

### DC Title Considerations

1. In order to obtain a copy of the subdivision plat or A & T Plat, you must physically go to the Office of the Surveyor for the District of Columbia to obtain. Information in the Surveyor's Office is not available on-line as it is in MD.
2. There is a gap in the land records from the mid-70s to the early 80s that sometimes make it difficult to locate a deed or other document recorded in the chain of title during that time period. This creates uncertainty regarding the status of title and increases underwriting risks.
3. DC Foreclosure and REO transactions are incredibly more complex than in Virginia and Maryland. DC's foreclosure procedures and implementing regulations have been in a near constant state of change since 2010, and have made insuring any foreclosure or REO transaction extremely risky as there is very little finality to the process. Underwriter approval, when it can even be obtained, is necessary in every foreclosure or REO transactions for some agents. Moreover, significant work is often done on a foreclosure or REO transaction only to find that the title is completely uninsurable, which results in the agency not being paid at all. Finally, over the past year lenders have been proceeding to foreclose under the common law judicial foreclosure proceeding (as opposed to the statutory non-judicial proceeding), which requires review of Superior Court proceedings, often hundreds of pages long, and underwriter approval.
4. Tax Certificates are not provided timely. This often means addressing issues at the last minute or even after closing.
5. The fluidity of the tax bills and the tax website in the District. Back taxes are added at a later date and backdated so that a printout from the tax website which you have when a file closed may be completely different a week or even months later with old taxes being added and listed that were not shown before.
  - a. While a tax cert is an answer to this issue, as alluded to above, obtaining a tax certificate now takes more than a month.
6. Poor communications between office in DCRA and OTR.
  - a. Vacant Property-When an exemption is issued, DCRA has to notify OTR, where one person is tasked with coding the exemption, and then forwards to another department to re-compute tax bill. Process takes several weeks at each step, which delays closings. Tax status changes without notice and affect prior periods.
  - b. Converted tax & water liens, and special assessments. Payment is made to OTR. It is difficult to get the originating agency (DCRA or DC Water) to release their lien.
  - c. Impractical requirements of DC agencies: Ex. When a vacant property exemption is issued by reason of renovation or marketing, Housing Enforcement requires the owner-occupant purchaser to apply for a permanent cancellation of the vacant property status post-closing, with copies of their utility bills sent as supporting documentation. It is very difficult to get less educated purchasers to do this until after the exemption expires and they receive a huge tax bill.

7. Tax Sale Redemption is significantly more complex in DC than in Maryland. Tax sale attorney fees must be paid to the tax sale attorney and any outstanding taxes must be paid to DC. DC then must reimburse the tax sale purchaser prior to the tax sale attorney dismissing a tax sale foreclosure proceeding. This requires significant post settlement monitoring of tax sale cases to make sure that the case is in fact timely dismissed. Quite often DC does not reimburse the tax sale purchaser timely and the tax sale foreclosure proceeds after our settlement, which requires additional time to resolve. Requesting a tax sale redemption certificate in DC is also a time consuming process, which often requires follow up to obtain the tax sale redemption certificate.
8. Tax credits on tax bills. It is hard to discern who paid the taxes and if a refund is in process. The credit automatically passes to the next bill, even when ownership has changed. For the previous owner to receive the credit, OTR requires the settlement company to become involved.
9. Retroactive posting of municipal liens does not occur in Maryland or Virginia with anywhere near the same rates as in DC. OTR's website changes after closing as old liens are sometimes added to an account. This requires time and effort to resolve.
10. The myriad DC Agencies that are able to assess liens, which convert to a tax lien.
11. Obtaining payoffs and from multiple agencies for various infractions.
12. Unrecorded tickets from DPW
13. Water liens paid to OTR v DCWASA – hard to get releases.
14. DC agencies refuse to accept transmissions from secured emails, but often require information containing private information, e.g., HUDs. Thus sending documents to DC agencies often violates best practices and privacy laws which put title agents at risk from lenders, individual parties, and regulators.
15. DOPA
16. TOPA. Failure to strictly comply with TOPA can result in total divesture of title. No other jurisdiction's tenant laws match TOPA.
  - a. Strict compliance with TOPA is required by title underwriters, due to high claim and loss ratios.
  - b. Many real estate agents demonstrate a striking inability to follow the Rental Conversion and Sale Division's instructions attached to the forms, which frequently (i) necessitates the forms being filed 2 or more times, and (ii) spending a great deal of time persuading real estate agents that the form instructions must be followed.
17. No synchronization between TOPA exemptions and Rent Control Exemptions
18. Dealing with the condemnation office/Board. These actions are much more frequent than in MD or VA.
19. Indexing idiosyncrasies: With the advent of electronic recording which allowed users to enter their own indexing information, there was false comfort taken that the indexing would be more accurate than in the past. This sense of comfort was dispelled when it was discovered that the Recorder of Deeds simply re-enters the indexing information, thus subject to the same errors that have

- plagued the industry. When there is an indexing issue, documents may remain undetected and result in serious title issues.
20. There is often a complete disconnect between the records of the Recorder of Deeds and the ownership records maintained by the DC Office of Tax and Revenue that appear on the web site page.
  21. Homestead Exemptions issues. Many DC title agencies submit the Homestead Exemption Form as a courtesy for clients. Agencies, however, often do not receive confirmation that the form has been received and often do not receive confirmation when the form is rejected. Agents often have to become involved in homestead issues long after a file has settled. OTR will reject a homestead exemption for revocable trust that do not bear the same name as the owner occupant, even though the statute is devoid of this requirement.
  22. Homestead audits are not posed online or reflected in a title search, which can result in thousands of dollars in delinquent taxes with no notice.
  23. Embassy/Foreign property conveyances.
  24. Transfer on Death deeds in the chain.
  25. Unlike Maryland, there is a fee for obtaining documents from the Recorder of Deeds.
  26. Registration for Tax Abatement must be done at time of recording, but is not approved until after settlement. Therefore, title agents must take precautions at closing to account for rejected tax abatements and the undoing of certain aspects of the transaction. If the abatement is not rejected, then accounts must be squared. If the abatement is rejected, then the agent may become involved with obtaining additional documentation, making legal arguments as to why it should not be rejected. OTR recently has rejected tax abatements that benefit those that the law was not intended to benefit (e.g., wealthy college kids with no income whose parents can give them a cash gift to purchase the property—a major loophole in the law), without appreciating that it is only the legislative branch of government that has the authority to change the law and thus close the loophole.
  27. Land Records issues.
    - a. Search instructions do not make it clear that a search using the default “name/square/lot” criteria will only return instruments with matches for all 3 criteria and will not pick up judgments and tax liens because they don’t specify a lot & square.
  28. Disconnect between Register of Wills and Recorder of Deeds. DC is only local jurisdiction that automatically closes estates after a set time (3 years unless extended). The DC statute permits Personal Representatives to engage in ministerial acts after closing of estates. The Register of Wills and Recorder of Deeds have different legal opinions of the meaning of the term “ministerial act”, which results in the need to reopen estates, which takes a minimum of 30 days.
  29. The Register of Wills sends estate jackets to the DC Archives as soon as they are closed. If it is necessary to review an estate file, it must be requisitioned, and the

delivery time from DC Archives to Register of Wills is 4-6 weeks, and sometimes longer depending on Congress' needs at any given time.

30. Lack of clarity regarding non-resident title agent CE requirements.