

# The Paley Rothman Blog

Paley Rothman shares this library of resources with clients and friends of the firm to help them stay ahead of legal and business developments and trends. Here, you will find helpful tips and tools written by our attorneys. The information in the blogs and articles is not a substitute for legal advice and should not be relied on as such. Should you have any questions or want legal advice, please contact the attorney who wrote the blog or article.

## **LAWSUIT OVER SECOND-HAND SMOKE GOES “UP IN SMOKE”**

**CIGARETTE SMOKERS — REJOICE!** This past summer you may have found a new friend in the Maryland Court of Special Appeals. In July, 2013, the court may have introduced a breath of fresh air into the nicotine stained and smoke filled rooms of private homes all over the State. *Schuman v. Greenbelt Homes, Inc.*, 212 Md. App. 451 (2013). Here's what happened.

## **LIABILITY WAIVERS IN MARYLAND: ARE THEY ENFORCEABLE?**

If you have paid a visit to the local gym or community swimming pool, taken sky diving or trapeze lessons, gone scuba diving, bungee jumping, zip lining or engaged in any activity which poses a risk to life and limb, you probably had to sign a liability waiver or a “pre-injury” release. Any such document generally states that you are aware the activity you are about to undertake is dangerous and could result in personal injury or even death - and that you engage in the activity at your own risk.

## **TITLE INSURANCE IN MARYLAND, D.C. OR VIRGINIA**

The bottom line on title insurance is: “Get it or else.” Whether you are buying a house or commercial property in Maryland, the District of Columbia or Virginia, you will be asked to buy title insurance. If you are taking a loan to buy the property, the lender will require that you purchase title insurance, not to protect you, but to protect the lender. For an additional premium, you can also get your own policy from the same title insurer. If you currently own your own house or commercial property, you most likely already have title insurance, but will need to renew it if and when you refinance the property.

## **CONFESSION OF JUDGMENT KEY LOAN PROVISION**

Every commercial loan made by a bank or other financial institution includes a promissory note which is the borrower's “promise” to pay back the loan. The note contains all of the important terms of the transaction, including the interest rate, the amount of the monthly payment and the date the loan matures. If the borrower makes all of his payments on time and pays off the note at the maturity date, all is well. What happens when the borrower falls behind and cannot make the required payments?

## **LENDER BEWARE UPSTREAM VS. DOWNSTREAM GUARANTEES**

In the world of commercial finance, many loans are secured by real estate; the borrower gives the lender a lien on the borrower's real estate to secure payment of the loan. In Maryland, the downside to granting this type of lien is the large amount of taxes collected by the clerk of court when the lien is recorded. On a loan of \$1 million, for example, the taxes collected could easily exceed \$10,000. Loans running in the many millions of dollars are not uncommon and they can cost the borrower hundreds of thousands of dollars in taxes collected when the lien is recorded.