

## Answer/ June '09 Question

OK folks – been waiting, and waiting, and waiting for the correct answer. Some came close, but no cigars. One of the answers was that “it is a trick question, because there are no skilled real estate attorneys.” Of course I wept profusely at the slight, but come to think of it, no one did answer it correctly.....

Kosmo Kramer purchased the property in 2007 and obtained the enhanced owners, which would be the ALTA 1998 Homeowners’s (enhanced) policy. When the property is transferred to his LLC, the policy coverage WILL NOT extend to the new entity – under paragraph 2 of the Conditions, the policy indicates that it cannot be assigned to anyone else, and the LLC does not fall into any of the categories of subsequent insureds. While it is true that the ALTA '06 owner’s policy provides coverage to a grantee of an insured if the equity interests of the grantee are wholly owned by the named insured, that is not the policy that Kramer has. Ergo, Kosmo LLC would have no coverage.

Kramer wants coverage for his LLC, but “does not think he should have to purchase another policy. How do you advise him?” In other words, how can the LLC be protected without purchasing another policy. Some of you wondered about endorsing the original policy, but that might be problematic because the enhanced policy can only be issued to a natural person. **Answer:** Have Kramer transfer title by General Warranty deed to the LLC. In the event a title issue should arise when the LLC is in title, the LLC can sue Kramer under the warranties in the deed and the title insurer will have to defend Kosmo Kramer, their insured, as his policy ‘insures him forever, even if he is no longer in title’ – (2a of the Conditions).

Finally, although noted by ‘one of you’ as a sneaky question, this is an actual set of facts.

The September question is now posted, and answers are due by October 2nd.