

Understanding the New York State Land Acquisition Process

Land Trust Alliance

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The New York State Office of the Attorney General, Real Property Bureau

Brief History and Organization of the Bureau

- Established in 1915 by AG Egbert Woodbury to review title to lands for the Erie Canal.
- Made up of three Sections: Public Lands, Highway and Litigation, all of which include attorneys, legal assistants and support staff, located in Albany. Nine title searchers are located in regional offices around the state. Also includes a Litigation sub-office located in Hauppauge, Long Island.

Role of the Attorney General in State Land Acquisition

- The Attorney General's role is statutory, and it is to "approve title." For example, see Section 3-305(1) of the Environmental Conservation Law, which among other things, provides "*No real property shall be so acquired by purchase unless the title thereto is approved by the attorney general.....*"
- The Attorney General is a separately elected official, who's function is to ensure the People of the State of New York get marketable title to the property that is paid for with state funds and/or acquired for state purposes. It is a control function, not subject to political pressures.

Real Property Bureau Title Review Process

Beginning

- State agencies determine which projects are sent to the Bureau for title review and approval.
- The process begins when a state agency submits a request to the Bureau to open a project file, providing the last deed to the property and other information related to the property.
- A Bureau title searcher is assigned the property to prepare a thorough search, according to Bureau standards.
- Typically, the Land Purchase Agreement is under negotiation between the state agency and the property owner.

Middle

- When the Project file contains the completed title search, report of physical inspection, land survey (if available), and signed approved Land Purchase Agreement, the file is assigned to an attorney in Public Lands Section for review.
- The Public Lands attorney prepares a title opinion letter with identifies the fee owner and objections to title.
- The title opinion letter is sent to the state agency staff.
- Agency staff communicate with the property owner to clear the title objections.

Closing

- Once the title objections have been cleared to the Bureau attorney's satisfaction, the Bureau prepares the final deed and other closing documents for signature by the parties.
- The Bureau's title searcher performs an updated title search and files the deed if nothing adverse to title has been found of record.

- When the deed goes on record, the Bureau notifies state agency staff that the funds for purchase of the property can be released. This takes longer in counties that have a recording backlog.

Important Point on Land Purchase Agreements

The Land Purchase Agreement (Agreement) contains standard language that was developed in consultation with the Real Property Bureau of the Attorney General's Office.

The Agreement is signed by the property owner and the state agency, and submitted to the Real Property Bureau and the Comptroller's Office for approval.

The Bureau will not approve a signed Land Purchase Agreement unless it includes the following terms:

- that the seller will deliver **marketable** title to the State
- that the recording of the deed marks the moment at which the state accepts delivery of title
- that title must be approved by the attorney general