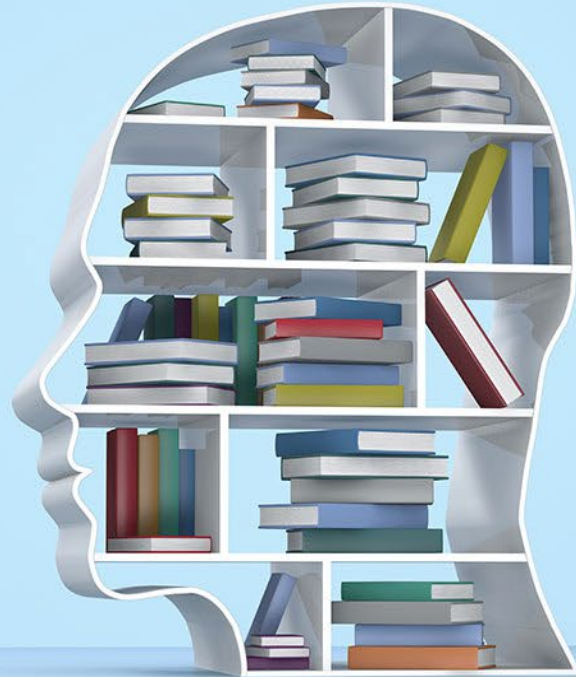


# Understanding Preliminary Title Reports, Commitments & Proformas



Title Tenets Webinar Series

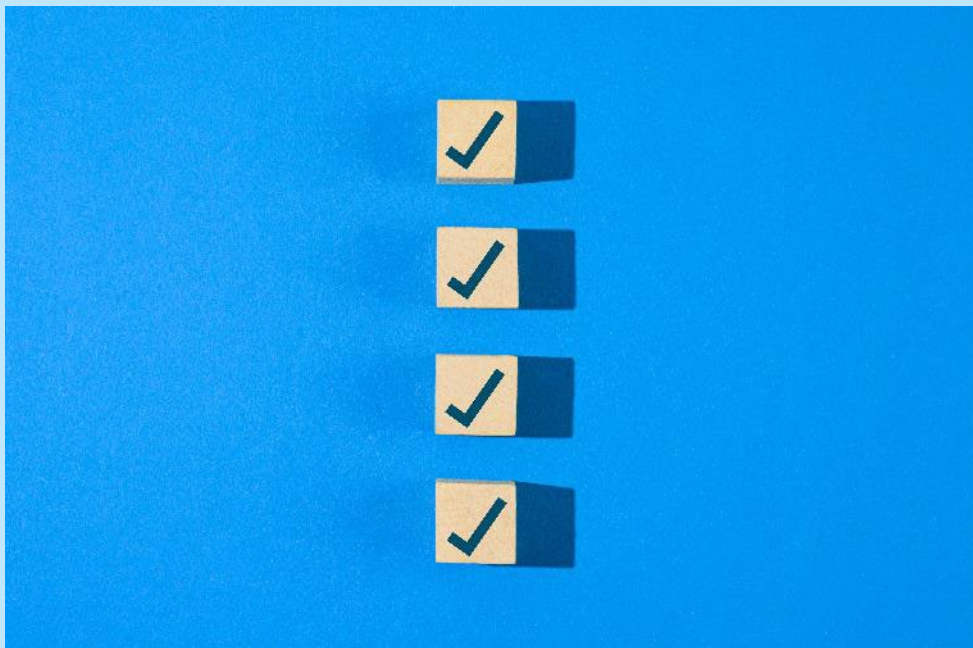


Presented By: Dena Cruz, Corinne Fimbrez, and Nicholas Mercado, Stewart Title Guaranty Company

