

Chapter 18 Answer Key

1. b Texas courts charge a prospective buyer or mortgagee with the responsibility of inspecting the property to ascertain the interests of other parties, such as whether it is occupied by someone other than the supposed owner/grantor. The rights of parties in possession is an exception to standard title insurance policy coverage.
2. c The entity receiving the pledge of the property as security (i.e., the mortgage) is the lender. The mortgagee's title insurance thus protects the lender up to the outstanding loan balance.
3. a By taking possession of the property, Phil gave constructive notice that he had an interest in the land. Therefore, his rights are superior to the rights of Melvin who failed to inspect the property to determine who was in possession.
4. d *Marketable title* is free from any claim. *Good and indefeasible title* insures that, if there is a claim, the claim can be defeated.
5. b According to the provisions of the promulgated Texas sales contracts, the title company begins the title search and issues a "**commitment for title insurance**" within 20 days after receiving the sales contract. The title commitment is a statement of the terms and conditions on which the title insurance underwriter is willing to issue the title policy.
6. b Title insurance in Texas insures good and indefeasible title which, among other protections, guarantees against incompetent grantors. Upon sale of the property, the owner's policy is automatically converted to a warrantor's policy which continues *in perpetuity* at no cost.
7. c A deed contains no proof of the kind and condition of title at the time of conveyance. Such proof comes in the form of title insurance or an attorney's opinion of title. Certain types of liens (for example, taxes and special assessments) are not recorded in the public record. Since Texas law provides that unrecorded mortgages are not effective as far as later purchasers are concerned, a purchaser should be able to rely on a search of the public records to reveal mortgages.
8. d The **abstract of title** is examined by the buyer's attorney who subsequently prepares a written report called the **attorney's opinion of title**.
9. a A condensed history (called an **abstract of title**) is prepared by an **abstracter** who searches all the public records and summarizes the various events and proceedings that affected the title throughout its history. An opinion of title is rendered by an attorney who examines the abstract.
10. b The physical **possession** of a property gives **constructive notice** of an individual's rights or interest in real property. This would apply even if the occupant failed to record his or her deed in the public record. Since the evidence of occupancy is readily available upon inspection, the buyer is burdened with discovering the interest of the current occupant.
11. a The statute of frauds does not address the requirement for recording documents affecting title, only the necessity for written instruments. Texas law, however, does require owners or parties interested in real estate to record all documents

Modern Real Estate Practice In Texas 15th

Mark Steyvers



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Table of Contents Modern Real Estate Practice In Texas 15th

1. Understanding the eBook Modern Real Estate Practice In Texas 15th
 - The Rise of Digital Reading Modern Real Estate Practice In Texas 15th
 - Advantages of eBooks Over Traditional Books
2. Identifying Modern Real Estate Practice In Texas 15th
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Modern Real Estate Practice In Texas 15th
 - User-Friendly Interface
4. Exploring eBook Recommendations from Modern Real Estate Practice In Texas 15th
 - Personalized Recommendations
 - Modern Real Estate Practice In Texas 15th User Reviews and Ratings
 - Modern Real Estate Practice In Texas 15th and Bestseller Lists

5. Accessing Modern Real Estate Practice In Texas 15th Free and Paid eBooks
 - Modern Real Estate Practice In Texas 15th Public Domain eBooks
 - Modern Real Estate Practice In Texas 15th eBook Subscription Services
 - Modern Real Estate Practice In Texas 15th Budget-Friendly Options
6. Navigating Modern Real Estate Practice In Texas 15th eBook Formats
 - ePub, PDF, MOBI, and More
 - Modern Real Estate Practice In Texas 15th Compatibility with Devices
 - Modern Real Estate Practice In Texas 15th Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Modern Real Estate Practice In Texas 15th
 - Highlighting and Note-Taking Modern Real Estate Practice In Texas 15th
 - Interactive Elements Modern Real Estate Practice In Texas 15th
8. Staying Engaged with Modern Real Estate Practice In Texas 15th
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Modern Real Estate Practice In Texas 15th
9. Balancing eBooks and Physical Books Modern Real Estate Practice In Texas 15th
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Modern Real Estate Practice In Texas 15th
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Modern Real Estate Practice In Texas 15th
 - Setting Reading Goals Modern Real Estate Practice In Texas 15th
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Modern Real Estate Practice In Texas 15th
 - Fact-Checking eBook Content of Modern Real Estate Practice In Texas 15th
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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