

WILKES & MEE

Quiet Title Action

QUIET TITLE ACTION

Frequently Asked Questions

What is a quiet title action?

A quiet title action is a legal action that establishes a party's title to real property. It puts all named defendants on notice that any interest in the property will be "quieted" and if there are claims against the property, this is the time to bring them or be forever barred. Once the case is complete, a quiet title final judgment can pave the way to obtaining clear, marketable title and can allow you the ability to obtain title insurance on the property.

I purchased my property through a tax deed auction, why do I need a quiet title action?

Tax deed sales are administrative procedures that occur without the approval of a judge. In order to get title insurance on a property purchased through a tax deed sale, a quiet title action is required to have judicial approval of what county administrators have done through the process of a tax deed sale. Other reasons a quiet title action may be necessary include where an actual claim to the property is made or occupants still residing in the property need to be removed.

How long does a quiet title action take?

Usually we can finalize your quiet title case in 60-90 days. Once we receive your retainer agreement, we submit the property address to the title company who orders a title search. We use the title search to determine who to name as defendants. A complaint is drafted and filed with the court to begin the quiet title action. Each defendant must be served by a process server. If we are unable to locate any or all of the defendants, they are served by publication. This means the details of the lawsuit are published in the legal section of the newspaper for 30 days as required by law. The defendants have 30 days from the date of the first publication to answer the complaint. If no answer is filed, we default the defendants and they typically have no more ability to defend the lawsuit after that point. Then a final hearing can be set. Occasionally, a party required to be named is deceased. As a result, the court requires an attorney ad litem (AAL) to be appointed to the case. The AAL's responsibility is to ascertain the heirs so that they may be informed of the lawsuit. This is important because if the heirs are not notified they could bring a claim against the property in the future which could cost you a lot of time and

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expense. Since the AAL does an extensive search of all possible heirs, it may take a few months for this process to be completed. If the AAL determines that additional heirs need to be named, then we must amend the complaint to add the heirs. They are served either personally or by publication. After all parties are served, a final hearing can be scheduled.

The firm handles a lot of quiet title actions, is my case a priority?

Absolutely. The firm owners have dedicated extensive time to developing processes and procedures to make sure each quiet title case is completed as quickly as possible. Every task for your case is calendared the day the case comes into the office. The firm has multiple staff members working to ensure that your case is completed as quickly as possible. As investors themselves, the firm owners understand that every day the property is encumbered another dollar is lost. These processes set Wilkes & Mee apart from other law firms who typically take up to a year to finish simple quiet title actions.

Can I list the property for sale before the quiet title action is complete?

We do not recommend that a contract for sale of the property be signed until after the completion of the quiet title action. Most title companies will not issue a title policy until 30 days after the final judgment is signed by the judge. If you list the property and find a buyer, it's possible the contract could fall through if the quiet title process is not completed before the closing date.

In order to fully protect your valuable investment, we highly recommend that you obtain a survey and commit to title insurance before we file the quiet title suit. We are a full-service law firm and can guide you through this entire process.

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Understanding Government Liens in Tax Deed Purchases

One common misconception relating to tax deed purchases is that all liens are extinguished if a property is purchased through a tax deed auction.

While many liens can be extinguished, municipal (local and county) liens and judgments are not. Florida Statutes 197.552 expressly provides, "... no right, interest, restriction, or other covenant shall survive the issuance of a tax deed, except that a lien of record held by a municipal or county governmental unit, special district, or community development district, when such a lien is not satisfied as of the disbursement of proceeds of sale ... shall survive the issuance of a tax deed."

I purchased a property with a government lien – what are my options?

Government liens last for 20 years from the date of the certified, recorded judgment/lien. If the value of the liens is greater than the value of the property, then one option may be to wait until the liens fall off the property.

It is also possible that liens on the property are paid with surplus funds, if any. If the opening bid at a tax deed auction was \$5,000 and you purchased the property for \$20,000 there will be \$15,000 in surplus funds. Those funds are used to pay liens on the property.

If there are no surplus funds or not enough to cover the liens, then you will be responsible for making sure they are paid before you can sell the property. Any title insurance purchased will include exceptions to the liens on the policy. Government liens will not be extinguished through a quiet title action. It is possible for you to negotiate the amount of the liens due. Hard liens such as demolition, lawn mowing, clearing brush, debris removal, etc. are usually not discounted. However, soft liens can oftentimes be discounted. Some counties have amnesty programs where a reduction of the lien amount (even hard liens) is offered in exchange for payment in full. Each county has different requirements pertaining to reduction of liens and it will be necessary to contact the code enforcement office in the county where your property is located.

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Understanding Government Liens in Tax Deed Purchases

The property I purchased has one or more federal tax liens – will they be extinguished in the quiet title action?

