

Detailed Manual On Ownership & Lien Searches

Illinois Abstract Service Publication

Introduction:

Conducting a due diligence report provides value to an investor or lender before placing a purchase offer or refinancing a loan. In addition, this report is good practice for a long-term owner to make sure nothing averse has attached itself to the property.

A key element of any due diligence report in real estate is carrying out an “Ownership and Lien Search”. Ownership and Lien searches disclose underlying risks that may affect the value of the land. Without investigating and understanding any potential tax liability, the property might have sold taxes and these could be taken at a tax sale. Without understanding open liens, the property might be subject to a Mechanics Lien, affecting the title. A name search might even reveal a Federal Tax Lien - Federal Liens not only attach to the person(s) listed, but also, to their subject property.

The following components are necessary components of a detailed title diligence report

- Basic Property Information
- Legal Description
- Current Owner Vesting
- Tax Search
- Open Liens, Mortgages, Adverse Matters
- Name Search

This is only a guide, and should not be considered legal or financial advice. This guide is written in a general fashion. See Page 10 for an example format.

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

Basic Property Information:

When starting due diligence you should consider - what is the basic property information? This question will determine the scope of your research. To keep this simple, a minimum standard of information in this area would be: An Effective Date and common address and/or Property Identification Number (PIN).

What is an Effective Date? And where would you find this information? An Effective Date, also called a “coverage date”, is the date by which a County Recorder is covering recordings, (typically this would be a date prior to the current date). The time between the Effective Date and current date is called the “Gap”. This gap period is unknown to the researcher, and anything could have been posted to the land during this time. To assume minimal risk in the gap one must understand what is currently happening, up to and including the Effective Date.

What is the address and or Property Identification Number (PIN)? You should already know the common address, and the PIN can be researched through the County Clerk or County Treasurer's office. Sometimes these two offices might be combined (as is often the case in smaller counties). Often, you might be able to find a County Map Department with an online search database through which the PIN can be produced. It should be noted that largely undeveloped or rural land frequently does not have a common address assigned.

With the property search narrowed now to a specific parcel, we have excluded possible distractions from our land search. This is helpful when faced with a vast area of land, where a restriction might affect just a small portion but not the parcel in question.

To Do:

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

- Call the County Recorder and ask what the coverage date or Effective Date is currently
- Identify the subject PIN, through County resources (example: Clerk, Treasurer, and Map Departments)

Legal Description:

It is the legal description, not the Tax PIN by which your land is bound. Tax PIN numbers change and are reassigned as new subdivisions are created, or when land is altered. Therefore, it is critical to understand the encompassing land. You will need to obtain a Tax Map and compare this with your vesting deed. Comparing legal descriptions with deeds can be tricky, especially if portions have been subsequently deeded out of the land in question.

Most Counties have a GIS website that will allow you to search by PIN and provide section lines and even subdivision names. Other Counties allow you to download their Tax Maps. Give yourself ample time to understand the legal description and compare it with the deed. If you run into any problems, the County Map Department probably have people on staff who can help in person. Request an official “Clerk’s Legal Description” if the legal is confusing, or contrary to evidence in further title research.

To Do:

- Obtain a tax map or GIS map indicating the property in question.
- Request Clerk’s Legal Description or Verified Legal Description, if the legal description is contrary in title research.

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

Current Owner Vesting:

Search online or at the County Recorder Office for the land records of the property in question to identify the current vested owner. Each County Recorder Office is set up a little bit differently, with different resources and research tools. The most common methods to search are PIN based and by Grantor/Grantee.

Once you find your chain online, or at the County Office, you need to search from the last Warranty Deed, or deed with transfer stamps and preferably Title Insurance markings (example: Chicago Title, Stewart, Old Republic). The reasoning for this is if the Title Company has insured the title prior to the Warranty Deed as being clear and defects would have been corrected by the time of sale, otherwise the current owner of the property may have a potential claim against the Title Company.

At this time, you should check the deed over and take note of the legal description of your deed. The legal must be a portion, or all, of the land of your subject property. This can be identified when comparing the legal description in the deed with the County Tax Map.

Now that the ensured Warranty Deed has been identified, continue looking at the chain of title to see if other deeds are present, such as a Quit Claim Deed, or maybe a Probate Administrative Deed, or something else. You will want to tie the grantors and grantees together and make sure that the vesting chains forward completely, and do not leave out any interest in the land.

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

To Do:

- Chain out your vesting, from the last warranty deed forward.
- Identify current vesting deed, online or at the County Recorder Office.
- Obtain a copy of the current vesting deed for your records.
- Compare the legal description of the vesting deed to the a County Tax Map.

Open Liens, Mortgages, Adverse Matters:

While examining the ownership vesting, look from the last Warranty Deed going forward to identify open liens, mortgages and adverse matters. Adverse matters might include; leases, UCC Financing, or Mechanic Liens, or Judgements, or even Agreements. If you see items such as a release, or a termination, you should exclude the corresponding recorded document that it references.

The end result should be a list of active documents affecting title. These documents should then be looked over to make sure a misposting did not take place through comparing the legal descriptions in the recorded documentation, as well as all parties involved. At this point, it is best to purchase the copies of the documents pertaining to the affected area, if you have not done so already.

