

5 Reasons to Use Title Insurance as a Risk Management Tool in Property Transactions

Stewart Title has been issuing title insurance policies around the world for more than a century and our financial strength and claims paying ability make us an industry leader.

The stories below are real claims covered by Stewart Title in Western Australia. These claims demonstrate the value of our title insurance policies in reducing risks inherent in property ownership for purchasers and owners of real estate and as a risk management tool for conveyancing practitioners.

With no excess payable on claims, the insured is compensated for the full value of their loss on a no fault basis.

1. Boundary discrepancy – a liability on sale

Our insureds obtained a title insurance policy when purchasing their home in regional WA. The home came with a triple garage and garden shed in the backyard. When selling the property several years later, their purchaser discovered that part of the backyard was in fact Crown land, and not on title to the property. Unknown to our insureds, a previous owner had fenced in the Crown land. Worse still, the garage and shed encroached onto the Crown land. The purchaser claimed our insureds were in breach of contract because the dividing fence, garage and shed encroached over the title boundary. The purchaser threatened to terminate the sale unless our insureds either obtained title to the Crown land for the purchaser or relocated these structures inside the title boundary.

Cover in action

Stewart Title rescued the sale by agreeing to fund the acquisition of the Crown land for the purchaser (including legal and surveying costs) after settlement. If the Crown land could not be acquired, Stewart Title would fund the cost of dismantling and rebuilding the garage and shed (and associated water & electricity services) within the title boundary, re-siting the fence onto the boundary and re-landscaping the backyard. On the basis of this agreement, the purchaser settled on the sale, which may otherwise have fallen through.

2. Illegal conversion - the house built from a barn

Our insureds purchased a large piece of land in rural WA, which included a house. Following settlement they approached the local shire to obtain a copy of the house plans to build an extension. The shire informed them there were no such plans and that the house was converted from a barn without a building licence. The shire notified our insureds that the barn was an illegal dwelling and legal action might be taken against them if they continued to use it as such.

Cover in action

Stewart Title compensated the insureds for the full value of the house, and valued as though it were approved. The value of the house was determined by an independent valuation also paid for by Stewart Title.

3. Illegal conversion of a storeroom to a bedroom

Our insureds purchased a house in regional WA, which was marketed as a 4 bedroom home. When applying for a building licence to add an en-suite bathroom to the main bedroom, the shire informed our insured that the main bedroom had approval for use only as a storeroom. The room had been converted to a bedroom by a previous owner without the shire's approval. The shire refused to assess the application for an ensuite bathroom until the bedroom was upgraded to comply with the higher building standards applicable to a bedroom. Our insureds were surprised by this discovery, as they had obtained a structural engineer's report before purchasing the property which did not disclose that the bedroom did not comply with building code standards.

Cover in action

Stewart Title covered the costs of all building works for upgrading the bedroom to comply with building standards including erecting wall frames, waterproofing floors, raising ceiling heights, and "gyprocking" the walls and electrical work.

4. Breach of building licence

Our insureds purchased their home in a Perth suburb. At the front of the property stood an attractive front entrance gate supported by brick piers. Nothing appeared untoward with the gate and piers at the time of purchase. The orders and requisitions from the local shire confirmed there was a building licence and the insureds' structural engineer's report did not reveal any defects in the construction.

Several years later, the neighbour complained to the council that one of the brick piers encroached onto his property. The shire inspected the property and confirmed that the pier did indeed encroach over the boundary with the neighbour and onto the street in breach of the conditions of the building licence. The shire ordered our insureds to relocate the pier within the property boundaries and then provide a survey report confirming this had been done.

Cover in action

Stewart Title paid for the cost of demolishing and rebuilding the pier and re-hanging the gate within the property boundaries as well as the cost of the surveyor's report.

5. Outstanding work order

Our insured purchased a property in the outskirts of Perth, serviced by a septic system. Unknown to our insured, there was an outstanding work order against the property issued by the Water Corporation for the connection of the property to the public sewer and the decommissioning of the septic system. As the new owner of the property, our insured was required to comply with that work order, which involved digging up the driveway.

Cover in action

Stewart Title indemnified the insured for the costs of connecting to the sewer and decommissioning the septic system.

Our presence is global while our expertise is local