

FAQ FOR LAND PARCELS AND HOMES

RULES & REGULATIONS THAT COULD IMPACT YOUR PARCEL:

1. What the heck are CC and R's's?

CC and R's stands for Covenants, Codes and Restrictions. Sometimes developers will develop a set of these to record against the parcels in their development. The thought is that by having CC and R's in a subdivision the value of the subdivision will be maintained. CC and R's are required to be recorded against the title of the parcel and when you purchase a parcel you should inspect the title to see if this is the case. You should then review the document(s) to make sure you are ok with the items in the document.

2. What is an HOA and how is different from CC and R's? Does a subdivision with CC and R's necessarily mean it has an HOA?

HOA stands for "Homeowners Association". Not all subdivisions with CC and R's recorded against them come with an HOA. If you do buy a parcel with CC and R's it is wise to really research to see if there is an active HOA. Then request a copy of the bylaws of the HOA and ask for a good contact person to talk to about the requirements you will be expected to abide by as a property owner in an HOA. There will likely be a monthly fee or possibly an annual fee. Ask for the most recent budgets and financials of the HOA and any recent meeting minutes so you can review these to see what that fee covers. Meeting minutes are likely to inform you of any pending lawsuits or upcoming expenses that could be costly. HOAs often have rules and regulations outside of any recorded document so look for those. HOA's often also have transfer fees due upon a sale and sometimes a reinvestment fee (often large) that is owed at a sale. Reinvestment fees are required to be recorded against the parcel so they will show up on your title report.

HOAs will have the right to lien your property if you don't pay the monthly/annual fee or any miscellaneous expenses that are approved by the Board so please do your homework on these issues.

HOA's often come with architectural control committee as well. These committees will want to regulate many design items that are installed on your property from the ultimate design of the home, to fences and landscaping, down to the type of light bulbs you install, so be mindful here as well. You should be able to approve of and live with these regulations before purchasing a very expensive home.

3. What are ordinances and how are they different from CC and R's and HOA's? By gosh, how many laws do I have to abide by??

Ordinances are a set of laws and regulations drafted and approved by the municipality that governs your area. Not all areas have ordinances or zoning but the majority of municipalities in S. Utah do have these. Your parcel is likely to be registered with a zone, Like R1-6 or something. Once you know the zone you can review the ordinances at the municipality that discusses what's allowed or permitted and likewise what may not be allowed. For instance, if you live on a small lot in town you are likely not allowed to have multiple dogs or Roosters on your lot. Many get confused about the difference between ordinances and CCandRs. I've met many Realtors as well as regular people who believe that the municipality is in charge of enforcing the cc and r's of a development and will demand the municipality cite their neighbor for violating these regulations. If the CC and R in question is not a violation of city code then the Municipality cannot help you here. They are not involved with the enforcement of CC and R's, only the municipal ordinances. And likewise, CC and R's cannot permit something that the municipality has deemed unacceptable. Municipal ordinances ALWAYS take precedence.

You mentioned Title Reports above...What is that?



1. When you purchased your home/land you likely used a title company to assist in closing your transaction. (I am discussing the State of Utah sales/purchases here, as every State is different)
At closing, the seller of the transaction likely had the Title Co. issue a warranty deed to you, as the purchaser. If was a warranty deed that means the seller warrants certain covenants to you the buyer in regards to the title transferred. The title company will be the one issuing the insurance policy to cover the name of the buyer on the title report. This means that if, after you purchase the parcel, you find there is a problem in the title of the property the issuing title company should be the one to go to bat for you and make sure you are protected. But as with any insurance you receive there are items that are excluded from policy coverage and these items are listed on the schedule B "Exceptions" in your policy. As an agent I always review these items to see if there are any problems that could impact the title. As listing agent for our clients, we always pull a title report right out of the gate so that we can see if there are problems with title that need to be corrected prior to closing with a buyer. It is more common than most know that there are problems on title reports so it is a good idea to have an agent represent you that knows how to read a title report and understands how to navigate the potential problems that come up and work with the title company or your attorney to resolve them for you.
2. There are many types of deeds that can be issued and various types of ownership that can be used. Prior to closing on any parcel it is a good idea to talk with your title officer to see what works best for you. Ask the title company what happens if you change your name on deed after the title report is issued. You may violate the policy you just put in place so please discuss this with your title officer.

