

# HOW TO BETTER UNDERSTAND EXCEPTIONS ON TITLE

*(OR, LET'S REVIEW E,R,C & C's)*



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A Washington State Approved Real Estate School for Clock Hour Education under R.C.W.18.85.

# CORRESPONDENCE CLOCKHOURS

## INSTRUCTIONS:

1. Print out the class.
2. Read the class material.
3. At the end of the material there is a quiz (all the answers are in the material that you have read).
4. Answer the questions.
5. Return to me the Quiz, evaluation and a check for the class payable to **CLOCKHOURS BY ANGIE**, or complete your credit/debit card information on the sheet provided
6. Upon receipt, I will email you a certificate.

Disclaimer: I try very hard to have the latest known information on a subject in these classes, but, the real estate industry is forever changing with new updates all the time. The class materials are not to be used for legal advice. In our State, some items are handled different in the different regions. If you have any concerns, please do not hesitate to contact me at 509-216-3220 or at [clockhoursbyangie@gmail.com](mailto:clockhoursbyangie@gmail.com)

## **COURSE OBJECTIVE:**

As a result of taking this 3-hour class, the agent will be able to:

1. Understand some of the common title issues
2. Know the various ways the title records are searched
3. Be able to recognize chain of title problems
4. Have a better understanding of tax/assessment exceptions
5. Know the differences between, easements, restrictions, covenants and conditions.
6. Have a better understanding of HB 1335
7. Know examples of hidden defects in title

## CURRICULUM

<b>Session/Hours</b>	<b>Topics</b>	<b>Method of instruction</b>
15 minutes	Recognizing common title problems	Read material/discussion
15 minutes	Various ways to search title Tax assessments	Read material/discussion
30 minutes	Reservations	Read material/discussion
30 minutes	Easements /Restrictions	Read material/discussion
45 minutes	Covenants/ HB 1355	Read material/discussion
15 minutes	Hidden Defects	Read material/discussion
30 minutes	Homestead Act/ Vestings	Read material/discussion

In this class, we will review common, and some, not so common, easements, restrictions, covenants and conditions. The following are some common problems for brokers to watch for when reviewing the preliminary title commitment. Here is where you will have the chance to be the professional by understanding, deciphering and resolving majority of “unacceptable” items that can be explained, accepted, amended, settled through closing or even deleted via your title officer with proof of why.

**Recognizing common title problems early speeds the closing process:**

1. Vacant tracts adjoining
2. Encroachments
3. Unpaid workers
4. Fixture filings
5. Divorce judgments
6. Loans from individuals
7. Paid/unreleased loans
8. Access questions
9. Money judgments
10. Recent subdivisions
11. Lot line adjustments
12. Support liens with DSHS and others
13. Real Estate contracts
14. Insufficient deeds
15. Poor estate handling

**Most of these can be caught by simply verifying:**

- a. Names of buyer/seller
- b. Legal descriptions
- c. Names of beneficiaries
- d. Judgment/lien amounts
- e. Inspection results
- f. Address notes
- g. Attached sketches

## Searching the records....

For virtually any claim against real estate to be valid, it must be filed at:

- County records of Recorder, Assessor, Improvement District, Registrar includes recorded instruments, taxes assessments, registered land concerns, etc.
- State records of Superior Court, includes divorces, money judgments, foreclosures, civil suits, etc.
- Federal records of District Court, includes bankruptcies, federal money judgments, class action suites, etc.



Some unrecorded possible claims which may also be considered by title companies:

- Survey matters such as size, area, dimensions, boundary location, encroachments, etc.
- Processionary concerns such as lessees, adjoined usage, recent work, impairment, etc.

## Title records “Plants”

Records kept and researched in same county in which “plant” is located. Orders taken from various brokers forwarded to plat; Records indexed under:

- a. Names by the County pursuant to law
- b. Properties by the title companies for search speed

## Records kept as:

- a. Tract books
- b. Geographic files
- c. Microfilm
- d. Computer

### **Business done via:**

- a. Direct operations
- b. Agencies

### **Underwriting procedures:**



- a. Title officers determine if Company is willing to insure said transaction, enforce current underwriting guidelines of Company; work with customers, agents, attorneys, escrow officers, and lenders to set up guidelines
- b. Management/Counsel override normal risk guidelines, if applicable, weigh additional premiums vs extra risks assumed

### **Chain of title theory**

History of documentation affecting ownership transfer, usage, security, liens of a specific tract. Continuous abstracted chain of ownership names without:

- a. “breaks” between names
- b. In constructive notice
- c. “late” title acquisition
- d. Multiple conveyances
- e. Contracted agreements
- f. Possessionary leases
- g. Lack of authority to convey
- h. Title held by illegal entities

## Tax /Assessment lien determination

Both are “senior” or “ahead of” any other liens

Present status of: property and special Taxes, surface water, conservation and utility charges. Each year could be current, due, past due, or payable with-or-without interest and/or penalty. Foreclosed after three years unpaid.... title goes to County or highest bidder at auction.