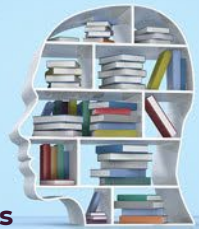
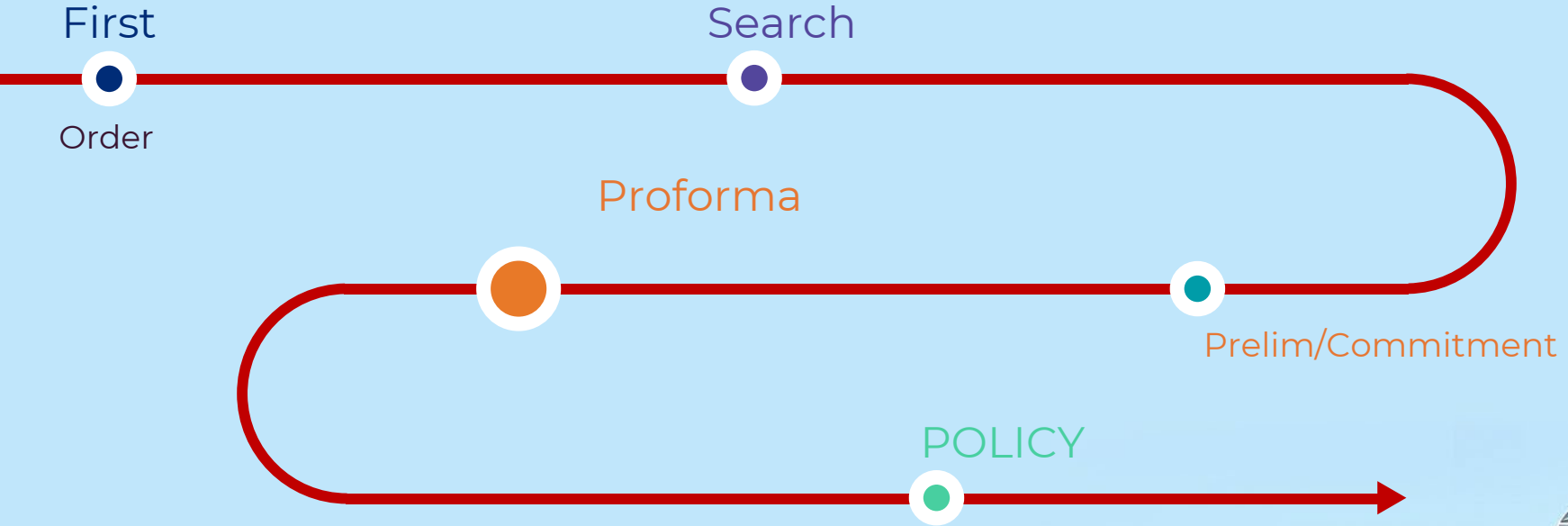
September 21, 2022

# WHAT WE HOPE TO COVER TODAY

- What is a:
  - Preliminary Report
  - Commitment
  - Proforma
- **Red Flags** to look for when reviewing or Preparing Preliminary Reports & Commitments

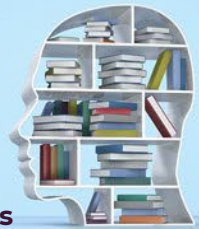


# Steps – Path



# What is a Preliminary Report?

- **Statement of Terms and Conditions of the Offer to issue a Title Policy as of a Particular Date**
  - The estate or interest to be insured
  - Ownership
  - Legal description
  - Title Exceptions: Defects, Liens and Encumbrances
  - Exclusions from Coverage
  - Conditions
  - Requirements



# Sample Preliminary Report

- Name & contact Information for Escrow Officer
- Title Company Order No.
- Your File No.
- Buyer/Borrower Name
- Seller Name
- Property Address
- Date of Report
- Form of Policy to be Issued



**stewart**  
TITLE

Leticia Colon  
Commercial Escrow Officer

Stewart Title Guaranty Company  
Commercial Services  
100 Pine Street, Suite 450  
San Francisco, CA 94111-5196  
(415) 394-9272 Phone  
(415) 395-8221 Fax  
leticia.colon@stewart.com

