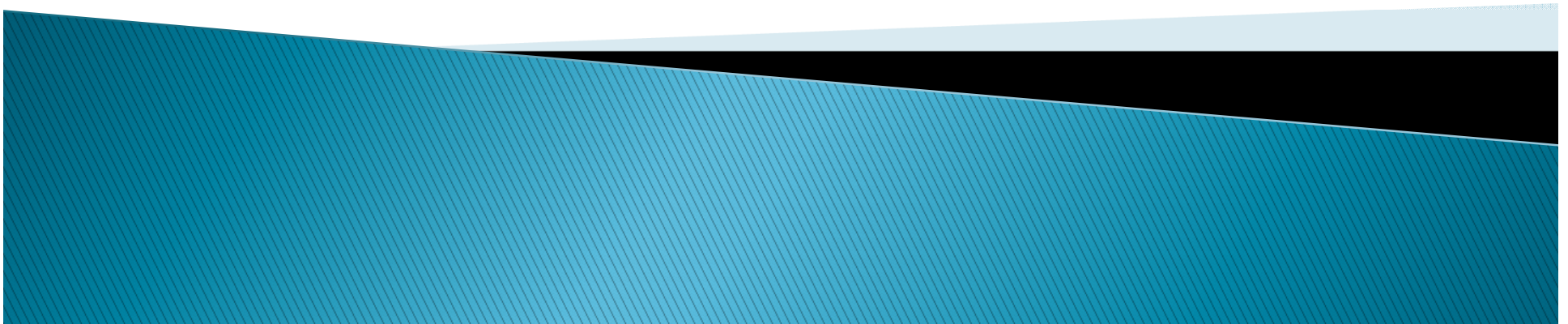


ESCROW REVELATIONS

OLTA Seminar
March 14, 2015



A SIMPLE COMMENT

“Once we receive the money, we’ll go down to the bank and payoff our loan.”

1. Assume the title report was correct and let them payoff the loan as they had suggested?
2. Ask the title department to research further because we had obviously missed the lien?
3. Get the loan information and pay it through escrow?



NOPE – NO RECORDED LIEN

CHOICES

1. Pay the loan through closing and call it good?
2. Ask more questions?



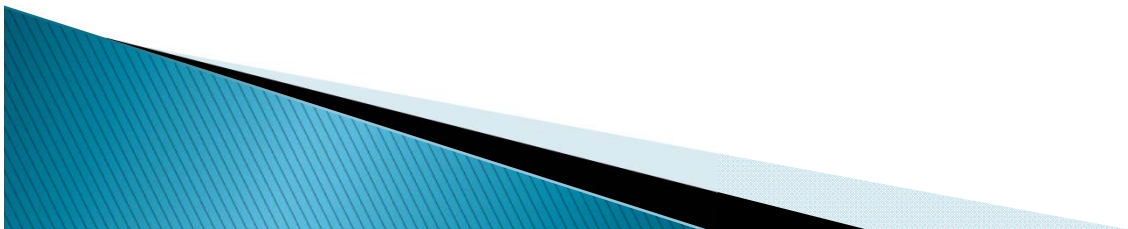
DIGGING DEEPER

1. What was the approximate amount of the loan?
2. When was the loan taken out?



THE REVELATION

1. Sellers had recently split their original tax lot into 2 parcels
2. The loan was for the new manufactured dwelling that the sellers had placed on the northern parcel
3. The southern parcel retained the original tax lot number
4. We had examined the southern parcel
5. The sale was for the northern parcel



THE LESSON

- Don't settle for the easy answer
- Dig deeper
- Ask more questions
- Satisfy yourself



THE NEVER ENDING STORY

First time home buyer

Distressed sale

The seller wanted a quick closing

Subject to existing first trust deed in favor of Wells Fargo



THE TRANSACTION

Buyer had a \$10,000.00 down payment and was pre-qualified for a Rural Development loan

Seller was desperate to sell, but not delinquent on their existing loan

Seller wanted to sell to the buyer on a Land Sales Contract, wrapping the existing loan



THE TRANSACTION

Collection escrow was established to handle the monthly payments

The transaction closed in April of 2010

Owner's policy was issued subject to the existing Wells Fargo Trust Deed

Everyone was happy



FAST FORWARD – AUGUST 2011

Buyer received a Trustee's Notice of Sale

Wells Fargo had received no payments since February of 2011

Buyer's attorney filed a claim against the title policy

Claim was denied; the policy was issued subject to the Wells Fargo Trust Deed



THE SAGA CONTINUES

Buyer's attorney filed a complaint, naming, among others, the settlement agent

Land Sales Contract called for collection escrow payments to go first to the underlying Wells Fargo loan, with any remaining difference to go to the seller

Collection Escrow Instructions directed the entire payment to be made payable to the seller



THE DISCOVERY

The seller actually signed first

The Collection Escrow disbursement instructions were left blank when seller signed

Still blank when the buyer signed

Email dated 2 weeks after closing



THE ENDING

Settled the claim in July of 2012

Buyer pursued a case against the realtor
September 2013; Buyer was still living in the
home

Buyer most recently sued the underwriter and
received another settlement amount; Buyer
was still living in the home



THE REVELATION

Escrow Officer was a very trusting person

She thought that, like the sale proceeds, the disposition of the payments was entirely up to the seller

She did not see the pitfall of relying on the seller to continue to make the Wells Fargo payments



LESSON

Basic Escrow – Never, as in not ever, allow documents or instructions to be signed if they contain blanks

Review contracts for expectations that need to be addressed in closing