Assessments may be preliminary, permanent or paid annually or semiannually.

Sometime you may have special clauses after the tax exception:

1. **Senior/Disabled Level an Exception:** General taxes and potential supplemental assessments, including other amounts due thereunder, which results from any charge in tax exempt status. The land is currently carried on the tax rolls as exempt from taxes. On the date of death, conveyance or change in use which removes it from exempt status, the land will become subject to general property taxes from that date forward.



In addition, supplemental assessments for general property taxes for prior years

may also be levied against the land. For further information regarding the above, contact the County treasurer.

2. **AG land classification:** The lands described herein have been classified AG Land as disclosed by Tax Rolls. Subject to the provisions of RCW 84.34 which include the requirement of a continuation of restricted use in order to continue the present assessment rate. A change in use can cause an



increased assessment rate for present and past years (up to seven years). Any sale or transfer of all or a portion of said land requires execution of a notice of compliance form attached to the excise tax affidavit. ( These forms need to be completed prior to closing and could delay closing up to 7 working days).

**Timberland classification:** Liability for lien of taxes on the timber located on the land. The lands herein described are designated on the tax rolls as



forest land pursuant to RCW 84.33, and the timber located thereon is not taxes as real property but will be subject to collection of a tax upon harvesting thereof. In the event that said land is removed from its present designation of forest land, it may because liable to assessment of a compensating tax for prior years (up to 10 years). Any sale or transfer of said property requires completion of an application and

submission for the county assessor within 60 days of such sale requesting that the classification be continued.

- 3. Taxes not being assessed on new construction yet:** Liability for supplemental taxes for improvements which have recently been constructed on the land. Land improvements are not presently assessed, but may appear on future tax rolls.

*This exception is typically called “Omitted Property Taxes” and the new lender will have the following two documents within the loan documents for the purchaser to review and sign at closing so they are aware of higher taxes in the near future.*

- 4. Segregation by someone other than builder:** In front of the parcel number it would say “PTN” then say “The legal description of the land

described herein is a portion of a County Tax Assessor's parcel. Conveyance of a portion of said parcel may violate RCW 58.17. Under the Exclusions from Coverage, any loss arising from such a violation is excluded from coverage

**5. Segregation on a builder file with new parcel not yet assigned:**

Taxes and changes, together with interest penalty and statutory foreclosure costs, if any, after delinquency:

Tax Year	2021
Tax Type	County
Tax ID no	Ptn 12345.6789
Total annual tax	\$3,266.59
First installment	\$1,633.29
First installment status	paid
Second Installment:	\$1,633.30
Second Installment status	paid

NOTES: view taxes. Affects entire subdivision, new parcels not yet created



Form signed at closing by borrower on "Omitted property taxes"

Omitted Property Taxes and Voluntary Escrow Agreement  
RCW 84.40.080

KOPCFVWERT  
Loan:  
PIN: :

THIS AGREEMENT made on NOVEMBER 1, 2021, Borrower has purchased or is refinancing real property legally described as:

LOT IN BLOCK OF \_\_\_\_\_, AS PER PLAT THEREOF RECORDED IN VOLUME \_\_\_\_\_ OF PLATS, PAGES \_\_\_\_\_ SITUATE IN THE COUNTY OF SPOKANE, STATE OF WASHINGTON.

(More commonly known as \_\_\_\_\_, GREENACRES, WA 99016 Parcel No. \_\_\_\_\_ which the County records indicate is being assessed taxes as unimproved property only; and

Whereas, \_\_\_\_\_ is aware that the County of SPOKANE WASHINGTON may require payment of an additional amount of tax which represents the difference between the tax as now shown on the property and the tax which could be levied on the property had the Assessor assessed the property including improvements, and that said difference may become a lien upon the property; and

Whereas, \_\_\_\_\_ having been fully informed in this regard, hereby agrees that any such assessment for improvements from new construction will create a shortage in the reserve account for taxes and insurance, and agrees to enter into a voluntary escrow agreement to offset a shortage for tax assessments.

\_\_\_\_\_  
- BORROWER - - DATE -

\_\_\_\_\_  
- BORROWER - - DATE -



**NOTICE TO BORROWER(S)**  
**MONTHLY ESCROW ACCOUNT DEPOSITS ARE SUBJECT  
TO SIGNIFICANT INCREASES WHEN  
FINANCING NEW CONSTRUCTION**

Date: **NOVEMBER 1, 2021**

If construction of your home that secures this loan was not completed on January 1 of this year, your property taxes for this year may have been assessed based on the lower unimproved, or partially improved, market value of your property as of that date.

