



## **CHICAGO BULL**

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### **IS THAT PROPERTY REALLY FREE AND CLEAR?**

While there are many legitimate reasons for property to be unencumbered by a deed of trust/mortgage, such instances are not the norm. We have seen an increasing number of claims arising from unauthorized release/satisfaction documents. When confronted with a situation where a property is free and clear of the lien of any deed of trust/mortgages it is important to take a step back to see if the surrounding circumstances provide a reasonable explanation for the lack of such a lien, as in the case of long-held family property or the property passed through an Estate.

The main concern is the unauthorized or “rogue” satisfaction. The rogue satisfaction is most obvious when a lien has been canceled of record without a corresponding sale or refinance. A “corresponding sale or refinance” would involve a conveyance of the land for value with an accompanying deed of trust/mortgage or a refinance deed of trust/mortgage. In either event, the new deed of trust/mortgage should be in an amount sufficient to satisfy the released deed of trust/mortgage.

If you do encounter a release/satisfaction with no obvious explanation, or what you uncover in your search otherwise raises concerns, it may be worthwhile asking the Owner/Borrower/Seller to explain the circumstances surrounding the release/satisfaction. As always, please feel free to call your local Chicago Title Underwriting Counsel if you have any questions.

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