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Worthwhile Legal News and Commentary

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Client Alert: Chicago Title Insurance Co. v. Allynnore M. Jen

2 Feb 2021

Christopher A. Glaser

Last Thursday, the Court of Special Appeals of Maryland issued an opinion on an insurance coverage matter that only eight (8) jurisdictions have issued a published decision on since 1951. Fortunately for the title insurer, the Court of Special Appeals sided with the majority and joined seven (7) of those jurisdictions. While the case raises other issues such as the duty to defend against a counterclaim, only the rarely-litigated matter is discussed here.

In *Chicago Title Insurance Co. v. Allynnore M. Jen*, the insureds purchased a lot in Baltimore County, Maryland situated between two public roads and containing a shared driveway with the neighboring lot. While the lot abutted two public roads, the shared driveway provided the only vehicular access to the insureds' residence. Following a dispute with the insureds, the neighbor constructed obstacles preventing vehicular access along the shared driveway. The insureds sought coverage from Chicago Title asserting that the obstacles interfered with their right of access to the lot. Chicago Title denied the claim and the insureds filed an administrative action with the Maryland Insurance Administration ("MIA").

The MIA relied on expert testimony that the policy language insuring against a "lack of a right of access to and from the land" did not include vehicular access and held in favor of Chicago Title. On the second level of appeal, the Court of Special Appeals agreed with the expert testimony and noted that the policy references a right of "access" but nowhere references a right of "vehicular access." In very favorable language to the industry, the Court held,

Notably, if the [insureds] wanted insurance covering vehicular access, there is a separate endorsement for such coverage they could have purchased from Chicago Title. Without this particular endorsement, or another endorsement requiring a survey, Chicago Title was not obligated to perform a survey of the Property. If a survey had been performed, Chicago Title would have been on notice of the later disputed issue regarding the panhandle strip and the driveway. Accordingly, it would be inequitable to require Chicago Title to insure against a condition of which they had no notice, nor a reason to have such notice.

It is a rare—but welcome—decision that holds extending coverage would be inequitable to the insurer.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our Real Estate Litigation and Transactions Practice Group is ready to assist.

Client Alert: Chicago Title Insurance Co. v. Allynnore M. Jen

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CLIENT ALERT: CHICAGO TITLE INSURANCE CO. V. ALLYNNORE M. JEN

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TAGGED: title insurance, Court of Special Appeals of Maryland, Maryland Real Estate News, Chicago Title Insurance Co. v. Allynnore M. Jen, Maryland Insurance Administration