In that case, **YOUR PROPERTY TAXES FOR SUBSEQUENT YEARS**, when assessed based on the fully improved market value of your home, **WILL BE SIGNIFICANTLY GREATER** and **YOUR MONTHLY ESCROW DEPOSITS FOR PROPERTY TAXES** you are required to make to your escrow account **WILL SIGNIFICANTLY INCREASE**. Please ask your lender or the loan servicer for an estimate of the amount by which your monthly escrow deposits may increase next year.

To avoid, or minimize, a deficiency occurring in your account for the following year, your lender or the loan servicer may elect to analyze your escrow accounts of January 1 of next year when your property is first assessed based on its fully improved market value. In that case, you will then be sent a "short year" annual escrow account statement showing the estimated property taxes based on the property's fully improved market value and indicating the new amount of monthly deposits you will be required to make to your escrow account over the ensuing 12-months (commencing with your mortgage payment due January 1) to reserve for taxes, insurance, and other charges on the property.

In addition to an increase in your regular monthly escrow deposits that will result from the new assessment on your property (based on its then fully improved market value), you also may be required to make additional deposits into your escrow account if this analysis indicates a shortage or deficiency in the amounts needed to disburse payments for property taxes, insurance, and other escrow items when due.

The amounts that your lender or the loan servicer may require that you deposit in your escrow account and the disposition of any surplus, shortage, or deficiency in the balances of your escrow account that may occur from time to time are subject to the controlling provisions of the Real Estate Settlement Procedures Act of 1974 and its implementing regulations (RESPA). Please refer to your mortgage, deed of trust, or other security instrument for the terms and conditions of your agreement with the lender regarding the maintenance of your escrow account.

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The undersigned borrower(s) acknowledge(s) that I/we have read and understand this notice.

\_\_\_\_\_  
- BORROWER - \_\_\_\_\_ - DATE -

\_\_\_\_\_  
- BORROWER - \_\_\_\_\_ - DATE -



### **Special permanent exceptions:**

- **Reservation – retains certain use made by owner. Affects specific purpose. May be assigned by reserve; no consideration; no excise tax**
- **Easement – grants certain use made by owner and adjoiner or utility company affects specific portion. May be assigned by utility company; consideration as agreed; excise will be due**
- **Covenant – agrees against use made by owners. Affects entire property rights are withheld permanently; no consideration; no excise tax**
- **Restriction – excepts certain use made by owners. Affects entire subdivision rights are withheld permanently; usually done for municipality; no excise tax**
- **Agreement – various conditions made by owners and adjoiners; affects properties of all parties; may not be assigned; consideration as agreed; excise tax possible**
- **Condemnation- judicially takes certain use(s) taken involuntarily by adjoiner or government municipality; affects specific portion; may be assigned to another municipality only; some consideration, although usually disputed; no excise tax**



## Definition of a Reservation:

A clause in a deed of real property whereby the grantor, one who transfers property, creates and retains for the grantors some right or interest in the estate.

A landowner (grantor) may also convey the title to the freehold estate, but reserve some rights for himself. To accomplish this, the following type of language will be used in the deed, after the legal description to the property:

*“excepting therefrom and reserving to the grantor the right to cut and remove timber from the real estate property herein described.....”*



## RESERVATION EXAMPLES:

1. Reservations contained in deed recorded under recording number 1065242, substantially as follows: Coal and Mineral rights
2. From a reservation 4/10/09: “the grantor hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its successors, and assigns forever , all oils, gases, coal, ores, minerals and fossils of every name, kind of description, and which may be in or upon said lands above described, or any part thereof, and the right to explore the same for such oils, gases, ores, minerals and fossils; and it also hereby the right to enter by itself, its agents, attorneys and servants upon said lands or any part of parts thereof, at any and all times, for the purpose of opening, developing, and working mines thereon, and taking out and removing therefrom all such oils, gases, coal, ores, minerals and fossils.....”

3. Land and water deed from June 10, 1914: “together with the perpetual right to use water therefor flowing in the canals of this Company from the Spokane River.....”
4. Timber rights: The holder of timber rights may cut trees and remove the logs from another’s land. Growing trees are part of the real property, but become personal property after they have been cut. Timber rights may be “severed” from the ownership of the land itself by a reservation in a deed or by a contract and may appear in several forms including:
  - Perpetual timber rights, which allow the holder to remove trees from the land forever
  - Limited or “one time” rights, which give the holder the right to cut timber for a specified period
  - The right to cut all timber on the land
  - The right to cut “merchantable” timber, that is only those trees which can be sold for a profit
  - The right to cut a particular type of tree, such as douglas fir. All others must be left standing.

In addition to the trees which may be cut, the holder of timber rights will also have the right of access to the timber and the right to use and maintain logging equipment on the property while the timber is being cut.