As a general rule, the less open matters, the more clear the title is. Thus, the less risk for an investor or potential purchaser. A lay person should still have a qualified real estate attorney review subsequent documentation, but this exercise will allow you to be an informed consumer.

Detailed Manual On Ownership & Lien Searches

Illinois Abstract Service Publication

To Do:

- Examine the chain of title from the last Warranty Deed forward.
- Indicate open mortgages, liens, or other matters affecting title from the chain onto your report.
- Obtain copies of open matters affecting title.

Tax Search:

When considering real estate due diligence, a common assumption is that you are examining tax records only. It is vital that you understand taxes accurately. Sold taxes will appear “paid by the County”, when in fact a tax buyer has bought them and will move to perfect the tax lien as soon as possible and take possession.

The current year’s taxes as well as the previous 5 years' of taxes should be reviewed for good measure. Notice if the payment in full dates are paid prior to the installment due date. Perhaps the County Treasurer or Clerk has a portal to search for back-taxes easily by PIN to make sure? If the County is small, the easiest thing to do is to check online for interactive resources and then to call the County Office to confirm everything.

Read over the tax bill to determine if any line items mentioning Special Tax Assessments, or Special Service Areas are present. Sometimes a Special Service Area will be recorded or mentioned in the Recorder of Deeds Search. And as a general rule, condos have association charges as might a shopping district.

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

To Do:

- Download copies of current and past taxes for your records.
- Confirm current taxes at the County Office, online or by telephone.
- Confirm status of back taxes at the County Office, online or by telephone.
- Confirm status of special tax assessments at the County Office, online or by telephone.

Name Search:

Much like the land search, the name search on the current owners (and their entities) can be complex. However, it is critical to identify any open judgments or litigation. A set of questions needs to be asked and answered. In no particular order, these are: 1) Is there a Federal Tax Lien?, 2) What about UCC? 3) Is there a State Tax Lien?, 4) Is there current litigation? Federal Tax Liens are active for 10 years from the assessment date of the tax. Each State has different particulars - for example in Illinois the State has 20 years to collect on an Income Tax Lien. Mechanic liens are another common lien, these need to be investigated carefully, and a researcher must seek the relevant rules for the jurisdiction. Also, per ALTA (American Land Title Association) standards, a general judgment is considered collectable seven years from the date that said judgement was rendered. If you are purchasing a property, any concerns involving the owner should be remedied through a Title and Seller's Attorney as well as through the Lender.

The average person has a few tools they can use to feel a little more confident. Firstly, it is best practice to go to the County Courthouse digitally or in person to search the active case rolls, both under Plaintiff and Defendant on each of the owners or entities in the title. If possible, you should review the docket and see the current status of the cases mentioned. You will want a printout of the docket to add to your due diligence report. The second tool you should consider is purchasing a subscription to an online record agent service. This will highlight any pending

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

litigation, and also any State and Federal liens, an example of such a service is

<https://recordsfinder.com/>.

To Do:

- Search the County Courthouse databases for both Plaintiff and Defendant on each of the current entities in title.
- Optional – Purchase a subscription to a legal records search service to get an inclusive search and to verify the accuracy of your County search, an example of such a service is: <https://recordsfinder.com/> (about \$20 month).

Ownership & Lien Search Caution:

Utilizing an Ownership or Lien Search is inherently risky when determining whether or not to purchase property. These risks are found in the gap period as we discussed. Also, an important limitation is a lack of detailed covenants, easements or restrictions searches since the purpose of the search is going from the current owner forward.

For this *deeper* search, you can refer to the County Recorder of Deeds going back to the Plat of Subdivision or Land Survey or, if unsubdivided land, from the United States Government. Examples of important record documents would include: grants, easements, restrictions, agreements and leases. If this is needed, it is highly recommended to purchase a Title Policy from a Title Company where an experienced party has a vested interest to provide the most detailed and accurate information. Title Company rates vary can wildly between jurisdictions and companies.

Detailed Manual On Ownership & Lien Searches Illinois Abstract Service Publication

Conclusion:

While pricing models and theory have been overhauled to meet modern expectations, it is equally important to conduct an Ownership & Lien Search or due diligence report. This detailed report serves parties interested in the current status of the land. Investors or potential buyers and mortgage originators can use to leverage deals and calculate risk.

The [next page](#) has an example format for your Ownership & Lien Search report.

Detailed Manual On Ownership & Lien Searches
Illinois Abstract Service Publication

EXAMPLE FORMAT: Ownership & Lien Search

COMMON ADDRESS:	EFFECTIVE DATE:
PIN(s) AFFECTED:	

LEGAL DESCRIPTION:

SPECIAL ASSESSMENTS DISCLOSED, IF ANY:

GENERAL TAX SEARCH:

LAST DEED OF RECORD:

Type of Deed:

Grantor:

Grantee:

Recording Date:

Recording Number:

ADVERSE MATTERS, UNRELEASED ENCUMBRANCES OR LIENS OF RECORD:

NAME SEARCH HAS BEEN MADE ON THE PERSONS/ENTITIES NOTED BELOW: