

FIRST AMERICAN  
TITLE INS. - TITLE DEFICIENCY LETTER - VERSION 1

February 7, 2001

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Re: Deficiencies on Title Policies

Dear [REDACTED]

This will respond to your letter of December 22, 2000 to John Hollenbeck and Benjamin Lyons of this office. Additionally, I am responding to your letter of the same date to Carl Laffin, Title Plant Manager for Security Title in Greenwood Village, Colorado, which was forwarded to me by Rick Garlick, our Regional Vice President for Colorado, as he assumed you would prefer a response that would be binding on us as the "Company" as that term is defined in the policies issued by Security Title.

I will respond to each of the title policy review elements in the order presented on the list included with your letter.

1. Mortgage Description Requires Correction

An error in the title policy describing the insured mortgage will not invalidate the policy so long as the mortgage that was intended to be insured could be identified by other means including the recorded document and any copy in our or the settlement agent's file.

2. Amount of Loan Balance Exceeds Indicated Insurance Coverage Amount

This type of error will not invalidate the policy. However, the Amount of Insurance shown in Schedule A sets the limit of the indemnity coverage afforded by the policy and is the amount on which the applicable title insurance premium is calculated. If premium was in fact paid on the full loan balance but the Amount of Insurance was incorrectly set in the policy at a lower amount due to our error, we would honor in the event of a claim the greater amount of coverage.

[REDACTED]

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3. Mortgage/Co-Mortgagor Name Requires Minor Corrections

This type of error on the title policy will not invalidate the policy.

4. Name of Insured Party Requires Correction

This type of error on the title policy will not invalidate the policy. It will be necessary in the event of a claim to determine the true identity of the insured who is entitled to the policy benefits but that information can be determined by referring to other information provided or available to us.

5. Legal Description Missing or Requires Correction

This type of error on the title policy will not invalidate the policy. As you know, the ALTA Short Form Residential Loan Policy, which I suspect is the form of policy issued to Wells Fargo Home Mortgage in many jurisdictions, does not require that a legal description appear in the policy as it incorporates by reference the legal description set forth in the insured mortgage. This reduced possibility of error is but one of the features of the ALTA Short Form Residential Loan Policy that make it an excellent policy form for mortgage originators.

6. Loan Amount Requires Correction

This type of error on the title policy will not invalidate the policy.

7. Property Address Requires Minor Corrections

This type of error on the title policy will not invalidate the policy. By "minor corrections", I assume you mean some minor aspect of the property address that is incorrect or missing due to a typographical error (e.g. a missing street type designation such as "Street", "Lane", "Drive", or "Avenue"). In most every instance like this, it is possible to determine the property address that was intended by referring to other available information including the property address set forth in the insured mortgage.

8. Schedule A or B Omitted

These Schedules are integral parts of the title policy. Therefore, a missing Schedule A or B should be corrected by requesting of us the applicable Schedule. With regard to the ALTA Short Form Residential Loan Policy, however, I should point out that both Schedules A and B are preprinted into the policy form. Schedule B in that form

**[REDACTED]**

contains generic exceptions to coverage (together with affirmative coverage which relates to each generic exception). There is no separate Schedule B with that form of policy.

There can be an "Addendum" to that form of policy if additional exceptions to coverage are necessary that do not fit within any of the preprinted generic exceptions but a box will be checked on page one of the form indicating whether an Addendum is intended to be attached. In the majority of transactions, the box "No addendum attached" would be checked and, accordingly, no Addendum would be issued. If the box "Addendum attached" is checked but no Addendum is received, the applicable Addendum should be requested.

9. Counter Signature Requires Minor Corrections

This type of error on the title policy will not invalidate the policy.

10. Endorsement Missing

This type of error on the title policy will not invalidate the policy. In the event of a claim, if we can determine that a particular endorsement was required of us as a condition to the loan closing but was not provided, we will honor the claim as if the coverage of the applicable endorsement was a part of the policy. With regard to the ALTA Short Form Residential Loan Policy, many of the ALTA form endorsements are incorporated by reference into that form of policy and are deemed issued by simply checking a box on page one of the form. When the appropriate box is checked, the coverage of the applicable form of endorsement is made a part of the policy and it is unnecessary for the actual endorsement form to be issued.

11. Endorsement Requires Minor Corrections

This type of error on the title policy will not invalidate the policy.

12. Effective Date Requires Correction

This type of error on the title policy will not invalidate the policy. It will usually be possible to determine the effective date that was intended by referring to other information available to us including the date of recording of the insured mortgage. We are aware that some lenders require that the Date of Policy be the date when the lender funds the mortgage loan. Other lenders require that the Date of Policy be the same date as the date when the insured mortgage is recorded, particularly if that date is later than the

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funding date. In our opinion from the perspective of what is in the lender's best interest relative to the title policy coverage, the Date of Policy should be the later of the funding date or the date of recording of the insured mortgage because this picks up coverage for the "gap" which is what the lender usually intends. With regard to the ALTA Short Form Residential Loan Policy, this issue is automatically addressed because the Date of Policy set forth in Schedule A is identified by a specific date filled in on the form by the issuing office, usually the date the loan is funded, and the "gap" is covered by the additional words "or the date of recording of the insured mortgage, whichever is later" without the need to include the specific date of that recording.