## Definitions

**Easement:** An “easement” is a nonpossessory right to use and/or enter onto the real property of another without possessing it. It is best typified in the right of way which one landowner, A, may enjoy over the land of another, B.

**Easement” appurtenant”** benefits another parcel of land, known as the dominant estate



The land which is burdened by the easement is called the” servient estate”.

An “easement in gross” is merely personal right to use another’s land. Normally an easement in gross belongs only to a particular person, who may not transfer or sell the interest, or pass it along to his heirs by inheritance.

## TYPES OF EASEMENTS:

- A utility easement, in favor of the local utility company, enables the holder of the easement to install, inspect and maintain sewers, water lines, gas lines and electric cables within specified boundaries on a parcel of land.
- An access easement is almost always appurtenant, providing for vehicular and or pedestrian travel across the servient estate to and from the dominant parcel. Often, an access easement will allow the holder of the easement to construct and maintain a private road, driveway or sidewalk within specified boundaries.
- A drainage easement is always appurtenant, allowing a landowner to divert a greater than normal amount of ground water or runoff from his land to an adjacent parcel.
- A light and air easement is always appurtenant, and restricts the owner of the servient estate from constructing any building which would impair the



view from the dominant parcel, or from any building located on the dominant estate. This type of restriction may also appear as a “covenant” or a “restriction” in a recorded plat.

- A parking easement may be either appurtenant or in gross. It allows the holder of the easement to park vehicles or equipment on a specified portion of the servient parcel.
- A drainfield easement is always appurtenant, allowing the owner of the easement to use and maintain a septic tank drainfield on a portion of an adjacent parcel.
- An encroachment easement is always appurtenant, and is commonly found where a portion of a building, fence, driveway or garden has been mistakenly placed across a property line.

#### **EASEMENT EXAMPLES:**

1. Easement and the terms and conditions thereof affecting a portion of said premises in favor of The Pacific Telephone and Telegraph Company for Electric Transmission;
2. Easement and the terms and conditions thereof affecting a portion of said premises in favor of The Pacific Telephone and Telegraph Company to Erect and maintain poles;
3. A perpetual easement is reserved over the real five feet of each lot for utility installation and maintenance.
4. Easement and the terms and conditions thereof, State of Washington, Division of Forestry, to construct and maintain a road for forest protection purposes only, 1/5/56 under # 362535B
5. Easement and the terms and condition thereof affecting a portion of said premises, as recorded under 9603040316 et al in favor of Lookout Mountain Land and other property for ingress, egress and utilities
6. Easement and the terms and conditions thereof in favor of Inland Power & Light Co for Electric transmission and distribution facilities and appurtances; with right to cut, trim or chemically treat trees and shrubbery

and to stack logs in accordance with REA specifications (20 feet) with right of ingress and egress a portion of said premises

7. Open Space Management Plat Agreement and the terms and conditions thereof.
8. Easement and the terms and conditions thereof affecting a portion of the premises in favor of Moran View, LLC for Easement for driveway, placement of utilities, and installation, maintenance and use of stormwater system.

**There is always confusion about whether or not an easement that is created in a deed is valid as an easement in a specific document and whether or not a document that states it is subject to an easement creates an easement.**

#### **OTHER EXCEPTIONS:**

1. Pending probate proceeding, Lauren E. Howell, deceased, Doug Howell, personal representative, case filed 3/31/20 # 20400533-32
2. Pending divorce decree between a marital community
3. Pending guardian being appointed for minor or incapacitated person



**DEFINITION OF COVENANT: A written agreement or promise between two people or parties to do, or not to do, something**

**Covenants and restrictions are commonly included in a “Declaration of Covenants, Conditions and Restrictions” recorded with a formal plat. They can, however, also be created by a recorded agreement which is signed by all of the property owners whose land will be affected.**

### **COVENANT EXAMPLES**

1. Covenant to bear equal share in the cost of construction or repair of driveway, easement for which was granted over adjacent property by instrument recorded under recording no. 7212141104
2. No Noxious or offensive trade shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
3. No trailer, basement, tent shack, garage, barn or any other outbuilding erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted.
4. No building shall be erected on any lot until the design and location thereof have been approved in writing by a committee appointed by the subdivider, or elected by a majority of the owners of lots in said subdivision, however, in the event such committee is not in existence or fails to approve or disapprove such design or location within 30 days then such approval shall not be required, provided the design and location on the lot conforms to and are in harmony with existing structures in the tract.
5. These covenants and restrictions are to run with the land and shall be binding on all the parties and all persons claiming under them until January 1, 1966, at which time, said covenants and restrictions shall terminate.

6. In any event, no building shall be located on any residential building plot nearer than twenty feet to the front lot line, nor nearer than 10 feet to any side street line. No building, except a detached garage or other outbuilding located 75 feet or more from the front lot line, shall be located nearer than five feet to any side lot line or rear lot line.