**PRELIMINARY REPORT**

Order No. : 0000  
Title Unit No. :  
Your File No. :  
Buyer/Borrower Name : Borrower under Trust Agreement dated November 22, 2013  
Seller Name :

Property Address: 1100 Main Street, San Mateo, CA 94402

In response to the above referenced application for a Policy of Title Insurance, Stewart Title Guaranty Company Commercial Services (SF) hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Stewart Title Guaranty Company Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception on Schedule B or not excluded from coverage pursuant to the printed Schedules, Conditions, and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on covered Risks of said policy or policies are set forth in Exhibit A attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than that set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limits of Liability for certain coverages are also set forth in Exhibit A. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters, which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

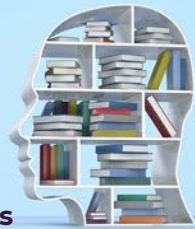
This report, (and any supplements or amendments thereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance a binder or commitment should be requested.

Dated as of September 1, 2022 at 7:30 a.m.  
Nicholas Mercado, Title Officer

**When replying, please contact:** Nicholas Mercado, Title Officer

File No.: 22000300458  
Prelim Report CCM

Page 1 of 9



# Sample Preliminary Report

- **Schedule A**
  - Estate or Interest in the Land
  - Current Vesting/Ownership
  - Legal Description
  - Assessor Parcel Number

**SCHEDULE A**

**The estate or interest in the land hereinafter described or referred to covered by this report is: [Fee/Leasehold/ Easement]**

*This identifies the estate being bought, sold*

Fee Simple as to Parcel One and an Easement as to Parcel Two

**Title to said estate or interest at the date hereof is vested in:**  
@@@, a California limited liability Company

*[f encumbered with a new loan, Make sure the interest in the land is the same as that being purchased/sold/encumbered in your transaction.*

*This shows the vesting, otherwise, it identifies name of the title holder and it should match the seller in your PSA.*

**LEGAL DESCRIPTION**

*This is how the land is described from a legal perspective.*

**The land referred to herein is situated in the State of California, County of Contra Costa and described as follows:**  
The Land referred to herein is situated in the State of California, County of Contra Costa, City of Martinez, and described as follows:

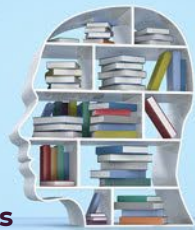
Parcel One:  
Parcel B, as shown on the Parcel Map filed June 24, 1982, Book 101 of Parcel Maps, Page 39, Contra Costa County records. Parcel Two:

*The Map generally contains a picture of the property. When you click on a hyper-linked item, you will see the actual document, here the map.*

*The easements created as an appurtenance to Parcel One above in the, "Declaration of Restrictions and Grant of Easements", recorded June 28, 1982, Book 10030, Page 116, Official Records, and the Amendment thereto recorded June 6, 1984, Book 11823, Page 533, Official Records.*

APN: 377-111-018  
APN: 377-111-018-0

*The A.P.N. is how the land is described from a tax perspective.*  
*(End of Legal Description)*



# Sample Preliminary Report

- **Schedule B**
  - Tax Exceptions
  - Exceptions
    - Deeds of Trust
    - Easements
    - Liens
    - CC&Rs
  - Notes & Requirements
- **Exhibit A: Legal**
- **Mandatory Disclosures**
- **Policy Exclusions & Conditions**
- **Map**

**SCHEDULE B**

**At the date hereof, exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy or policies would be as follows:**

**Taxes:**

A. Intentionally deleted.

B. **General and Special City and/or County taxes, including and personal taxes and assessments collected with such taxes for the fiscal year 2019 - 2020:**

**Code Area: 05-008** This tells you what property taxes are assessed at the time the report was issued.

C. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the revenue and taxation code of the State of California.

1st Installment:	\$36,409.79	Payable but not yet due
2nd Installment:	\$36,409.79	Payable but not yet due
Parcel No.:	377-111-018	

D. An assessment by the improvement district shown below: Assessment (or Fund) No.: 3409-GN MT View Sanitary Dist

This is a list of assessments charged against the property.

