SHULMAN ROGERS

Title Dispute Resolution

Title Dispute Resolution for Maryland, Virginia and Washington DC

The Title Dispute Resolution Practice Group regularly receives assignments from national and regional title insurers to represent their insureds in Maryland and the District of Columbia in defending title claims in litigation brought by third parties, and in perfecting titles which fail to comply with the provisions of issued title insurance policies. The Practice Group also regularly represents title insurers in the evaluation of coverage issues under policies of title insurance and in litigation or arbitration of disputes with their insureds.

The number of matters handled and the number of insurers requesting representation by the Practice Group has expanded over the past several years. This growth has been fueled by the policy of the Practice Group to appropriately staff cases with the goal of achieving quality representation consistent with cost effectiveness. Therefore, in the beginning of each new assignment, the Practice Group evaluates potential alternatives to resolve a title dispute, including early settlement or alternative dispute resolution (ADR). Because Shulman Rogers also has an active real estate title and closing practice, expert real estate attorneys are available as resources to assist with complex real estate issues in resolving title claims.

Results

Recent Successes

- Jury verdict for the insured property owner following a five-day jury trial in the Superior Court of the District of Columbia in which a tenant's association sought to void a transfer of title of a multi-family residential property to the insured alleging that the sale violated the D.C. Tenant's Opportunity to Purchase Act (TOPA).
- Court decision in the Circuit Court for Prince George's County, Maryland, rejecting former owners attack an insured lender's efforts to foreclose a defaulted mortgage. The allegation involved a mortgage foreclosure scam violation under the

Maryland Protection of Homeowners in Foreclosure Act (PHIFA) which had divested the former owner of title.

- Located and obtained deeds of conveyance from remaindermen owners of a Maryland property which had been improperly sold (and administered) by the personal representatives of a deceased life tenant, who had no title upon her death.
- Successfully established record title of numerous “lost unrecorded mortgages” through judicial action and/or by re-execution by borrowers following a recording abstractor going out of business without recording or returning instruments to be recorded and insured.
- Successfully advancing and litigating equitable subrogation claims to protect the interest of mortgage lenders who refinanced and paid off existing mortgages, but then discovered that an overlooked intervening lien prevented the refinanced mortgage from being in the same priority against the insured property as the paid off the mortgage.
- Successfully supervised the recordings of more than fifty unrecorded insured instruments retrieved by an insurer from a national title agent who went out of business without completing the recordings.
- Represented the only national title insurer to escape any payment in “flipping” case brought by numerous lenders in the United States District Court for Maryland.
- Court decision in the Court of Special Appeals of Maryland, affirming summary judgment declining to establish a prescriptive easement on insured owners’ property.