A little more on Municipal Ordinances before we move on.....

1. Some of the items to be aware of with your parcel are the following:
 - a. What is the zoning?
 - b. Is the subject parcel in compliance? If it's out of compliance how does that impact me? What is a "grandfather clause"? What is a non-conforming lot or building? Can I subdivide my parcel? Can I build an ADU on it? Where do I find all this information? Who can I talk to?

Now more specifically about Land which is my specialty.....)

When I start to research land I look at the following:

1. Does it have access. The best access is "legal access". Whether this is by a government approved road, aka, county road, city road or even a private road. If this is the case I look for a deeded Right or Way or easement. If I find that I look to see if there are conditions of use on this R/W and the width of it. (The granted width can determine type of use for the parcel) If none of these exist we look to see if there is a prescriptive use access. Easements by prescription can be challenged in court so they are not always as valuable as you may think and its best if the landowner is fully aware of what this means for them. I've had a few listings that had some very odd accesses that could only be found by really digging in the archives at the county so I recommend if you have land that you definitely use a Realtor that specializes in land to assist you. Realtors that really understand issues with land are rare so be wise and choose carefully. And with someone who can really dig you may find they help you uncover a "pot of gold" on your land. ☺
2. What are the utilities on the land? It is close to power? Water lines? Sewer? Natural gas? High speed internet? Getting a good feel for the types of utilities that are present and what the alternatives are is invaluable for a buyer who wants to build on the land.
3. Water. Water in Utah has become increasingly valuable and will only become more so as the time goes on. If you are unsure of your water situation then again I challenge you to locate a Realtor who also specializes in water. There are only a handful of us that specialize in water, deal with it regularly and really understand how

to search for available water, how to locate the depth of wells in a particular area, understand the difference between water rights and water shares, assist you in the purchase or sale of these items. Not all water rights are the same and one cannot be moved to all locations. Not even all water rights in an area are the same. Is it underground water, Surface water? Can it be used domestically? How many water rights do I need in my area to build? Should I get title insurance for the right I am purchasing? When do I get a certificate for water? When do I get a deed? Why the difference? Water rights and shares can be a bit overwhelming, and it is very important that you get the water you think you are getting. I cannot overstate the importance of using a good Realtor or Attorney to help you here. Not all Realtors or Attorneys have an understanding in this issue so make sure you choose carefully.

4. Wastewater on your land. This is the last big issue I review. In order to build any building (outside of a barn) you will need to accommodate the wastewater generated. (ie-septic or sewer) I look to see how far any municipal sewer lines are or the potential issues that might be confronted in the installation of a septic tank if sewer lines are not present.

For a septic tank I highly recommend getting a certified perc tester out to the land to perc the potential septic area. This will require having a backhoe operator come in and dig a large hole for the perc tester to come and perform the percolating tests. I've dealt with parcels that have a lot of heavy slope in the land whereby a septic tank with a leach field is going to be impossible. In these cases, one needs a self-enclosed septic tank and you need to know if the health department allows these and if so, how much are they? Do you need a contract with a waste company to empty it regularly? I've sold parcels that were heavy lava rock or bedrock and these parcels really had challenges not only in digging a hole for a septic but in getting an actual tank and leach field on the land.