Assessment (or Fund) No.: 2508-IK Fed Stormwater Fee Martinez sums are included with the tax bill  
 Assessment (or Fund) No.: 2408-DV Emergency Med-1 Zone B  
 Assessment (or Fund) No.: 7401-CO Martinez Parcel Tax  
 Assessment (or Fund) No.: 3804-AV CC Water Levy Land  
 Assessment (or Fund) No.: 3301-DV Mosquito Abatement  
 Assessment (or Fund) No.: 4405-IB SFBRA Pol Tax  
 Assessment (or Fund) No.: 4026-KA EB Regional Park Trails LLD  
 (Said assessment is collected with the county/city property taxes.)

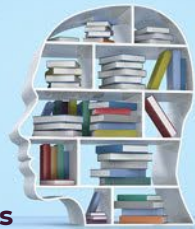
**Exceptions:** The Fee and Easement Parcels are subject to matters in the public records that encumber the property.

1. An easement for water utility facilities and rights incidental thereto in favor of Contra Costa County Water District as set forth in a document recorded February 1, 1982, [Book 10962, Page 782](#), Official Records and as affected by that certain Quitclaim Deed from Contra Costa Water District dated August 5, 1982 and recorded August 18, 1982 in [Book 10897, page 482](#), of Official Records, as described therein.

An Easement conveys a right or interest in the land that gives a third party some use, privilege or benefit.

2. **Covenants, Conditions, Restrictions and Easement** as set forth in an instrument, but omitting, except to the extent permitted by any applicable federal or state law, covenants or restrictions, if any, based on race, color, religion, sex, familial status, national origin, handicap, sexual orientation, marital status, ancestry, source of income, disability, medical condition, or other unlawful basis. Recorded: June 28, 1982, [Book 10830, Page 119](#), Official Records.

CC&R's refers to a written document that sets forth rules and regulations established by a subdivision or other landowner to create uniformity in design and use within the tracts of land or groups of lots. As this one does, many CC&R's often contain provisions establishing easements or mutual easements. CC&R's may also contain rights of first refusal or restriction on use. It is important to read the CC&R's.



# A Preliminary Report is :

- **NOT** a Policy of Title Insurance!
- **NOT** an Abstract of Title!
- **NOT** a Binder!

CA Insurance Code § 12340.11

*Lee v. Fidelity National Title Ins. Co.* (2010) 188 Cal. App 4<sup>th</sup> 583

*Jarchow v. Transamerica Title Ins. Co.* (1975) 48 Cal. App 3d 917

Prelim Report, Page 1, states “Not a written representation of the condition of title...”





# What is a Title Commitment?

Commitment to Issue a Policy based on terms in the Commitment for a stated period of time if all requirements have been met

- 2021 Transactions Data
- Commitment Date
- Type of Policy to be issued
- Estate to be insured
- Vesting
- Legal
- Requirements
- Exceptions

## ALTA Commitment (Without Arbitration) (7-1-21)

08/10/2021  
V 9

### ALTA Commitment for Title Insurance (7-1-21)

Issued By  
Stewart Title Guaranty Company

#### NOTICE

**IMPORTANT - READ CAREFULLY:** THIS COMMITMENT IS AN OFFER TO ISSUE ONE OR MORE TITLE INSURANCE POLICIES. ALL CLAIMS OR REMEDIES SOUGHT AGAINST THE COMPANY INVOLVING THE CONTENT OF THIS COMMITMENT OR THE POLICY MUST BE BASED SOLELY IN CONTRACT.

