



CORPORATE TITLE
AGENCY

Title Talk

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January—March 2010 Edition

Spring

What's New?

Spring is here and summer is not too far off! Now that winter is over, the hope is that the real estate market will also be springing in the right direction and keep all of us busy through the 2nd and 3rd quarters of the year. The Federal government continues to work on new incentives to purchase new homes, increase short sales over foreclosures and increase modifications of mortgage over foreclosures. Some have seen the trickle-down effect of these measures, but many are still waiting for more positive results to surface.

Did you Know...

For many years, Fannie Mae used an addendum for REO sales contracts wherein the bank was the Seller. This addendum mandated that buyers use the seller's title agents and that the cost of transfer taxes would be the buyer's responsibility. Fannie Mae has now issued a new addendum that allows the buyer to choose his/her own title agent. This addendum now states "The closing shall be held at a place so designated and approved by the Purchaser." In addition, the contract no longer contains a provision that regardless of local custom, Fannie Mae will not pay any portion of the transfer taxes and stamps.

Market News:

According to USDA Rural Development in March, it was likely that the program funding for the Single Family Housing Guaranteed Loan Program would be exhausted by the end of April, 2010. Once exhausted, the Agency would not issue Conditional Commitments "subject to receipt of appropriated funds," because it was not certain when additional funding will be available.

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Contact Corporate Title Agency for title insurance and closing services anywhere in Michigan. We provide these services from the following Michigan branch offices -- Traverse City, Benzonia, Suttons Bay, Elk Rapids, Charlevoix, Petoskey, Harbor Springs, Gaylord, Bellaire, Mt. Pleasant, Big Rapids and Greenville.



Federal Housing Administration changes its lending requirements.

The FHA is currently insuring about 30% of new loans in the market, up from 3% in 2007. Growing defaults have cut its reserves below the level mandated by Congress, so it is tightening its lending requirements. The three primary changes which may affect someone who is considering an FHA loan are as follows:

- **Down payment/credit score requirements.** New borrowers will have to have a minimum

credit score of 580 to qualify for a 3.5% down payment.

Those with lower scores will have to make at least a 10% down payment. The average credit score of FHA-insured borrowers is 693.

- **Seller Concession Reduction.** Allowable seller concessions will be reduced from 6% to 3% of the sale price.
- **Mortgage Insurance Increase.**

Buyers will have to pay an upfront mortgage insurance premium of 2.25% of the total loan amount, up from 1.75% now.

While the more stringent requirements may leave some borrowers out of the marketplace, some economists say the measures are necessary to protect the FHA from losses.



Friendly Reminder: If you change your e-mail address, please let us know so that we can ensure that you receive our e-mails and newsletters in a timely manner. Thank You!

Legislative/Case law Update:

There were two recent cases dealing with the uncapping of the taxable value involving joint tenants, the definition of "original owner", and what constitutes a "conveyance." Both cases originated from our region, as well as the original/primary case involving ***Klooster***.

In ***Klevorn v. City of Boyne City***, the Michigan Court of Appeals, in an unpublished decision, determined that the property was wrongfully uncapped when a mother and son held as joint tenants and the mother died. The mother's death was not considered a "conveyance" for purposes of the uncapping. The joint tenancy in this case was created by virtue of a warranty deed in 1987. At the time the tenancy was created, "at least 1 of the persons" (his mother) was an original owner of the property, satisfying the first requirement of the statute. The next requirement consists of two parts, but they must only be met "if the property is held as a joint tenancy at the time of the conveyance." At the time of the mother's death, the mother and son held the property as joint tenants with full rights of survivorship. In a recent case (***Klooster***) the court held the death of a joint tenant does not constitute a conveyance and does not amount to a transfer of ownership under MCL 211.27a(7)(h). "Based on that, the transfer of ownership to son as joint tenants did not constitute a conveyance. Therefore, "the second half of MCL 211.27a(7)(h) was not triggered and petitioner's property value should not have been uncapped as a result of the termination of" his mother's interest in the property. The court reversed the tax tribunal's order granting the respondents summary disposition and remanded for entry of an order consistent with the court's opinion.

In another case with the same issue (***Taylor v. City of Traverse City***), the Michigan Court of Appeals held that the Tax Tribunal erred by granting judgment in favor of the City. In this case, the father held title to the property. The father then quitclaimed his interest to himself and his son as joint tenants. Once the father died, the City uncapped the taxable value, citing that the son was not considered an "original owner" under the statute. Again, the Court used the two-pronged test set forth in the ***Klooster*** case. Again, the court stated that the statute contains two requirements in order for the exemption to apply. First, at least one of the persons involved in the transfer was an original owner of the property before the joint tenancy was created. In this case, the father was such prior to the transfer to himself and his son as joint tenants. The second prong of the test requires if the property was held as a joint tenancy at the time of the transfer, at least one of the persons involved in the transfer was a joint tenant at the time the joint tenancy was originally created and has remained a joint tenant since that time. The son also met this second requirement because the property was held in a joint tenancy at the time of the second transfer (the death of the father). The case was reversed and remanded for entry of an order in favor of the son.



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