TITLE REPORTS AND INSURANCE

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<u>What is "Title"?</u>
Title refers to the ownership of and rights to a piece of land and the improvements (aka buildings). When someone owns a property, they own the title to it. However, other parties may still have certain rights to that same property without actually owning the property.

<u>Researching Title During Due Diligence</u>
An important part of the due diligence process related to the acquisition or financing of a property is understanding the title history. There are two main components to this:

1. Title Report: this is produced by the title company with or without the underlying documents.
    a. If without, it is a summary of the various documents recorded against the property as far back as there is history.
    b. If with underlying documents, it includes a copy of each of the documents.
2. ALTA Survey: the ALTA survey is a visual representation of all factors affecting title that can be shown visually. It looks like an outline of the property with a bunch of notes on it. See below for example.

Reading the underlying documents of a title report helps you understand what existing and former rights others have or had to the property. Examples:

- Purchase right or right of first refusal to purchase.
- Unpaid loan or property taxes.
- Easement across the property. Mineral rights.

The ALTA survey then shows you (if possible), where the rights are. Most easements would be shown on the ALTA survey.

It is important to review title and make sure there are no rights that would disrupt your purchase (ex. another party's purchase right) or use (another party's easement) of the property.

<u>Title Insurance</u>
Title companies most profitable line of business is providing title insurance. Examples of title companies: First American Title Company, Chicago Title. Most of the time the same company will provide title insurance and act as escrow agent for commercial transactions.

Title insurance helps protect buyers (owner's policy) and lenders (loan policy) from financial loss if there is an issue with the property's title that comes up after the acquisition and/or loan closes. It ensures that the buyer has clear ownership of the property and protects against claims from third parties. Lenders typically require that the buyer/borrower buys title insurance. Examples of title insurance:

- Boundary disputes.
- Zoning issues.
- Unknown liens: These include issues like unpaid taxes or mortgages that were not discovered during the title search.
- Errors in Public Records.
- Forgery and Fraud.

Title review requires high attention to detail and a practical understanding of the risks that could affect ownership.

Example of an ALTA Survey. Source: Commercial ALTA/NSPS Survey