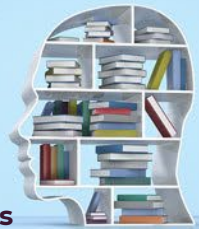
THIS COMMITMENT IS NOT AN ABSTRACT OF TITLE, REPORT OF THE CONDITION OF TITLE, LEGAL OPINION, OPINION OF TITLE, OR OTHER REPRESENTATION OF THE STATUS OF TITLE. THE PROCEDURES USED BY THE COMPANY TO DETERMINE INSURABILITY OF THE TITLE, INCLUDING ANY SEARCH AND EXAMINATION, ARE PROPRIETARY TO THE COMPANY, WERE PERFORMED SOLELY FOR THE BENEFIT OF THE COMPANY, AND CREATE NO EXTRACTIONAL LIABILITY TO ANY PERSON, INCLUDING A PROPOSED INSURED.

THE COMPANY'S OBLIGATION UNDER THIS COMMITMENT IS TO ISSUE A POLICY TO A PROPOSED INSURED IDENTIFIED IN SCHEDULE A IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF THIS COMMITMENT. THE COMPANY HAS NO LIABILITY OR OBLIGATION INVOLVING THE CONTENT OF THIS COMMITMENT TO ANY OTHER PERSON.

#### COMMITMENT TO ISSUE POLICY

Subject to the Notice; Schedule B, Part I - Requirements; Schedule B, Part II - Exceptions; and the Commitment Conditions, STEWART TITLE GUARANTY COMPANY, a Texas corporation (the "Company"), commits to issue the Policy according to the terms and provisions of this Commitment. This Commitment is effective as of the Commitment Date shown in Schedule A for each Policy described in Schedule A, only when the Company has entered in Schedule A both the specified dollar amount as the Proposed Amount of Insurance and the name of the Proposed Insured.

If all of the Schedule B, Part I - Requirements have not been met within six months after the Commitment Date, this Commitment terminates and the Company's liability and obligation end.



# What is a Proforma?

## Proposed version of the Policy of Title Insurance

- When issued
- To Whom issued
- Limitations
  - It is *NOT* a Policy!
  - It is *NOT* a Commitment!
  - It is *NOT* a Binder!

This is a Pro Forma Policy, which provides no insurance coverage, furnished to or on behalf of the proposed insured. This pro forma does not reflect the present status or condition of the title and is not a commitment to insure the estate or interest or to provide any affirmative coverage shown herein. Any commitment must be an expressly written undertaking issued on the appropriate forms of the Company. This Pro Forma Policy solely indicates the form and content of the Policy which the Company may issue if all necessary documents are furnished, all acts are performed, and all requirements set forth in the title commitment covering this property (or that may be required by underwriting) are met to the satisfaction of the Company.

### PROFORMA ALTA OWNER'S POLICY OF TITLE INSURANCE

ISSUED BY  
STEWART TITLE GUARANTY COMPANY

Any notice of claim and any other notice or statement in writing required to be given the Company under this Policy must be given to the Company at the address shown in Section 18 of the Conditions.

#### COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B AND THE CONDITIONS, STEWART TITLE GUARANTY COMPANY, a Texas corporation, the "Company" insures, as of Date of Policy and, to the extent stated in Covered Risks 9 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the insured by reason of:

- Title being vested other than as stated in Schedule A.
- Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to Insurance against loss from:
  - A defect in the Title caused by:
    - forgery, fraud, undue influence, duress, incompetency, incapacity, or imprisonment;
    - failure of any person or Entity to have authorized a transfer or conveyance;
    - a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
    - failure to perform those acts necessary to create a document by electronic means authorized by law;
    - a document executed under a falsified, expired, or otherwise invalid power of attorney;
    - a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
    - a defective judicial or administrative proceeding.
  - The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid;
  - Any encroachment, encumbrance, violation, violation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
- Unmarketable Title.
- No right of access to and from the Land.
- The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to:
  - the occupancy, use, or enjoyment of the Land;
  - the character, dimensions, or location of any improvement erected on the Land;
  - the subdivision of land; or
  - environmental protection.
- If a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.
- An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
- The exercise of the rights of eminent domain in a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
- Any taking by a governmental body that has occurred and is pending on the rights of a purchaser for value without knowledge.