**DEFINITION OF RESTRICTION: A limiting condition or measure, especially a legal one. “planning restrictions on commercial development’**

**The limitation or control of someone or something, or the state of being limited or restricted.**

**A restriction is any limitation on activity, by statute, regulation, contract provision or in a conveyance.**

**RESTRICTION EXAMPLES:**

1. Height limitations
2. Set back limitations
3. Noise control

## What is the meaning of Condemnation?

Condemnation is the acquisition or taking of private property for a public purpose. The right to condemn is sometimes referred to as the right or power of eminent domain.

### CONDEMNATION EXAMPLES:

1. Condemnation of access to State Highway no. 3 and of light, view and air by decree to the State of Washington entered August 15, 1952 as King County Superior Court Cause no 854216
2. Many times, the State will take properties when they are putting in roads and highways, offering the owners the assessed value of the property.
3. A Lis Pendens was filed 8/20/01 between the State of Washington as the Petitioner and Kaiser Aluminum & Chemical Plant stated “the object of said action is to acquire by condemnation the lands, real estate, premises and other property and/or property rights hereinafter described as a right of way for that certain state highway known as SR 395.



## Let's talk about covenants in more detail, especially some of the "racially slurred" existing covenants

All title reports have printed the following paragraph:

*"As to any and all covenants and restrictions set forth herein, the following is added: "but omitting any covenant or restriction based on race, color, religion, sex, handicap, familiar status or national origin, unless and only to the extent that said covenant(s)(a) is/are exempt under Chapter 42, Section 3607 of the United States Code, or (b)relates to a handicap but does not discriminate against handicapped person's"*

AND

*"This commitment does not republish any covenant, condition, restriction or limitation contained in any document referred to in this commitment to the extent that the specific covenant, condition, restriction, or limitation violates State or Federal law based on race, color, religion, sex, sexual orientation, gender identity, handicap, familial status or National Origin.*

**CAN THIS REALLY BE IN OUR COVENANTS? YES!**

***"(C) NO RACE OR NATIONALITY OTHER THAN THE WHITE RACE SHALL USE OR OCCUPY ANY BUILDING ON ANY LOT, EXCEPT THAT THIS COVENANT SHALL NOT PREVENT OCCUPANCY BY DOMESTIC SERVANTS OF A DIFFERENT RACE EMPLOYED BY AN OWER OR TENANT.'***

Under recording # 189340B

***“Declaration of Protective Covenants”***

***Know all men by these presents that William H. Cowles, Jr. and John McKinley, Executors of the Estate at William Hutchinson Cowles, being the owners of all Lots in High Drive First Addition to the City of Spokane in the City of Spokane, County of Spokane, State of Washington, as per map thereof recorded in the office of the County Auditor of said County on July 9, 1953***

***(c) No race of nationality other than the white race shall use or occupy any building on any lot, except that this covenant shall not prevent occupancy by domestic servants or a different race of nationality employed by an owner or tenant***

***And another one:***

***No person or persons of Asiatic, African or Negro blood, lineage or extraction shall be permitted to occupy a portion of said property or any building thereof, except domestic servants or servant my be actually and good faith employed by white occupants of such premises***

***And another one:***

***No persons of any race other than the white or Caucasian race shall use or occupy any building or any lot except that this covenant shall not prevent occupancy by domestic servants of a different domiciled with an owner or tenant.***





# Legislative History of Addressing Racial Discrimination

- Racial restrictions are illegal to enforce as set by Federal Fair Housing Act since 1968; prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin.
- In 1969, State of Washington made it illegal under state law to discriminate against protected persons (Engrossed Bill 144)
- In 1987, Senate Bill 5371 added the Owner “may cause the (racial restriction) provision be stricken from the public records by bringing an action in the superior court...”

## **HB 1335**

What it does:

Three components:

- Fund the University of Washington and Eastern Washington University, programs to review public records and identify those racial restrictions
- Adds to the required Disclosures, section 1, item k  
NOTICE TO BUYER: Covenant or deed restrictions based on race, creed, sexual orientation or other protected class were voided by RCW 49.60.224 and are unenforceable. Washington Law allows for the illegal language to be struck by bringing an action in superior court or by the free recording of a restrictive covenant modification document. Many county auditors’ websites provide a short form with instructions on this process.
- States the process to physically “strike” racial restrictions, addressing May v Spokane exposed shortcoming.

The modification document will refer to the original recorded document that contained the racially restricted covenant and contain the following statement required by law:

The referenced original written instrument contains discriminatory provisions that are void and unenforceable under RCW 49.60.224 and Federal law. This document strikes from the reference original instrument all provisions that are void and unenforceable under law.

Recording a modification document will provide notice in the land title records that the racially restricted covenant is void and unenforceable. It will not delete the historic record. The modification document legally strikes, but does not physically erase, the void and illegal discriminatory provisions from the original documents.

