

# LAWYERS LINK



## PROPERTY ENCUMBRANCES

When it comes to purchasing a home, there are many things to look out for. Some things are obvious, like structural issues, insect infestations or mold. A less obvious red flag might be a property encumbrance.

An encumbrance in real estate is when a claim is made against a property by someone who is not the property owner. Encumbrances can affect the quality of the title,

the value and use of real property, as well as restrict the ability to sell it.

One of the most challenging aspects of encumbrances is that there are many different types that can be placed on a property. A few of the most common encumbrances include things like liens, deed restrictions, easements, and encroachments.

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Here are a few examples of how an encumbrance can affect a property:

- An involuntary lien can impact the sale of a home
- Local zoning laws can limit your ability to make updates to your home
- An encroachment can reduce the value of the property
- An easement could give another person the right to access or make changes to your property

Almost all properties are encumbered in one way or another, and they are not necessarily a bad thing. Many encumbrances are set up to protect the value of a property and the property owner.

It is possible to get encumbrances removed. It could be as easy as removing a structure from a property, or as complicated as carrying out a legal process. Other examples could include paying off a lien or replotting property lines.

Part of the due diligence in purchasing a home is having a title search done, which is the best way to find any red flags. A title search can find any title defects that could affect the use or value of the property, including liens and other encumbrances.

It is always wise for the homeowner to contact a title company to obtain a thorough title search and purchase a title insurance policy. Title insurance protects the homeowner and mortgage company if something is missed and a claim on the title of a property comes up after the property is sold.

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## MONTHLY INDUSTRY TERMS

### **Easement**

A non-possessory right to use all or part of the land owned by another for a specific purpose.

### **Lien**

A claim upon a piece of property for the payment or satisfaction of a debt or obligation.

### **Personal Property**

Any property which is not real property, e.g., money, savings accounts, appliances, cars, boats, etc.