Countersigned by:

Stewart Title Guaranty Company  
100 Pine Street, Suite 450  
San Francisco, CA 94111-5106  
(800) 366-7839

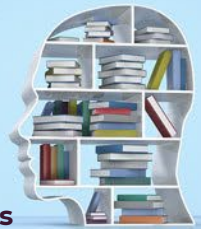
Agent ID:

For coverage information or assistance resolving a complaint, call (800) 729-1902 or visit [www.stewart.com](http://www.stewart.com). To make a claim, furnish written notice in accordance with Section 3 of the Conditions.

Copyright:



# SPOTTING RED FLAGS



# SPOTTING RED FLAGS

- Date of the Prelim / Commitment
- Ownership
  - Insured & Title Company Review
    - Correctly stated
    - Type of Entity
    - Additional Info Required
    - Current Entity Docs
    - Spousal Consents/QCDs
    - Corporate Resolutions
    - Trust Certifications
    - Deceased Co-Owners
    - Divorce Decrees
    - Dissolved Entities



# SPOTTING RED FLAGS

- Legal Description
  - Address
  - Assessor Parcel Number
  - Map
  - New Survey Issues



# SPOTTING RED FLAGS

## Taxes

- Paid/ Unpaid/ Delinquent
- Community Facility Districts/ Mello Roos
- Supplemental Taxes

**“None Due & Payable as of Date of Policy”**





# SPOTTING RED FLAGS

- Uninsured Deeds in Chain of Title
- Recent Foreclosures
- Old Deeds of Trust
- Old Restrictions
  - Restrictions on Use- Automatic Reversion
  - Racial Restrictions



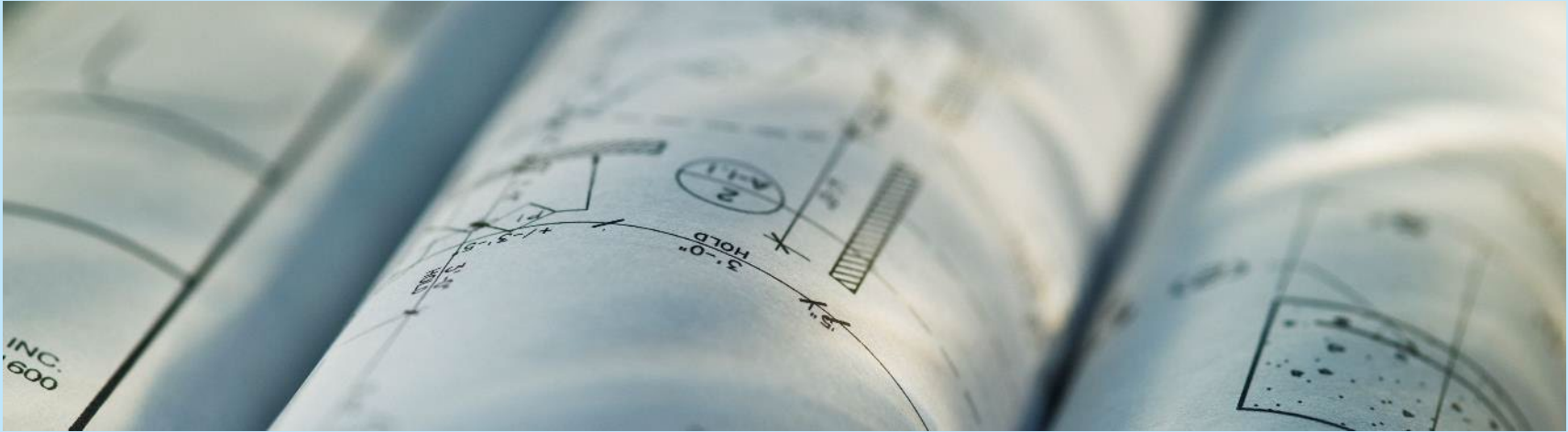
# SPOTTING RED FLAGS

- **Mechanic Liens**
  - Inspections
  - Owner's Affidavits
- **Parties in Possession/ Unrecorded Leases**
  - Inspections
  - Owner's Affidavits
  - Rent Rolls