13. Re-Recording Information Omitted

This type of error on the title policy will not invalidate the policy. Of course, if the re-recording occurs subsequent to the issuance of the policy, one should not expect that the re-recording information would be referenced in the policy itself. It is important in this connection to recognize the possible impact of Exclusion 3(a) of the 1992 ALTA Loan Policy (and of the ALTA Short Form Residential Loan Policy) which excludes from coverage defects, liens, encumbrances, adverse claims or other matters: "(a) created, suffered, assumed or agreed to by the insured . . ." Depending on the purpose and legal effect of the re-recording, where it was done for some reason other than to correct an error on our part it may be beneficial to obtain an endorsement to the policy to confirm that the re-recording does not impair the validity, enforceability or priority of the lien of the insured mortgage.

14. Standard Exceptions Require Minor Corrections

This type of error on the title policy will not invalidate the policy.

15. Jacket Cover Omitted

This type of error on the title policy will not invalidate the policy if we can verify through evidence submitted or otherwise available to us that a policy was requested from a First American office or one of our authorized issuing agents and that the applicable premium was paid in connection with settlement of the subject loan.

No jacket is required with the ALTA Residential Short Form Loan Policy. A jacket is a part of the "long form" ALTA Loan Policy and, since there still are several different forms commonly available which do have some differing language (e.g. 1970 (Amended 10-17-70); 1984 (Amended 10-17-70; 10-17-84); 1992 (Amended 10-17-92)), it is helpful



to the resolution of any claim if the jacket is readily available. However, it is often possible to determine which jacket was intended by reviewing other available information including the settlement or escrow instructions issued at the time of loan origination.

16. Jacket Cover Requires Minor Correction

Because all of our policy jackets are preprinted and require nothing to be completed, it is difficult to imagine any "minor correction" that would be necessary. In some states, the policy may require a counter-signature but that was addressed under paragraph 9 above. If the "minor correction" that was thought to be required was the fact that the form of jacket issued was for a form of ALTA policy different from the form you required as a condition to the closing of your loan (e.g. 1992 form required but 1990 form issued), this type of error would not invalidate the policy and we would honor any claim based upon the language of the particular policy form required so long as that could be determined by referring to other information provided or available to us.

17. Date of Mortgage Requires Correction

This type of error on the title policy does not invalidate the policy.

18. Trustee Requires Minor Corrections

This type of error on the title policy does not invalidate the policy.

19. Trustee Omitted

This type of error on the title policy does not invalidate the policy.

20. Addendum is Omitted from a Short Form Policy

This was addressed under paragraph 8 (Schedule A or B Omitted) above. To review, an Addendum is only necessary in those transactions where there are exceptions to coverage that do not fit within any of the preprinted generic exceptions in Schedule B of the Short Form (e.g. a mortgage that is senior in priority to the insured mortgage). In the majority of "first mortgage" originations, no Addendum should be necessary. However, any Addendum that is necessary but has been omitted from the policy at the time of its issuance should be obtained. You will know if an Addendum is necessary because the box on page one of the Short Form policy marked "Addendum attached" will be checked.



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21. Environmental Protection Lien Endorsement Omitted

This type of error on the title policy will not invalidate the policy. In the event of a claim, if we can determine that this particular endorsement was required of us as a condition to the loan closing but was not provided, we will honor the claim as if the coverage of this endorsement was a part of the policy. As indicated in paragraph 10 (Endorsement Missing) above, in the case of the ALTA Residential Short Form Loan Policy, all that is necessary to confirm that this endorsement coverage is in place is that the appropriate box be checked on page one of the policy.

22. Marital Status of Borrower(s) Requires Correction

This type of error on the title policy will not invalidate the policy. However, as I am sure you are aware, if any borrower is married but his or her spouse does not appear of public record as having an interest in the land to be encumbered by the insured mortgage, it may be legally necessary in certain states for the non-titled spouse to execute the mortgage or to execute an instrument of conveyance by which that spouse's interest in the land is transferred to the spouse who is vested in title. I trust that Wells Fargo Home Mortgage has its own procedures in place to adequately address this situation for its benefit.

We appreciate this opportunity to address these issues and to be of service to Wells Fargo Home Mortgage.

Very truly yours,

Paul L. Hammann  
Vice President and Underwriting Director

cc. John Hollenbeck  
Benjamin P. Lyons  
Rick Garlick