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RE44R05: Understanding Title and Title Concerns

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What is a Title?

- Represents legal ownership of a property.
- Includes the right to use, control, and transfer ownership.
- Title issues can affect ownership rights and marketability.

Types of Titles

- Registered / Land Court Title — Guaranteed by the Commonwealth of Massachusetts.
- Non-Registered / Recorded Title — Recorded at the Registry of Deeds.

What is a 'Cloud on Title'?

- Any document, claim, unreleased lien, or encumbrance that may impair the title to a property.
- Makes ownership unclear or marketability uncertain.

Discovering Title Issues

- Title search performed by attorney or title examiner.
- Reviews public records to identify defects or claims.

Common Types of Clouds on Title

- Contract for Deed
- Recorded Option or Mortgage
- Lis Pendens (lawsuit pending)
- Incomplete legal description
- Heirs with prior claim
- Lessee with option to purchase

More Examples of Clouds on Title

- Tax Lien
- Municipal Lien Certificate
- IRS or MA Dept. of Revenue Lien
- Bankruptcy or Divorce Decree
- Foreclosure or Condemnation
- Adverse Possession or Homestead Claims

Other Title Concerns

- Zoning and building code violations
- Misidentification of land or property
- Unpermitted improvements
- Estoppel issues
- Mechanics Liens (for unpaid contractor work)

Title Insurance Overview

- Lender (Loan) Title Insurance — Required by lenders, covers loan amount.
- Owner's Title Insurance — Optional, covers purchase price, protects buyer's interest.

Attorney Professional Liability

- Attorneys must carry malpractice insurance.
- Protects against errors or omissions during title review or closing.

Remedies for Title Issues

- Quiet Title Action — Court process to resolve disputes or clear title.
- Quitclaim Deed — Used to convey property and clear minor defects.

Suggested Reference

- The Language of Real Estate, 5th Edition by John W. Reilly.
- Comprehensive guide to real estate terminology and title concepts.

Conclusion

- A clear title is essential to property ownership.
- Always perform due diligence and recommend title insurance.
- Understand the process to identify and resolve title concerns.

Questions & Discussion

- What are some real-life examples of title issues you've encountered?
- How can title insurance protect both buyers and lenders?