

Equity Theft Protection For Your Home – Hope in TOEPP

By Peter Brogan and Vincent Racaniello

In an article dated December 2, 2008, the Daily News, however ill-advisedly reported that it had taken only ninety minutes to steal the Empire State Building. The News swiped the 102 story, art deco skyscraper by drawing up a batch of bogus documents, making a faking notary stamp and filing the paperwork with the city to transfer the deed to the property.

The notary on the phony deed was the well known bank robber, Willie Sutton, and the new owner, 'Nelots,' is the word 'stolen' spelled backwards. While providing a blueprint for steal real estate may not be the height of wisdom, it dos serve to point out the very crime which has become more rampant in New York in the last few years.

The News restored the property to its rightful owner the next day. The individual who follows the fraudulent blueprint as laid out by the News is more likely to be at the bank the next day attempting to obtain a mortgage on the property he or she does not own.

The article was critical of "loophole" in the system of the City Register, the office which records deeds, mortgages and other legal documents which affect title to real property. While the City Register's office can, and now does, check the validity of a notary's commission, little else can be done to protect the legitimate property. The article went on to quote various law enforcement officials as to particular acts of theft of homes perpetrated on unsuspecting homeowners but offered no solution to this problem.

However, there is a solution available to some homeowners provided by a particular type of Title insurance policy known as a TOEPP (rhymes with hope) policy. The letters stand for TIRSA owners extended protection policy, and TIRSA is itself an acronym which stands for the Title Insurance Rate Service Association, the organization charged with setting uniform premiums for all title insurers in New York State. Although the TOEPP policy would not have saved the Empire State Building from being swindled-it is only available to natural person who purchase 1 to 4 family residences-it could well protect your home from this type of scam.

For the first time title insurance can now protect against certain post-policy matters. The insured can now be protected against actual loss sustained or arising after the date of the policy when someone other than the insured claims ownership of the insured's property by way of forgery or impersonation.

In plain language this means that should an individual forge a deed and successfully steal several hundreds of thousands of dollars in mortgage money and in effect, equity in your house, you are not responsible. The title company must do everything necessary to put the deed back in your name and to eliminate the fraudulently obtained mortgages which become liens once recorded against your home.

This policy costs twenty percent more that the standard New York State title insurance owner's policy. In addition to the fraud and forgery coverage, the TOEPP policy protects against losses sustained because the insured is unable to use the property as a single family residence because it violates a zoning law or a Certificate of Occupancy regulation. The policy also has a built-in market value provision which increases the amount of insured protection by ten percent per year for the first five years after the closing date.

If you are purchasing a home and want to avoid waking up one morning with your house in someone else's name and encumbered by a mortgage not made by you, the TOEPP policy is the answer.