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Snider of Final Trac, LLC answers the question: What is release tracking, and why do I need it?

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What is release tracking, and why do I need it?

If the above is something that you have muttered or thought, you are in the right classroom. If you know what release tracking is, but don't know why you need it, please proceed to the remedial class down the hall. Just kidding, you can stick around also. This article is a follow-up to my much lauded article entitled "Hie release-tracking is going to save the residential real estate industry," found in these very pages - April edition. The reaction was so overwhelming that I felt the need to say more.

Being the maverick that I am, I will answer the second question first. If you are a real estate attorney, title company, or the guy down the street, performing closings in New England, then you need release tracking (RT). If you are a title insurer, then you need to get your agents on board. Release tracking not only benefits a law firm by taking on a huge amount of work at NO COST to the firm; if a responsible, reputable, and independent company like Final Trac, LLC (please see website at www.finaltrac.com), is utilized, then the law firm is insulated, protected, and indemnified from any liability stemming from the RT. Obviously, I have no vested interest in Final Trac, other than being one of the owners of the company.

Well, let's move on to the first question, "what is release tracking?" RT is not a new phenomenon. Paralegals and lawyers have been doing it as a matter of practice since the time when releases were no longer available at the closing table. Not much thought was put into it . . . lawyers didn't raise their fees to accommodate it . . . it just kind of naturally became a part of the closing process. Stated very simply, RT is the tracking of a release for a paid-off mortgage or other lien, ensuring the proper preparation, execution, delivery, and recordation of the release. In other words, make sure the damn thing gets recorded! Can't get much simpler than that.

Now that we have answered both questions, here is a little pop quiz. Why is the use of RT so important to all parties involved in the transaction? Let's get crazy and look for the answer in a situation where RT was not used and the release was never recorded. An unreleased mortgage may negatively impact a borrower's credit, especially if it is an unbeknownced HELOC that remains open. No matter if it is a borrower or a new owner, any subsequent closing on the property is going to be delayed or die because no one is going to lend or insure a property with a title defect. This brings us to the law firm that paid-off the loan and failed to get a release recorded. It becomes an immediate time-sensitive and time-consuming matter, taking important resources away from current business. And if the release was received but not recorded in Mass., the firm could be looking at potential liability of \$2,500 per release. See MGL Ch. 183; Â§55. More likely it is the lender's fault, and no matter the state, they are going to be on the hook for actual damages or a statutory amount. See www.abelaw.org.

Lastly, it is the overall marketability of titles in deeded transactions that is negatively affected, thereby creating a very bad situation that impacts all real estate transactions and the practitioners thereof. And nobody wants that. And that is why the use of RT is so important. Thank you for your attention - class dismissed!

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