

What if the Property Address is Wrong on a Real Estate Contract?

What can really happen if the legal or physical address is incorrect on a real estate contract? There are always two addresses on a real estate contract, the physical address and the legal address of the property. We prefer to also include the folio number of the property because the address may be for a part of the entire property and as a buyer we want to know we are getting the extra parcels of property attached to the physical address. Make certain you are also buying the vacant land the seller says you are getting.

The physical address is simply the house or lot number; street, road, lane, avenue, etc.; the city or municipality, and the state and zip code. Especially in rural areas there can be a great diversity in what an actual property address is and where it is because the address can be a rural route and box. Somehow the mail is delivered to this property if it was occupied at some time in the past.

If you are dealing strictly with raw land, don't do anything until a survey is completed because the recent satellite re-surveying of rural lands has shrunk some tracks of land by as much as 30%! Land surveys are often expensive but critical for a buyer to get title insurance coverage in case of a dispute in the future. A personal friend of mine paid over \$30,000 for a title policy for a huge track of land whose title was challenged many years later when he went to sell it for hundreds of millions of dollars. The title insurance company had to defend the challenge in court and prevailed in his favor so his title policy was cheap insurance.

So the physical address of the property can easily be incorrect or inadequate to describe the entire property and its location. However, the legal description of the property is what is recorded in the public records of all the counties in our country. The legal description is generally the parcel description by the county clerk of the exact land that is in the deeded property. Originally, every county had surveys done that put "invisible or physical" boundaries around every parcel of land in their county. These tracks were originally homesteaded or parceled by land owners who made claims to the land and recorded their claims so they would not be challenged in the future.

Some land claims go back to grants by European rules to land owners in America. In more recent history are the famous land rushes (Oklahoma) by settlers seeking their American Dream of land ownership. So every parcel of land in the United States was at one time or another carefully surveyed and given a legal description. In the counties these parcels are recorded in the public record by a specific book and page number and more detailed information as to the parcel description.

So why then is the legal description so important? Because if the legal description is incorrect, technically and legally the contract is invalid because the seller is not selling the correct property. If the seller or buyer don't correct the issue before a deed is transferred sometime later there will be a law suit involved to correct the issue with no guarantee the "right" party will prevail. The buyer could be very upset if he bought a property that did not include all the land attached to the property, especially small "strips" of land that can make a huge difference if they provide access to some part of his new purchase.

To avoid all the potential issues with the legal description of a property, copy the description of the property off the seller's title policy. If his title policy is unavailable, use the legal description in the public records, and always the county clerk's description against the title policy's description. Always use an attorney for closing as he will do this same title work to be able to issue the buyer a title policy. Don't ever buy any property without getting a title policy issued to protect yourself or it could cost you all your original investment and more. In short, always seek competent legal advice if you have any questions about contracting, property descriptions or title insurance.

Dave Dinkel with your Wednesday Minute

Don't forget to take a look at these important software programs:

www.ExcelRESoftware.com (Failure-proof your real estate investing)

www.RequiredFLDocs.com (Must-have disclosure documents for every Florida investor)

www.FSBOAutopilot.com (For Sale by Owner Professional selling system to sell any home in one weekend)

www.StopMyForeclosureMess.com (32 Ways to Instantly Stop Foreclosure)