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NOV 01 2000

Ownership of new home means more than a deed

The most important part of a home purchase may be the receipt of title insurance, according to a Wisconsin attorney.

"The mere transfer of a deed does not always guarantee that the new owner has clear title to the property," said James E. Powers, Managing Attorney at Attorneys' Title Guaranty Fund, Inc.-Wisconsin Operations. "There are too many factors that could affect ownership."

Speaking at a recent seminar on title underwriting, Powers said, "Unless property is transferred by someone who actually holds clear title and who is authorized to convey the property, the sale may not be valid."

In addition, Powers said, certain debts attached to the property would become the new owner's responsibility if they were not cleared up before the transfer of ownership. Typically, a title insurance company will conduct a search to uncover any potential defects in a title. Sellers are then required to resolve those problems before a title insurance policy is issued. The policy insures the new owners against loss if there are hidden defects to the title. In Wisconsin, most standard form contracts for the sale of residential real estate require the seller to provide a title insurance policy on behalf of the purchaser.

"While it is not always obvious that a defect to a title exists, there are some situations that should raise questions," Powers said. "If any of these situations are present, it may become important to secure title insurance and contact a real estate attorney."

For example, he said, there is often a question about who is authorized to sign a deed when the current property owner is a corporation, partnership or trust.

"Typically, only a small group is authorized to convey title to the property and certain conditions apply to its sale," Powers said. "In some cases, it may be required that all sharehold-

ers agree to the sale of the property. In other cases only one party may be authorized to transfer title."

Other issues may arise when the property is owned by an incompetent, minor or deceased individual.

"In Wisconsin, the title to property owned by someone who has died does not automatically pass to the heirs," said Powers. "That means, unless a personal representative is appointed in probate court, they may not sell the property."

He also said property owners might be confused about their rights when property is held in joint tenancy.