### **SPECIFICS ON STRIKING:**

- Plaintiff files Declaratory Judgment Action as set forth in RCW 49.60/226 in situs county
- Court rules on whether restriction violates RCW 49.60.224  
If so, issues Order striking the void provision, providing recording info of the original document  
Issue Order states the void provision “verbatim”  
Issue Order will have “certified copy” as exhibit where the court physically redacts the void provisions
- Plaintiff obtains a certified copy of Order and deliver to the Auditor
- Auditor shall record the “documents prepared by the court” with the following information
- Cover sheet/first page must:  
Identify original document number/book/page  
State pursuant to RCW 49.60/227  
Cause number of Declaratory Judgment and date of Order
- Auditor shall update the index of each original document with NEW number, noting the original offending instrument is no longer “primary official document”
- Original offending instrument shall be maintained separately or set to State Archives.

## Some areas in Spokane that are affected:

- Replat of Western 1<sup>st</sup> & Janson Addition
- Western 2<sup>nd</sup> Addition
- Burns & Snider Addition
- Boulevard Park Addition
- First Glenwood Park Addition
- Mount Pleasant Addition and Mount Pleasant 1<sup>st</sup> Addition
- Audubon Terrace 4<sup>th</sup> Addition
- Audubon Terrace 3<sup>rd</sup> Addition
- Audubon Terrace Addition
- East Audubon Park Addition
- Audubon Terrace 1<sup>st</sup> Addition
- East Audubon Park Addition
- Franklin Park Addition
- Kopet Addition
- Guthrie's 1<sup>st</sup> Addition
- Lidgerwood Park Addition
- Lloyd Park Addition
- Soo-Spokane Addition
- Rockwood View Addition
- High Drive 2<sup>nd</sup> Addition
- Comstock Park 2<sup>nd</sup> Addition
- Comstock Park 4<sup>th</sup> Addition
- Siegmund's Addition
- Gandy's Replat of Portions of King and 1<sup>st</sup> King Addition
- High Drive 1<sup>st</sup> Addition
- Manito Club 1<sup>st</sup> Addition
- Janosky Subdivision
- Millwood Homes Addition
- Morning Side Park Addition, County Homes
- Polwarth's Addition to Millwood

- Polwarth's 1<sup>st</sup> Addition, Spokane
- Throop & Fitzpatrick's Subdivision of Trentwood, Spokane Valley

Return Address:

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City State Zip: \_\_\_\_\_, \_\_\_\_\_

### Restrictive Covenant Modification

GRANTOR(S):

1. \_\_\_\_\_
2. \_\_\_\_\_

GRANTEE: The Public

ABBREVIATED LEGAL DESCRIPTION:

Additional legal description is on page \_\_\_ of this document.

TAX PARCEL NUMBER: \_\_\_\_\_

REFERENCE NUMBER OF RESTRICTIVE COVENANT MODIFIED: \_\_\_\_\_

\_\_\_\_\_, Grantor(s) herein, hereby record this restrictive covenant modification document with respect to the following described real property:  
[legal description, or append to document]

The property is subject to an original written instrument recorded \_\_\_\_\_ (date) under \_\_\_\_\_ County Auditor's File Number \_\_\_\_\_.

The referenced original written instrument contains discriminatory provisions that are void and unenforceable under RCW 49.60.224 and federal law. This document strikes from the referenced original instrument all provisions that are void and unenforceable under law.

This document affects only the portion of the original written instrument that is void pursuant to RCW 49.60.224.

The effective date of this document is the same as the effective date of the original written instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_ (grantor)

\_\_\_\_\_ (grantor)

STATE OF

ss.

COUNTY OF

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
\_\_\_\_\_ (is/are) the person(s) who appeared before me, and  
said person(s) acknowledged that \_\_\_\_\_ signed this instrument and acknowledged it to be free  
and voluntary act for the uses and purposes mentioned in this instrument..

Dated:

\_\_\_\_\_  
Notary name printed or typed:  
Notary Public in and for the State of  
Residing at  
My appointment expires:

## HIDDEN DEFECTS..... title company nightmares

Some type of issues can arise no matter what the records may or may not disclose

Samples of problems the title company can find which may not even show in records:

### 1. Marital Status:

- Lack of spouse to *join* in documentation, claims an ownership later
- Claim of possession due to automatic homestead rights
- Lien or interest claimed in out-of-county "Las Vegas" style divorce
- Statement of "single" is *fraud*, spouse at time claims an interest

### 2 Heir ship:

- An heir was not notified of probate, claims property as per the Will
- Probate finished, when another heir files another case, with *real* will.
- No probate filed; seller claims to be "sole" heir without a Will
- No probate filed; purported Will says son gets it but daughters disagree.



