

“Who Does the Title Company Represent?”

By: John Shepard, Esq. (Michigan) (11/12/13)

Who does the title company represent? I often hear title insurance professionals talk about who their company “represents.” As in “We represent the buyer,” or “We represent the seller.” This type of discussion usually occurs at the closing table during a split closing.

A split closing is when there are two title companies at the closing. One title company is insuring the lender and issuing a loan policy. The other title company is insuring the buyer and issuing an owner’s policy. As if this isn’t confusing enough, in Michigan, the loan policy is paid for by the buyer and the owner’s policy is generally paid for by the seller!

So who does the title company “represent?” My answer is that the title company does not “represent” anyone at the closing table. Everyone is our customer. The real estate agents are our customers, as they have trusted us with the job of closing the transaction for their clients. The lender is our customer as we issue a loan policy protecting their mortgage as a lien against the real property. Both the buyer and seller are also our customers as we are insuring the buyer and the seller is paying for the issuance of that policy. Even the other title company is our customer, as without each title company working together at a split closing, the closing, recording of documents and disbursement of monies can become a major problem!

Each title company acts as a facilitator of this orchestrated event known as a closing and all of the participants are our customer.

When the closing has disbursed we issue the loan policy and the owner’s policy. The named lender in the loan policy is the insured. The named buyer in the owner’s policy is the insured. The insured are protected pursuant to the terms of their respective policy and can submit a claim if such a need arises. The title policy is a contract of indemnity between the title insurer and the insured.