Federal tax liens are extinguished in the quiet title action. The Department of the Treasury is named as a defendant in any quiet title action where federal tax liens have been identified in a title search. A majority of the time, the government will file a disclaimer with the court stating that it has no further interest in the property.

Unlike other defendants who only have 20 days to file a response to the complaint, the federal government has 120 days to respond to a complaint. The time allotted is set by law and cannot be shortened by our office or by the judge. Because of the backlog of cases in the United States Attorney's Office, they usually take the full amount of time allotted to respond. Please be advised that this will increase the amount of time needed to complete the quiet title action.



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Surveys

While a survey is not required for a quiet title action, we strongly suggest that you consider having the property surveyed because it is the only way to know the exact boundary lines with certainty.

Surveys also locate easements and any other matters of legal record. Now is the time to determine and rectify potential boundary disputes. This is of particular concern when buying vacant land as it is doubtful that it has been previously surveyed unless it is platted.

Surveys are relatively inexpensive and eliminate headaches down the road. More importantly, if you are considering title insurance, most title companies will require a survey before issuing title insurance. If a survey is not done, the title policy will except anything that a survey would disclose. Additionally, the buyer will require a survey and waiting until the last minute could expose issues at the closing table. Getting a survey done now will eliminate this. We recommend you get a survey done before the start of the quiet title action. This survey can be updated (relatively inexpensive) for the closing with an affidavit.

Contact a reputable survey company in the area where your property is located. The survey company should be able to tell you what type of survey is needed based on the property type (commercial, residential, etc.).



QUIET TITLE ACTION

Title Insurance

What is title insurance?

Title insurance protects you against loss in the event there is a defect in the title. Although extensive research is done by the title company to determine prior ownership, if a mistake in ownership history is overlooked it could cost you time, legal expense, or even the loss of the property. Unlike most insurance which protects you against future occurrences, title insurance protects you against past events or claims that couldn't be located by search. Title insurance also protects against errors on the part of the title company, errors in docketing, or errors in surveys or boundaries.

Why do I need title insurance on my tax deed property?

Title insurance protects you if prior owners or lienholders should come forward claiming an interest in the property. If you are sued by someone who raises an issue about title to the property, or a person makes a claim against the property, that person will not look to the title insurance company as the first step toward resolution. Instead, the aggressor comes after you. Title insurance provides you with defense so you avoid having to hire your own attorney and having to go through the expense of fighting someone who may or may not have a valid claim. The title company will attempt to settle the claim, or they will reimburse you up to the limits of your title insurance. As will be discussed later, this is the main reason that you want to make sure your insurance limit represents fair market value.

Title insurance also would be helpful should your buyer's title commitment reflects a title defect. In this instance, the buyer could demand that the issues be resolved and if you do not take the steps to rectify those issues you could be in breach of contract. It is much easier to call your title insurer and make a claim that will be handled by the insurance company instead of facing a long, drawn out legal battle or potentially losing the buyer.

What is the cost of title insurance?

Title insurance is inexpensive compared to the peace of mind it provides. In most counties in Florida,

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Title Insurance

title insurance is \$5.75 per thousand dollars of the purchase price up to \$100,000. It's \$5.00 per thousand for amounts over \$100,000. For example, if you purchased the property for \$25,000, the title policy would be approximately \$143.50. It is possible to get title insurance to cover the market value of the property rather than the purchase price you paid at the tax deed auction.

When should I buy title insurance?

The purchase of title insurance is the final step in the quiet title action to make it complete. It provides assurance that you are protected if any discrepancies were to be found with the quiet title action at a later point. Without title insurance, if errors are found it could mean re-opening the quiet title action or having to file suit again.

We have an attorney on staff that will speak with you about the options available to you towards the end of the quiet title process. We recommend that you purchase a title policy as soon as possible after the quiet title action is complete. Remember that you have already paid for the title commitment (the title search that allows for the title policy to be issued). If you wait to buy the title policy, you will need to pay for the title commitment again.



QUIET TITLE ACTION

Attorney Communications Policy

We value the trust and confidence you have placed in us with your quiet title case. In order to do the best job possible for you, attorneys cannot have interruptions to their workday with unscheduled phone calls or office visits. Attorneys cannot do the best job possible for your case if their attention is continually re-directed from their work on your case.

If the attorneys are busy working on a trial or deposition, they cannot stop what they are doing to answer an unscheduled phone call, unscheduled office visit or emails. The attorneys must give their total time and energy to the client whose case is being presented at trial. If the attorneys cannot dedicate 100% of their time and attention to the trial or deposition they are working on, they cannot do the best possible job for you.

- Attorneys do not accept unscheduled phone calls.
- Attorneys do not accept unscheduled office visits.
- Attorneys will respond to email as time permits.

