

IDENTIFYING RED FLAGS ON PRELIMINARY REPORT { PART 1 }

TAXES Usually show status of the current tax year. _____

RED FLAG

Postponed property taxes. This is a program put on by the state for senior citizens. It allows the owner to postpone the taxes until the property is sold or refinanced. The owner applies to the state, and the state provides "checks" that the owner uses to pay the taxes. The reason this is a Possible problem is because a demand will need to be ordered from the state by escrow in order to pay off the postponed taxes. It may take up to 2 weeks to get a demand.

CC&R'S _____

These are standard. The CC&R's should be provided to the buyer by escrow. The buyer should read the CC&R's thoroughly, especially if improvements to the property are contemplated.

RED FLAG

Some CC&R's prohibit certain types of improvements.

EASEMENTS _____

These are also pretty standard. Most easements in newer subdivisions (20 years or less) are contained in the street. Some subdivisions have non exclusive easements over portions of the property for such things as maintenance of side yards, access to common areas (like golf courses), etc.

RED FLAG

If improvements are contemplated (such as construction of a pool or spa for example), then the buyer should request the easement be plotted on a map to determine that there will not be any interference to contemplated improvements.

AGREEMENTS _____

These commonly take the form of road maintenance agreements, mutual easement agreements (like a shared driveway) or improvement agreements, and will bind the owner to certain actions. A copy of the agreement should be requested from title, and provided to the buyer. It is the buyer's responsibility to contact their own counsel if they do not understand how the agreement would affect their requirements.

TRUST DEEDS _____

These are common. Escrow will order a demand from the lender(s) which will allow the title company to pay off the existing loan(s) using proceeds from the new buyer's loan (or proceeds if all cash).

RED FLAG

Watch out for old trust deeds from previous owners (or sometimes the current owner if he has refinanced). If you find a trust deed listed that has already been paid, or that looks like it was taken out by a previous owner, call your title officer immediately. He will research the trust deed, and take the necessary steps to either remove it from the public record (by working with escrow to get release documents). Old trust deeds with private party beneficiaries (individual people acting as lenders, such as an old seller carry-back) are difficult to get removed, especially if several years have gone by since the loan has been paid off. A bond will sometimes be necessary in order to clear title of an old trust deed. These bonds must be covering twice the face value of the deed of trust, and will cost upwards of 1% of the bond amount (usually around 2 or 3 percent, more for higher risk bonds), depending on how much supporting documentation is provided to the bonding company. Note: If you have a client/buyer who is getting financing from the seller, or any individual, advise them to contact you or their title officer when the loan is being paid off. The release documents are much easier to get now rather than in a few years when the lender may no longer be around.



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TO BE CONTINUED...