

title insurance

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What title insurance products are available to protect a foreclosing mezzanine lender?

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A mezzanine loan is a type of commercial loan that is being used more and more frequently in supplementing the financing of commercial properties. Typically it is a large-scale loan subordinate to first mortgages. Mezzanine loans differ from secondary mortgages in that they are secured by the stock of the organization owning the property rather than the property itself. So when a lender makes a loan structured as a mezzanine loan, it secures a pledge of the borrower's ownership.

The pledged interest is generally in the form of a membership interest in a limited liability company.

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The mezzanine lender generally perfects the security interest by having the borrower execute a security agreement and filing the appropriate UCC-1 filing statements in the proper jurisdiction for recording. Simultaneously with the closing of the mezzanine loan, prudent lenders generally require borrowers to purchase UCC lenders insurance policies which insure the priority of the lender's lien on the membership interests, that the UCC-1 filing

statements are in the proper form for recording and that the filing statements will be recorded in the appropriate jurisdictions (Secretary of State, County, etc.).

In a distressed commercial marketplace, we are naturally seeing a rise in the default rate on these types of loans structured in the mezzanine format. Clearly, upon deciding to foreclose, the lender should be aware that title insurance products exist to protect the foreclosing lender's

interest in the collateral. UCC Owners Policies for Foreclosure are offered by several prominent title insurance underwriters. Fundamentally, these products protect against impairment of the collateral due to improper notice being given under the foreclosure proceeding, the existence of a prior security interest and lack of priority of the lender's security interest. It is crucial for mezzanine lenders and their counsel to realize that these types of title

new purchaser.

As the coverage provided can be slightly different depending on the title insurance underwriter and the pricing of the policy is deal specific, I highly suggest speaking to specialists dealing in these types of policies. If faced with a mezzanine foreclosure transaction, a knowledgeable title insurance agent or title insurance underwriter can be of great assistance in helping guide lenders and their counsel with these

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insurance products exist to protect the foreclosing lender's property interest. Additionally, purchasing these types of insurance policies ultimately increases the marketability for the inevitable sale to the

types of products.

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waterproofing

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Boccia Inc. waterproofs the Veterans Home at Stonybrook University

STONY BROOK, NY The Long Island State Veterans Home at Stonybrook University serves an important pur-



**Joseph
Boccia**

pose by giving people who served our country a place to rehabilitate in an environment that they deserve. Recently the facility was expanded with the addition of the east pavilion wing. Soon after it was finished however, leaks were observed at the periphery of the new addition.

Perplexed with the problem, the director of the physical plant at the Long Island State Veterans Home contacted Boccia Inc. to assess the problem. Having successfully worked with Joseph Boccia in the past, he hoped to have the same positive results. Joseph Boccia is a partner of Boccia Inc. who is also an I.C.C. certified structural masonry special inspector. Boccia Inc. was established in 1955 and has been serving the waterproofing and masonry industry solving thousands of water intrusion problems ever since.

Joseph reviewed the leak his-

tory and performed probes of the masonry parapets to determine the existing condition of the concealed elements. Herein he uncovered an improperly installed wall flashing detail that did not completely bridge the masonry cavity wall as required. It was evident to Joseph that the water was bypassing this flashing and entering into the building envelope creating the leaks that were plaguing the tenants.

Boccia Inc. was hired to perform the required waterproofing work. Brick was removed at all the parapet locations and the existing flashings were discarded. A new through wall flashing detail was installed that completely bridged the masonry cavity and included a new weep system. The flashing was designed to convey any moisture that entered into the masonry safely out to daylight. The effected brick work was restored to its original appearance. The comprehensive waterproofing plan also included tuck pointing of the parapets with a specifically formulated mortar and an application of a transparent penetrating water repellent to create a boots and suspenders system.

The project was completed on schedule. Most importantly the men and women who sacrificed so much have a dry home to call their own.



Long Island State Veterans Home at Stonybrook University