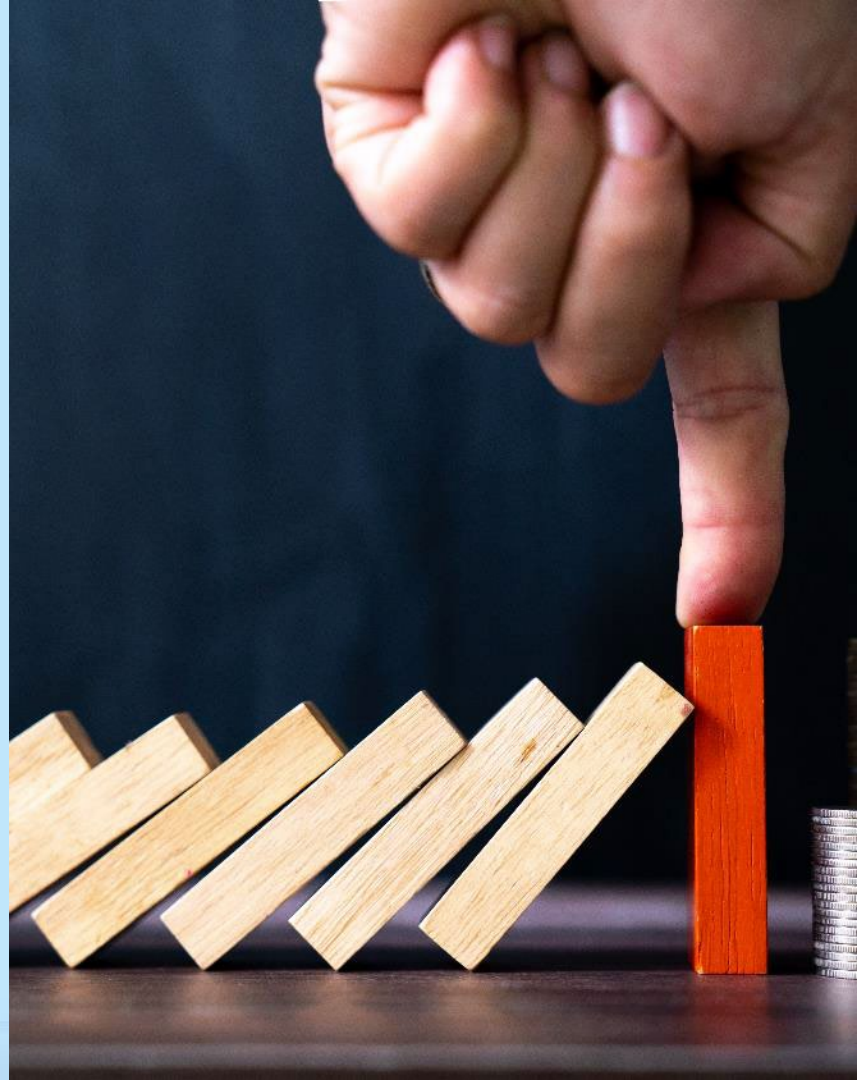


# ENDORSEMENTS



# Endorsement **Red** Flags

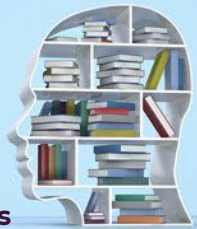
- Same As Survey (ALTA 25)
- Location (ALTA 22)
- Access & Entry (ALTA 17 Series)
- Utilities (ALTA 17.2)
- Zoning (ALTA 3 Series)
- Usury (ALTA 27)
- Mechanic Liens (ALTA 32/33)





# The Right Team Makes a Difference

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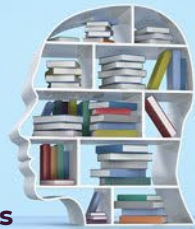




# Thank you!

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**Stewart Title  
Guaranty Company**  
Dena Cruz  
Corinne Fimbrez  
Nicholas Mercado



**Title Tenets Webinar Series**