



CHICAGO TITLE  
CANADA

# Commercial Search Guidelines

## Search Guidelines

### Searches Applicable to All Transactions

Search	Requirements
Title Search*	<p><b>Purchase transaction:</b> Review instruments (including deleted) and any “subject to” interests appearing on the parcel register.</p> <p><b>Refinance transaction:</b> Review instruments (including deleted) and any “subject to” interests appearing on the parcel register from the last arm’s length transfer and the Land Transfer Tax Affidavit for any assumed mortgages.</p>
Execution Search*	Current vendor and/or borrower.
Planning Act	Similar name search of the current registered owners of abutting land, if applicable.
Realty Taxes and Utilities (which can form a lien)	Verification there are no arrears (certificates not required). Verification by verbal inquiry, receipted tax bill, or declaration from the borrower/vendor are acceptable.
Corporate Profile	Current vendor and/or borrower. <i>Searches against prior owners not required.</i>
Status Certificate – condo	All owner policies. Loan policies greater than \$25MM or \$10-\$25MM if the loan to value ratio is greater than 75%. Dated within 60 days of closing (verbal update accepted within 90 days).

\*Updated title and execution searches must be conducted on closing confirming no new registrations.

## Additional Owner and/or Lender Search Requirements

(Owner policies greater than \$10MM and loan policies greater than \$25MM or \$10MM-\$25MM if the loan to value ratio is great than 75%)

Search	Requirements
Building Department – Zoning Compliance	Verification current use and/or intended use matches the zoning classification for the Land.
Municipal Agreement Compliance	Confirmation that municipal, subdivision and development agreements are in compliance. Such inquiry is not required for non-municipal agreements or airport and zoning regulations. If confirmation is not available, a declaration may be accepted in substitution.
Tax Lot Verification	Confirmation the description of the Land on the tax bill matches the legal description.
Unregistered Easement	Hydro One and local utilities search to identify any easements.

## Additional Lender Search Requirements

(Loan policies greater than \$25MM or \$10MM-\$25MM if the loan to value ratio is greater than 75%)

Search	Requirements
Work Orders and Deficiency Notices	Confirmation there are no work orders or deficiency notices filed with the building department, fire department and any other governmental and quasi-governmental authority** that would be typically conducted in a similar transaction, which would reveal a work order.

\*\*Governmental or quasi-governmental authority means any department or division of the Government of Canada or of the town, city, county, regional municipality or province in which the Land is located.

A statutory declaration or officer's certificate from the borrower confirming, zoning, agreement compliance and no work orders or deficiency notices may be required for loan policies between \$10MM-\$25MM with a loan to value ratio less than 75% if the lender does not have a loan program with Chicago Title. On a case by case basis, it may also be accepted in lieu of the additional lender search agreements.

Although a search may not be required, the coverage should be reviewed to determine if the search may be useful to your client given the nature of the transaction.

You must advise Chicago Title of any adverse matters that were revealed by any required searches, if any of the searches were not conducted, or if the search is older than what is required. Failure to conduct a search may result in an exception being listed on the policy or the removal or modification of an endorsement.



# Coverage Summary

## All Policies

Policy Jacket
Title being held other than as stated in the policy.
Defects in title caused by forgery/fraud, lack of authority, improper execution, invalid power of attorney, improper registrations, defective judicial/administrative proceeding or subdivision of land.
Liens for real estate taxes or assessments unpaid at the Date of Policy.
Defects revealed by an up-to date survey. †
Unmarketable Title.
Gap coverage – Defects, liens or encumbrances registered subsequent to the Date of Policy, but prior to the registration of the insured interest.
Expropriation rights registered in the Public records or binding on an innocent purchaser.
Duty to defend any matter covered under the policy.

†Owner policies over \$10MM require a survey, but contact underwriting for coverage options that may be available.