### 3 Incompetency:

- A minor was given property, but cannot sell legally without guardianship
- Property sold by individual earlier found incompetent by guardianship

- Sold by Attorney-in-fact with no authority upon disability or incompetent

#### **4 Fraud/Forgery**

- “seller” was actually a renter, who went to Mexico with a fat wallet
- Deed into “seller” was forged, real owner shows up late from the Army
- Buyer gets notice of *another mortgage* on his property
- Release was actually forged by seller
- Deed was stolen, never actually delivered with consent of the owner
- Instrument signed by attorney-in-fact, but power of attorney had expired.
- Corporate officer had no authority to sign company documentation
- Seller failed to give constructive notice of alias, hiding judgment liens

#### **5 Interpretation**

- An agreement has an extremely poor description, causing confusion
- Misspelling of names and no description makes document unreadable
- Instrument was attached to another instrument in error before recording.

**THESE MATTERS MAY EVEN HIDE FROM TITLE COMPANIES, BUT YOU ARE STILL INSURED AGAINST THEM.**

## CLAIMS PROCEDURES:

If you feel you may incur a loss or damage due to a title defect you did not know of,

1. Contact a title officer of the title company, referencing the policy number or the commitment number. The title officer should be able to help explain the issues at hand and answer further questions. Separate counsel may be suggested for further advice

And, if a loss has been incurred because of a title defect not scheduled in your policy,

2. Send a written letter of claim to the title company's counsel, explaining the matter and including the value of the loss. You should receive a written response from them within 30 days. This response may include declining the claim as invalid, offering legal defense of the matter, or offering a payment or partial payment for any loss incurred. Separate counsel may also be suggested.





## **Other items of interest:**

### **Washington Homestead RCW 6.13.010**

Homestead, what constitutes – terms defined.

1. The homestead consists of real or personal property that the owner or a dependent of the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of dwelling house or mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land, regardless of area, owned with the intention of placing a house or mobile home thereon and residing thereof. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner or a dependent of the owner. Property included in the homestead must be actually intended or used as the principal home for the owner.
  - a. Owner includes but is not limited to a purchaser under a deed of trust, mortgage or real estate contract
  - b. Net value means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.
  - c. Forced sale includes any sale of homestead property in a bankruptcy proceeding

Findings: The legislature finds that the homestead exemption is intended to protect the homeowner's equity in a home against secured creditors. The legislature finds that changes to the homestead exemption are necessary to modernize the law.

**Effective Date:** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately May 12, 2022

**What is the homestead exemption amount in Washington state?**

**\$125,000**

**Prior to the enactment of SB 5408, Washington's state homestead exemption was limited to the lesser of (1) the total net value of the property, or (2) \$125,000 for real property, manufactured homes, mobile homes, and improvements, or \$15,000 for other personal property used as a residence. May 12, 2022**



This document will be sent with title reports in May 2022:



Escrow Officer: Jeannie Rouse  
Escrow No.: ERINDRAGOTEST  
Property: 1234 Test Drive, Auburn, CA 95603

**Washington Homestead Questionnaire and Affidavit**

Separate from Washington's community property laws related to OWNERSHIP, Washington also recognizes a Homestead Interest in a primary residence, regardless of ownership. See RCW 6.13.020, below, *emphasis added*:

**RCW 6.13.020 Homestead - What may constitute.**

If the owner is married or in a state registered domestic partnership, the homestead may consist of the community or jointly owned property of the spouses or the domestic partners *or the separate property of either spouse or either domestic partner*. PROVIDED, That the same premises may not be claimed separately by the spouses or domestic partners with the effect of increasing the net value of the homestead available to the marital community or state registered domestic partnership beyond the amount specified in RCW 6.13.030 as now or hereafter amended. When the owner is not married or not in a state registered domestic partnership, the homestead may consist of any of his or her property.

This questionnaire is meant to assist WFG assess if a homestead interest exists in the above referenced property and could inform WFG on how a deed of trust must be executed.

I, Insert seller/buyer/borrower, state the following representations:

1. I am \_\_\_ single, \_\_\_ married, \_\_\_ in a registered domestic partnership (check applicable)
2. The name of my spouse or domestic partner is \_\_\_\_\_ (state N/A if single)
3. The date of my marriage or registration of domestic partnership is \_\_\_\_\_ (state N/A if single)
4. As identified by above address, was, or will the property be, the primary residence of your spouse or domestic partner? \_\_\_\_\_ (yes/no/N/A if single)
  - a. If yes as to past occupation of primary residence by spouse or domestic partner, has your spouse or domestic partner been absent from the property for 6 months or more immediately prior to the date of this affidavit? \_\_\_\_\_ (yes/no)

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Seller/Buyer/Borrower:

\_\_\_\_\_  
Sally Seller

Date: \_\_\_\_\_

## **LET'S TALK ABOUT VESTINGS**

I can't write a class on title without talking about vestings, so if you have heard this from me before, great, it means I'm doing my job and if you haven't, then please listen up.