As for sewer lines. The only real way to tell if your building is hooked into a sewer line is to run a scope through the line to see. We did sell a home once that thought they purchased the home with a septic tank. We found out when they re-sold that it was, in fact, hooked to the sewer line. They had never paid any municipal sewer line fees for all the years they owned it. They simply didn't know. It is also important to note that you are responsible for the sewer line that runs from your building to the street where the municipality is responsible for the main line in the road. So, if that line was installed many, many years ago it is good to account for the possibility you may need to fix that line at some point and to look for an easement for the line if it runs through your neighbor's land.

5. What about flood plain issues? Is my parcel in a flood plane? How do you tell?

If you purchased the property with a lender, then many loans require the appraiser to check to see if the home/building/land is in a 100-year flood plain. If this is the case your lenders will require you purchase a flood insurance policy for the life of the loan. These can be quite costly and prices vary on these so search through the various companies that actually underwrite these types of policies. Many insurers stay away from this kind of insurance because it's a bad risk for them. Check the appraisal report you may have received. You can also go to FEMA website and enter in the parcel information and they should have a map that will show you where your parcel sits in relation to this mapping. If your property is in the flood plain mapping this does not necessarily mean you will ever see a flood and vice versa, if you aren't in the mapping this certainly does not guarantee you against flooding. The best thing is to be wise about the parcel you are purchasing. Look for washes in the area, slopes of the land, water drainage paths for the area. Look at how the municipality deals with storm water run-off. Flooding can come from a variety of sources. It is important to be aware of your surroundings.

In this case, also, a good Realtor can assist you to find the appropriate information on this issue. I worked on the planning commission for the Town of Virgin and had to research it for them and help draft the ordinance as well as advise the town based on the meetings I attended. Ask questions and find out the information you need, especially if you feel your parcel may be at risk.

6. What if your parcel is in “greenbelt tax assessment”? What happens when you sell? What if you are wanting to purchase several acres (more than 5) and you want to do some sort of agriculture on the land and save money on taxes. What can you do?

Utah Tax Department has a great program for those that want to support an agriculture purpose. The property taxes can be cut down to a very small amount if you are willing to allow some sort of agricultural use on your land. When you do re-sale your parcel, even if it's a small amount sold off to someone, the tax assessors will be triggered to contact you to find out what your intent is. If you had someone leasing the land or if you were the one performing an agricultural use on the land then you will need to re-file the application for this use all over again. If you do not, then the tax assessors will assess you a “5-year rollback assessment”. This means they will force you to pay the normal tax amount that was owed for the previous 5-year period. This can be a substantial amount of money so be prepared for this. I've assisted many clients through this issue. Whether it means locating a person to sign a lease agreement, in order to do an agricultural use on the land, or helping them with the forms and coordinating with the tax assessors. When I work with buyers and sellers, we have this discussion on the parcels as it may be appropriate and I assist them to gather the information they need to make an informed decision that's best for them. Greenbelt use typically requires a minimum of 5 acres outside of any building on the land. They do have a newer program whereby they are trying to encourage small hobby farms in the area. The land parcel can be smaller so please be sure to ask about this. It's a really great program. I'm happy to send you the info.

All in all, I've been doing this line of work since 2000. I cut my baby Realtor teeth by working in the mountains and selling several land parcels. I loved finding those odd properties that had issues with them or non-conforming building or non-conforming lots. I worked on the Virgin Town planning commission for 6 years and because of my work flexibility I went to most of the State meetings to get the information required or needed for our Town. I traveled to all my land parcels and got out my maps and I'd walk the entire parcel to see what it was and to see what challenges may exist with the parcel. I search websites for information and call various entities to pick their brains to gather all the information I need. I am willing to work with your attorney to help them get any information needed to protect your interest. I have a deep interest in Real Estate laws and title work and opted to go to School in 2013 to 2015 to receive my paralegal certificate so I could understand more. I worked with an attorney who specialized in Real Estate and Estates and Trusts so I could learn even more. If you are looking to hire a land specialist, please do not hesitate to contact me and ask questions. Even if I am not up for consideration I am happy to assist you in how to interview any potential candidates you have that you may want to hire.

We are HERE TO HELP!

