

WHAT IS ACCESS COVERAGE?

Access is the ability of an owner and their guests to get to the insured property from a publicly dedicated road. Many times the insured property is on a public road, but sometimes easements are needed.

A Homeowner's (HOP) policy of insurance insures against loss or damage sustained or incurred by the insured by reason of covered risk (11):

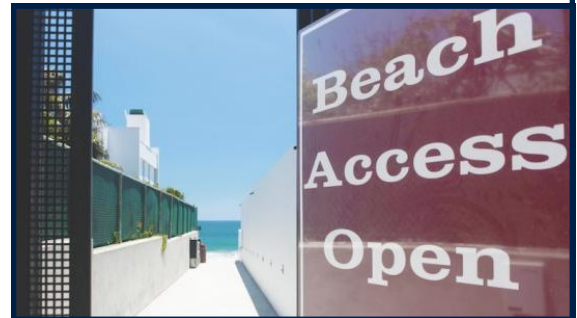
(11) You do not have both actual vehicular and pedestrian access to and from the land, based upon a legal right.

A Lender policy states this a little differently and it's covered risk (4):

(4) No right of access to and from the land.

There are several nuances to the broad definition of access, all of which have ramifications on the **title insurance** available to an insured:

- 1. Is the access restricted to a certain mode of travel (pedestrian, automobile, boat, etc.)?*
- 2. Is the access limited in quality (e.g. restrictions on the number and size of a curb cut from the street, is it paved, or is it even dry land, is the traffic limited to residential oriented-meaning a limitation as to weight or type of vehicle)?*
- 3. Does the owner have to travel over other privately owned land to get to the publicly dedicated road, and is the right to do so in writing and recorded?*
- 4. Is the access limited to a certain owner, or does the access travel with ownership of the land?*



Title policies provide one of two types of basic access coverage.

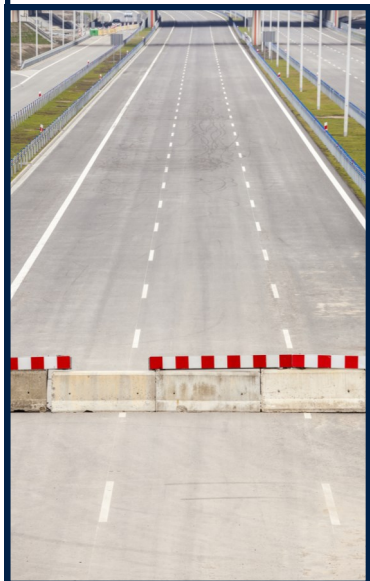
- 1. The HOP policy covers a claim if there is a lack of vehicular and pedestrian access.*
- 2. Other title policies insure that the insured can get, by some means, from the publicly dedicated street to the land.*

Continued on other side...



CypressTitleCo.com

Focusing on the HOP policy, the title company's issue is how to determine if a property has access, and if it doesn't, what steps need to be taken to delete that coverage from the preliminary report and policy. Basic title examination should determine if legal access exists for the insured land. If the property is platted (mapped) pursuant to state law, then legal access can be assumed. If the property is metes and bounds, then the title company should take steps to determine that legal access exists. Those steps include, but are not limited to:



1. *Does the legal description contain a reference to a publicly dedicated street as one of the boundaries?*
2. *Does the property appraiser or assessor map show a publicly dedicated street as a boundary?*
3. *Consult with the cities and counties to determine whether a bounding street (a street that comprises a boundary of the property to be insured) is publicly dedicated and/or the limits of the street boundary.*
4. *Is there a recorded easement agreement with neighboring properties, which grants the owner access to a publicly dedicated street?*
5. *Is there a publicly recorded dedication of property to be a street which bounds the insured property; has the local authority accepted the dedication?*
6. *Has a survey of the property been made which shows a boundary to be a publicly dedicated street?*

Caution should be noted when the access is obtained by an easement agreement. The title company will make a determination that the easement agreement:

1. *Is recorded.*
2. *Binds the owner and successive owners of the land over which the easement sits.*
3. *Runs with the ownership of the insured land and not just the current owner.*
4. *Adequately describes the location and size of the easement.*
5. *Be reviewed for unilateral ability to alter, amend or end the agreement in favor of the owner over whose property the easement runs.*

The title company will not rely solely on property appraiser/assessor maps, nor will the title company rely on a verbal conversation with a right-of-way department – those are tools to assess access only.

Finally, if we have a property that is landlocked but is being sold anyway, what can the title company do to properly document the preliminary report and policy? Because access is such a critical component of property ownership, a best practice is the title company should affirmatively notify proposed insureds of the issue. Don't solely rely on an exception to provide that notice. If the buyer and lender are accepting of the property without the access, then the proper exception is, "Access to the Land is expressly excepted from coverage. Covered Risk number () of this policy is hereby expressly deleted."

Access, especially through private easements, can be a tricky determination. Do not hesitate to consult your Cypress Title Account Executive for any assistance.