The important question is one that Washington real property purchasers ask their brokers, escrow and title professionals every day. Unfortunately, though these professionals may identify the many methods of owning property, they may not recommend a specific form of ownership, as doing so would be practicing law.

The vesting of title and exposure to creditor's claims can have significant probate implications in the event of death.

Buyers may wish to consult with their attorney to determine the most advantageous form of ownership for their particular situation, especially in the case of multiple owners of a single property.

The following definitions of common vestings are an information overview. Consumers should not rely on these as legal definitions



## WAYS TO TAKE TITLE (TITLE VESTING)



	JOINT TENANCY	TENANCY IN COMMON	COMMUNITY PROPERTY	PARTNERSHIP
PARTIES	Any number of persons	Any number of persons	Married persons or domestic partners	Related or unrelated parties
DIVISION OF INTERESTS	Ownership interests must be equal	Ownership can be divided into any number of interests, equal or unequal	Husband and wife's or domestic partner's interest must be equal	Ownership interest is in relation to interest in the partnership
TITLE	There is only one title to the whole property	Each co-owner has a separate title to his or her undivided interest	There is only one title to the whole property	Each co-owner's interest is owned in partnership for partnership purposes
PURCHASER	Purchaser will become a tenant in common with the other owners of the property	Purchaser will become a tenant in common with the other owners of the property	Purchaser cannot acquire one owner's interest and hold as community property	Purchaser can only acquire the whole title unless he or she becomes a partner
CONVEYANCE	All owners must agree on use and disposition of property	Individual co-owners do not need the consent of the other to use or dispose	Husband and wife or domestic partners must agree to use and disposition of property	Partnership sets parameters for use and disposition of the property
DEATH	Property passes to survivors without going through probate	Individual's interest passes to designated heirs through probate	On spouse's/domestic partner's death, property passes to surviving spouse/domestic partner	Partnership interest passes to designated heirs who would become partners
SUCCESSOR'S STATUS	Last survivor owns property	Deviseses or heirs become tenants in common	Surviving spouse or domestic partner owns property	Deviseses or heirs have no rights in specific partnership property

# QUIZ FOR

## Easements, restrictions, covenants and conditions

1	In order for a claim against real estate to be valid, it must be filed in County records, State records or Federal records	True	False
2	There are two types of title companies' direct operations or agencies	True	False
3	Seniors and disabled persons may qualify for special tax exemptions	True	False
4	Buyers of new construction may sign a form called "Omitted Property Taxes"	True	False
5	A reservation does not run with the property.	True	False
6	A sample of a reservation would be of coal and/or oil in the land.	True	False
7	An easement can be created in a deed to be valid.	True	False
8	A covenant can be based on a verbal agreement or handshake	True	False
9	A covenant is an agreement to do or not to do something	True	False
10	Any limitation on activity by Statute, regulation or contract is a restriction.	True	False
11	Racial restrictions are illegal to enforce as of 1968	True	False
12	There are only two additions in Spokane that have racially slurred covenants	True	False
13	Two universities in Washington are working on HB 1335	True	False
14	Only homeowners can file Restrictive Covenant Modifications.	True	False
15	A minor must have a court appointed guardian to sell or buy property.	True	False
16	A corporate officer must have written authority to execute documents.	True	False
17	Washington State homestead changes 5/12/22	True	False
18	The homestead act limits owners to \$40,000 of equity	True	False
19	Joint Tenants with rights of survivorship is a type of vesting	True	False
20	Multiple buyers should consult an attorney on how to vest title.	True	False

**I hereby attest that I have read the material and answered the questions.**

\_\_\_\_\_

Signature

\_\_\_\_\_

Date completed



**Mandatory Evaluation for ERCC's**

Please fill out the following form and return with your completed clock hour class quiz.

Name/ Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: (personal) \_\_\_\_\_ (work) \_\_\_\_\_

Email: \_\_\_\_\_

License Renewal Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

1. What are 3 things that you learned from this course?

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

2. Do you feel the clock hour material was easy to follow? \_\_\_\_\_

3. Did the material give you information to help you in your profession? \_\_\_\_\_

4. Will the material help you with future transactions? \_\_\_\_\_

5. Why did you choose to take this course? Topic \_\_ Time \_\_ Cost \_\_ Ease \_\_ Other\_\_

6. How long did this class take you to complete? \_\_\_\_\_ (a "clock hour" is 50 minute)

**How will you pay for this correspondence class?**

\_\_\_\_\_ cash \_\_\_\_\_ check \_\_\_\_\_ debit/credit information needed:

Card number \_\_\_\_\_ exp date \_\_\_\_\_

3 digits on back \_\_\_\_\_ zip code of where bill is mailed \_\_\_\_\_