

WFG Underwriting Bulletin



To: All South Carolina Policy Issuing Agents of WFG National Title Insurance Company
From: Underwriting Department
Date: June 28, 2022
Bulletin No. SC 2022-02
Subject: Mandatory Exception in all Commitment and Policies

The South Carolina Supreme Court has declined to hear the Jericho case in which the Court of Appeals considered the following question: "... whether a reservation of a right-of-way on an official county map—as authorized by section 6-7-1220 of the South Carolina Code (2004) and a county ordinance—constitutes a defect in or encumbrance on the title to the affected land or renders its title unmarketable so as to come within the coverage of two title insurance policies."

In this case, Horry County issued an official map in 1999 which was amended in 2002 to reserve a right-of-way for the Carolina Bay Parkway. The subject property was sold in 2006 and foreclosed upon in 2007. In 2009, SCDOT filed an action for eminent domain and was successful. The owners filed title insurance claims which were denied by the Special Referee based on exclusion language within the policies. The Court of Appeals reversed that decision, holding that the exclusions cited did not cover the specifics of the situation: "Chicago Title's inability to pigeonhole this unique Ordinance into an exclusion to coverage is unsurprising. Real estate investors buy title insurance to protect against such unforeseen "off the record" risks. Old soldiers say it is the bullet you never hear that kills you, and the fundamental idea behind title insurance is to cover rather than exclude unforeseen and unknown risks; otherwise, title insurance would not provide the peace of mind it touts."

Due to this holding, all commitments and policies must include the following exception with immediate effect:

"Right of ways for streets, roads, highways, alleys and other public thoroughfares created by ordinance, statute or other methods."

Jericho State Capital Corp. v. Chi. Title Ins. Co., 431 S.C. 437 (S.C. Ct. App. 2020), 848 S.E.2d 572

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The Agent may be held responsible for any loss sustained as a result of the failure to follow the standards set forth above.