Endorsements
Parcels comprising the Land not being contiguous to each other.
Failure of the current use of the Land to be permitted under the applicable zoning by-laws. For land with a structure, forced removal as a result of zoning by-law violations relating to: a. Area, width, or depth of the Land as a building site for the structure; b. Floor space area of the structure; c. Setback of the structure from the property lines of the Land; and d. Height of the structure.
Coverage for number of parking spaces is available for loan policies or owner policies if a search has been conducted.
Violations of covenants, conditions and restrictions contained in agreements registered on title to the Land.
Actual loss related to an incorrect response from a governmental or quasi-governmental authority.**
Failure of the Land to constitute a separate tax parcel for real estate tax purposes.
Lack of pedestrian and vehicular access from all access routes currently enjoyed.
Failure of the Land to constitute a lawfully created parcel according to subdivision laws.
Condominium (when applicable): Failure of the unit to comply with applicable laws, be assessed for taxes, charges or assessments owing, increases to common expenses due to errors in status certificate and violations of restrictions contained in condo documents.

## Additional Coverage – Loan Policies Only

Policy Jacket
Lack of priority of the Insured Mortgage, including with respect to priority of post policy construction liens. Construction lien coverage is modified if insuring a construction loan and issuing the construction loan endorsement.
Invalidity of an assignment of the Insured Mortgage or failure of the assignment to vest in name of assignee free of liens.

Endorsements/Affirmative Coverage
Illegal rents resulting in a final judgment ordering a reduction of rent or a rebate (within the two years prior to the Date of Policy).
Court order or judgment denying the right to enforce the Insured Mortgage because it violates “doing business” laws of Canada.
Court order or judgment ruling the charge is invalid or unenforceable because the loan evidenced by the Insured Mortgage is usurious under the laws of Canada.
Lack of building or occupancy permit for improvements on the Land or work orders issued as a result of open permits. ‡
Enforcement of work orders by the fire department that would have been issued had an inspection been done.
Governmental/quasi-governmental authority* work orders outstanding at the Date of Policy. Does not cover environmental issues.
Enforcement of a private charge or assessment; an option to purchase; a right of first refusal; or a right of prior approval of a future purchaser or occupant resulting in the invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage.
Damage to improvements resulting from the exercise of any right to use the Land for the extraction of minerals.
Encroachment of improvements on to easements and damage to improvements resulting from the exercise of easement rights.

‡Coverage available for under \$10MM loan policies and with loan programs. Issued on a case by case basis for other policies.



# Frequently Asked Questions

## **Do you have other coverage?**

Yes! In addition to the coverage outlined in this document, we have a comprehensive suite of endorsements that can be issued based on the unique needs of your transaction. Contact one of our experienced underwriters to discuss any additional requirements. We recommend consulting our Reference Guide Commercial Endorsements on our website for an overview.

## **Do you have any coverage for properties on septic or non-municipal water sources?**

Yes! The Water Potability endorsement is available to lenders and provides coverage for loss as a result of the water from non-municipal sources being non-potable as at the Date of Policy. The Septic System endorsement is available for owner policies under \$10MM and lender policies under \$25MM or between \$10-\$25MM if the loan to value ratio is greater than 75%. Confirmation that a use permit was obtained when the system was installed is required and for an owner policy, confirmation there have been no further improvements since the permit was issued. An underwriter would be happy to discuss the coverage and requirements with you further.

## **What do you consider a private lender and what is the private lender exception?**

We consider a private lender to be any lender which is not a chartered bank, trust company, credit union, insurance company or mortgage finance corporation. We expect funds from a private lender transaction be disbursed directly to the borrower or to one of the permitted parties listed in our private lender exception. Help us protect you and your client against fraud by following our instructions.

## **Can you order an existing owner policy?**

Yes, a copy of the parcel register together with the value of the land from an appraisal or realty tax bill is required in order to obtain a policy. Depending on the value, there may be further questions or requirements.

## **Do you have a policy for registrations under the Personal Property Security (PPSA) Act?**

A PPSA policy may be purchased together with your title insurance policy so choose “yes” to PPSA in your order and one of our underwriters will follow up with requirements and pricing.

## **Do you insure Indigenous Lands?**

Yes! We have additional questions that must be completed, and an underwriter will contact you for copies of the title search, the agreement of purchase and sale (if a purchase), the head lease and any subleases. Additional premiums apply for Indigenous lands.

## **What coverage is available for Crown Patent issues?**

The owner policy has an exception for reservations, limitations, provisos and conditions contained in the crown patent. If the crown patent is obtained and reviewed and contains no such reservations, the exception can be removed. A lender would have coverage under the policy for a loss was suffered as a result of lien or defect contained in the Crown Patent.



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