

# Owner's Versus Homeowner's Policy Claim Examples

*Edina Realty Title is pleased to offer to purchasers of residential property the most comprehensive forms of title insurance policies available. For complete copies of the American Land Title Association forms and a comparison of the two kinds of forms offered (the premium for Homeowner's Policy 1-01-08 is 10% more than the Owner's Policy 6-17-06) go to [www.edinarealtytitle.com](http://www.edinarealtytitle.com). For illustrative purposes some examples of claims covered by one form, but not the other are as set forth below.*

## **Example 1**

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After purchasing the home you find out that the alley that you drive on in the back of the property to get to your garage is not a public alley and you do not have the right to drive on it. While the plat shows a publicly dedicated street in the front of the house, it was never physically built. If you are not allowed to use the alley, is this covered by title insurance?

### **Owner's Policy 6-17-06 - No.**

The policy insures you in the event that you have "No right of access to and from the Land", but because you have the legal right to use the publicly dedicated street, even though it was never physically built, you do not have a covered claim.

### **Homeowner's Policy 1-01-08 – Yes**

Insuring Provision No. 11 insures you in the event "You do not have actual vehicular and pedestrian access to and from the Land, based upon a legal right."

## **Example 2**

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You bought a large home on a 3 acre lot on the outskirts of town. The Commitment for title insurance contained an exception for "Mineral reservations as contained in deed from Johnson Development Corporation recorded January 1, 1959 as Document No. 1234567." You saw the exception, but purchased the property anyway thinking the chances of anyone exercising any mineral rights were extremely remote. You removed the one car garage and built a two car garage in substantially the same place after closing. Subsequently, Johnson Development Company came along and knocked down the garage and a couple of trees and dug up part of your lawn to drill a test hole for oil. Finding none, they left without replacing the garage, trees or repairing the lawn. Is this covered by title insurance?

### **Owner's Policy 6-17-06 - No.**

There was an exception from coverage on the policy and it wouldn't cover future improvements to the property built after the date of the policy.

### **Homeowner's Policy 1-01-08 – Yes**

Insuring provision No. 25 protects you in the event "Your existing improvements (or a replacement or modification made to them after the Policy Date), including lawns, shrubbery or trees, are damaged because of the future exercise of a right to use the surface of the Land for the extraction or development of minerals, water or any other substance, even if those rights are excepted or reserved from the description of the Land or excepted in Schedule B.

### Example 3

Three years after you purchase your home, while you are on vacation in Mexico, your neighbors tear down their one car garage and build a two car garage that encroaches 12 feet into your yard. Is this covered by title insurance?

#### **Owner's Policy 6-17-06 - No.**

While covered risk 2(C) includes "encroachments onto the Land of existing improvements located on adjoining land" this would only be for *existing* improvements "as at Date of Policy"

#### **Homeowner's Policy 1-01-08 – Yes**

Insuring provision No. 28 protects you in the event "Your neighbor builds any structures after the Policy Date -- other than boundary walls or fences -- which encroach onto the Land."