Phone appointments are scheduled between 3:30-5:00p.m. Monday-Thursday unless the attorney is in court or attending a deposition.

Responding to every email received would take up a lot of the attorney's workday. Since the attorneys would rather spend their time doing productive work on your case, e.g., making sure all of the work gets done on time and pushing your case aggressively to completion, emails are only responded to during limited times, usually once per day.



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*Attorney Communications
Policy*

How to Get Immediate Answers

If you need immediate answers, you are always welcome to call our Client Care Advocates at (904) 620-9545. Our Client Care Advocates should be able to answer your questions. There is no need to make an appointment to speak with our Client Care Advocates.

If you would rather speak with the attorney, our office will be happy to set aside as much time as you need whether in a face-to-face meeting or a phone appointment. Please contact our Client Care Advocates to schedule in person or office meetings with attorneys.



CONTACT

*We are quick to respond
and eager to help you.*



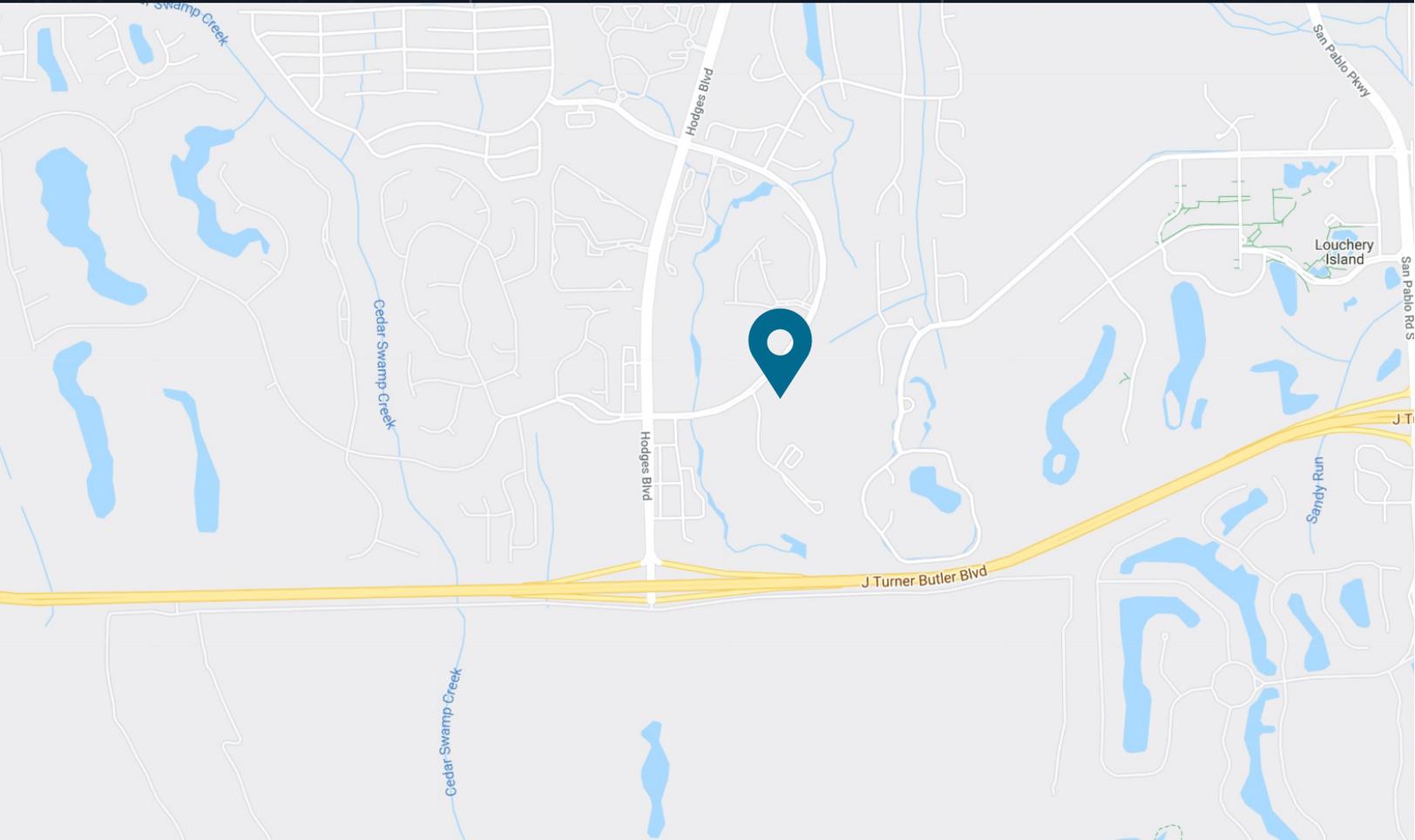
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