

TRUE TALES OF TITLE TERROR IN JEFFERSON COUNTY, INDIANA

Jefferson County Land Title Corporation
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DO TITLE PROBLEMS REALLY OCCUR?

The average person does not understand that the title to real property can be affected by the actions of others. Also, many people erroneously assume that if they are buying a brand new house, they do not need title insurance because they are the first owner. This is a dangerous assumption because the title is actually to the land, not the home. The home is simply an improvement placed on the land. Any problem clouding the title to the land will also affect the marketability of the improvements, too, since you can't sell the house without the land.

If you or your customer believe that title problems only happen in big cities, take a look at the following "TRUE TALES OF TITLE TERROR" in Jefferson County, Indiana:

1) THE BUILDER THAT COULDN'T COUNT TO FIFTY

Property Address: 3920 West Deer Bend Drive, Hanover, IN 47243

Map Number: 13-06-300-052.000-09

A survey location report ordered prior to the 2004 sale of this property revealed that the house violated the 50' building set back line by more than 20 feet. The purchaser, Volunteers of America of Indiana, Inc., was made aware of the violation prior to closing and agreed to accept the property. However, the set back violation appears as an exception to their title policy and they are not covered for any damages that may result from this violation.

2) BACK FROM THE DEAD: A PAID OFF MORTGAGE RETURNS TO HAUNT THE PROPERTY

Property Address: 2699 Thornton Road, Madison, IN 47250

Map Number: 02-07-000-006.001-01 & 02-07-000-006.002-01

Rick & Kai Thomas n/k/a Kai Marie Kempker applied for a loan from People's Trust Company to purchase this property from William M. & Mary Jane Garrett in 2000. The title search turned up an unreleased mortgage from Amy L. Casey to Huntington National Bank of Indiana. Ms. Casey was a former owner who sold the property to Thornton Road Land Trust, an entity that then sold it to Mr. & Mrs. Garrett. Upon receiving a request for the release of this old mortgage, Huntington National Bank faxed a payoff statement showing an outstanding balance of \$10,048.14. Although the existing balance on this mortgage was paid in full when Ms. Casey sold the property to Thornton Road Land Trust, this mortgage was attached to a line of credit that was never closed and Ms. Casey had proceeded to make further draws on this line of credit. Fortunately for all parties involved, Huntington National Bank graciously chose to substitute Ms. Casey's current residence as collateral for the line of credit and released the mortgage on this property. This situation did require extensive work by attorneys on both sides of the dispute before the issue was resolved.

3) FORECLOSURES CLEAR THE TITLE, RIGHT?

Property Address: 2859 Basswood Drive, Madison, IN 47250

Map Number: 08-20-114-015.000-11

Chase Bank of Texas entered into an agreement to sell this foreclosed property to Darren D. & Rebecca S. Anderson. Chase Bank of Texas was to provide an Owner's Title Insurance Policy to the purchasers. The title search done by JCLT revealed that a 2nd mortgage and a judgment against the previous owner which were never foreclosed and were, therefore, valid liens against the real estate. JCLT requested a Letter of Indemnity from Lawyers Title Corporation because it was one of their title agents that neglected to show these items on their foreclosure commitment. In the meantime, the realtor advised the purchaser to proceed with the closing because he felt sure the situation would be resolved. The Lender financed the purchase and performed the closing based on a title opinion from a source other than JCLT which did not disclose these liens. To date, JCLT has never received the indemnity letter and cannot issue the Owner's Title Insurance Policy until this requirement, which was shown on the title commitment, has been satisfied.

4) **THE LENDER ENDS UP OWNING A DEFECTIVE PROPERTY**

Property Address: 700 Clifty Drive, Madison, IN 47250 (Best Western Motel)

Map Number: 08-22-000-004.001-11 & 08-22-224-004.000-11 & 08-22-224-003.0011-11

MainSource Bank foreclosed on a property owned by Patricia G. Hereford. It was then discovered that an access driveway from the front of the motel property to the rear of the motel property encroached onto adjacent land. Because JCLT issued an endorsement with the loan policy insuring against encroachments of the property onto adjacent land, Lawyers Title Corporation paid \$20,000.00 to buy the portion of the adjacent property over which the driveway ran. The defect was cured by this action and MainSource Bank was subsequently able to sell the property to Griswold Realty Company, LLC.

5) **PICK A TRACT, ANY TRACT**

Property Address: 1145 Rabbit Lane, Madison, IN 47250

Map Number: 08-28-000-004.002-11

Madison Holdings, LLC took out a construction loan to build a lovely house on this property. Jeremy S. & F. Adelaide Hall made an offer on the house and instructed their local lender to order the title work. JCLT did not find a mortgage on this property. The Seller informed the local lender that they did, in fact, have a mortgage that funded the construction of the home. Upon further investigation, JCLT discovered that the mortgage had been placed on a different tract on Rabbit Lane that was also owned by Madison Holdings, LLC. After verifying the accuracy of this information with all necessary parties, the local lender closed the transaction and paid off the lien on the other tract. Thanks to the honesty of this Seller, a potentially costly situation for the holder of the construction loan was avoided.

6) **THE HOUSE IS 150 YEARS OLD. HOW COULD THERE BE HIDDEN PROBLEMS?**

Property Address: 115 South Walnut Street, Madison, IN 47250

Map Number: 13-02-133-003.000-11

In September, 2000, Lee R. & Barbara A. Daugherty agreed to sell their historical home built in the 1800's to Ryan P. & Julianne L. (Gildea) Vandewater. The Vandewaters financed through an out-of-town lender that required a survey. The survey revealed half the house was built on its own lot and the other half on the adjoining lot owned by Bill Demaree. In order to cure the problem a quiet title action was filed and an alley south of the adjoining lot was vacated, all at great legal expense and the passage of nearly a year's time before the sale could finally close.

SOLUTION: TITLE INSURANCE & INSURED CLOSINGS HANDLED BY A REPUTABLE LOCAL TITLE COMPANY

Title defects can quickly turn your dream home into your worst financial nightmare. Because title matters are a rather abstract aspect of property ownership, finding a reputable title company to close your transaction can insure the protection of your investment.