of these matters appear on title;
- ▶ There are work orders, unless the homeowner has agreed to be responsible for them;
- ▶ The Land is unmarketable because it violates an existing zoning by-law; and/or
- ▶ The homeowner is forced to remove or remedy the existing structure or cannot use it for single-family residential purposes because it violates an existing zoning by-law.

When the lawyer/notary is aware that the property is subject to an environmental matter, he or she must disclose this information to us, as it will form an exception to the homeowner policy. If additional information is available the file may be underwritten on a case-by-case basis.

If you are aware that the land is zoned "environmentally protected", you must advise us accordingly. We will require evidence that the land complies with applicable environmental legislation, or there will be an exception for the lack of compliance to the homeowner policy. The lender's policy will not receive an automatic exception, but the matter will be reviewed by our Underwriting Department and may be underwritten on a case-by-case basis.

11 How is FCT responding to the increase in real estate title fraud cases?

FCT has implemented a number of additional underwriting measures designed to prevent fraud before it takes place. As a result, certain files may be forwarded to underwriting for further review and we may contact you for additional information. We trust that you appreciate our due diligence in order to protect you and your clients from the devastating effects of real estate title fraud.

12 My clients purchased their home several years ago and are now purchasing an Existing Homeowner policy. How is the policy amount determined?

We will accept an estimated value as the policy amount, however, in the event of a claim, we have the right to obtain a retroactive appraisal of the property. In the event we exercise this right, the policy amount will be deemed to be the lesser of the policy amount shown in Schedule A of the policy, or the value of the property as shown in the retroactive appraisal.

13 What is a live/work unit?

A live/work unit is a unit that allows people to both live and work from the same location. It is not to be confused with a mixed residential/commercial use and is specifically zoned as a live/work unit. Examples of work related uses are studios, independent professional offices, street oriented uses such as small grocery stores, cafes and printing shops to name a few. We will insure live/work units through residential title insurance services, provided the zoning is live/work and the unit contains only one residential and one work unit.

▶ **FCT.ca** | **1.866.804.3122**



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